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

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2019

OR

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

Commission File Number 001-37725

ViewRay, Inc.

(Exact name of Registrant as specified in its Charter)

Delaware	**42-1777485**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
2 Thermo Fisher Way Oakwood Village, OH	**44146**
(Address of principal executive offices)	**(Zip Code)**

Registrant's telephone number, including area code: (440) 703-3210

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

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Common Stock, par value $0.01	**VRAY**	**The Nasdaq Global Market**

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

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

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

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

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

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

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

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

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

The aggregate market value of the common stock held by non-affiliates of the Registrant, based on the closing price of the shares of common stock on The NASDAQ Stock Market on June 28, 2019, the last business day of the Registrant's most recently completed second fiscal quarter, was $650,491,891.

The number of shares of Registrant's Common Stock outstanding as of March 3, 2020 was 147,440,028.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Registrant's definitive proxy statement to be delivered to stockholders in connection with the Annual Meeting of Shareholders to be held in 2020 are incorporated by reference in Part III of this Form 10-K where indicated.

VIEWRAY, INC.
FORM 10-K
ANNUAL REPORT

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CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K, or this Report, contains forward-looking statements, including, without limitation, in the sections captioned "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations," and elsewhere. Any and all statements contained in this Report that are not statements of historical fact may be deemed forward-looking statements. Terms such as "will", "may," "might," "would," "should," "could," "project," "estimate," "pro forma," "predict," "potential," "strategy," "anticipate," "attempt," "develop," "plan," "help," "believe," "continue," "intend," "expect," "future" and terms of similar import (including the negative of any of the foregoing) may be intended to identify forward-looking statements. However, not all forward-looking statements may contain one or more of these identifying terms. Forward-looking statements in this Report may include, without limitation, statements regarding (i) the plans and objectives of management for future operations, including plans or objectives relating to the development of products, (ii) a projection of income (including income/loss), earnings (including earnings/loss) per share, capital expenditures, dividends, capital structure or other financial items, (iii) our future financial performance, including any such statement contained in a discussion and analysis of financial condition by management or in the results of operations included pursuant to the rules and regulations of the Securities and Exchange Commission, or the SEC, and (iv) the assumptions underlying or relating to any statement described in points (i), (ii) or (iii) above.

The forward-looking statements are not meant to predict or guarantee actual results, performance, events or circumstances and may not be realized because they are based upon our current projections, plans, objectives, beliefs, expectations, estimates and assumptions and are subject to a number of risks and uncertainties and other influences, many of which we have no control over. Actual results and the timing of certain events and circumstances may differ materially from those described by the forward-looking statements as a result of these risks and uncertainties. Factors that may influence or contribute to the inaccuracy of the forward-looking statements or cause actual results to differ materially from expected or desired results may include, without limitation:

- market acceptance of magnetic resonance imaging (MRI) guided radiation therapy;
- the benefits of MR Image-Guided radiation therapy;
- our ability to successfully sell and market MRIdian® in our existing and expanded geographies;
- the performance of MRIdian in clinical settings;
- competition from existing technologies or products or new technologies and products that may emerge;
- the pricing and reimbursement of MR Image-Guided radiation therapy;
- the implementation of our business model and strategic plans for our business and MRIdian;
- the scope of protection we are able to establish and maintain for intellectual property rights covering MRIdian;
- our ability to obtain regulatory approval in targeted markets for MRIdian;
- our ability to procure materials and components in connection with the manufacture and installation of MRIdian;
- estimates of our future revenue, expenses, capital requirements and our need for additional financing;
- our financial performance;
- our expectations related to the MRIdian linear accelerator technology, or MRIdian Linac;
- developments relating to our competitors and the healthcare industry; and
- other risks and uncertainties, including those listed under the section titled "Risk Factors."

Any forward-looking statements in this Report reflect our current views with respect to future events or to our future financial performance and involve risks, uncertainties and other factors that may cause actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by these forward-looking statements. Factors that may cause actual results to differ materially from current expectations include, among other things, those listed under Item 1A, titled "Risk Factors" and discussed elsewhere in this Report. Given these uncertainties, you are cautioned not to place undue reliance on these forward-looking statements. We disclaim any obligation to update the forward-looking statements contained in this Report to reflect any new information or future events or circumstances or otherwise, except as required by law.

This Report also contains estimates, projections and other information concerning our industry, our business, and the markets for certain devices, including data regarding the estimated size of those markets. Information that is based on estimates, forecasts, projections, market research or similar methodologies is inherently subject to uncertainties and actual events or circumstances may differ materially from events and circumstances reflected in this information. Unless otherwise expressly stated, we obtained this industry, business, market and other data from reports, research surveys, studies and similar data prepared by market research firms and other third parties, industry, medical and general publications, government data and similar sources.

PART I

Item 1. BUSINESS

In this report, "ViewRay", the "Company", "we", "us" and "our" refer to ViewRay, Inc. and its wholly-owned subsidiary, ViewRay Technologies, Inc.

Company Overview

We design, manufacture and market the ViewRay MRIdian®. The MRIdian is an innovative system that integrates high quality radiation therapy with simultaneous magnetic resonance imaging (MRI). There are two generations of the MRIdian: the first generation MRIdian with Cobalt-60 based radiation beams and the second generation MRIdian Linac, with more advanced linear accelerator or 'linac' based radiation beams.

The MRIdian combines MRI and external-beam radiation therapy to simultaneously image and treat cancer patients. MRI is a broadly used imaging tool that has the ability to clearly differentiate between types of soft tissue. In contrast, X-ray or computed tomography (CT), the most commonly used imaging technologies in radiation therapy today, are often unable to distinguish soft tissues such as the tumor and critical organs. MRIdian integrates MRI technology, radiation delivery and our proprietary software to clearly ***See*** the soft tissues, ***Shape*** the dose to accommodate for changes in anatomy and ***Strike*** the target precisely using real-time targeting throughout the treatment. The MRIdian system is ***Sized*** to fit into standard radiation therapy vaults without having to remove ceiling or walls. These capabilities allow MRIdian to deliver radiation to the tumor accurately, while reducing the radiation amount delivered to nearby healthy tissue, as compared to other radiation therapy treatments currently available. We believe this will lead to improved patient outcome and reduced treatment-related side effects.

Both generations of the MRIdian have received 510(k) marketing clearance from the US Food and Drug Administration, or FDA, and permission to affix the Conformité Européene, or CE, mark.

- We received initial 510(k) marketing clearance from the US Food and Drug Administration, or FDA, for our treatment planning and delivery software in January 2011.
- We received 510(k) marketing clearance for MRIdian, with Cobalt-60 as the radiation source, in May 2012. We received permission to affix the CE mark to MRIdian with Cobalt-60 in November 2014, allowing MRIdian with Cobalt-60 to be sold within the European Economic Area, or EEA.
- In August 2016, we received regulatory approval from the Japanese Ministry of Health, Labor and Welfare to market MRIdian with Cobalt-60 in Japan as well as from the China Food and Drug Administration to market MRIdian with Cobalt-60 in China.
- In September 2016, we received the CE mark for MRIdian Linac (with a linear accelerator as the radiation source) in the EEA.
- In February 2017, we received 510(k) clearance from the FDA to market MRIdian Linac in the United States.
- In June 2017, we received 510(k) clearance to market RayZR™, our high-resolution beam-shaping multi-leaf collimator, or MLC. We also received MRIdian Linac regulatory approval in Taiwan and Canada in August 2017, and in Israel in November 2017. In March 2018, we received regulatory approval from the Japanese Ministry of Health, Labor and Welfare to market MRIdian Linac in Japan.
- In February 2019, we received 510(k) clearance for advancements in MRI and Functional imaging (T1/T2/DWI and 8 FPS cine) and High-Speed MLC.
- We are also seeking required MRIdian Linac approvals in other countries such as China.

MRIdian is the first radiation therapy solution that enables simultaneous radiation treatment delivery and real-time MRI imaging of a patient's internal anatomy. It generates high-quality images that differentiate between the targeted tumor, surrounding soft tissue and nearby critical organs. MRIdian also records the level of radiation dose that the treatment area has received, enabling physicians to adapt the prescription between treatments, as needed. We believe this improved visualization and accurate dose recording will enable better treatment, improve patient outcomes and reduce side effects. Key benefits to users and patients include: improved imaging and patient alignment; the ability to adapt the patient's radiation treatments to changes while the patient is still on the treatment table, or "on-table adaptive treatment planning"; MRI-based motion management; and an accurate recording of the delivered radiation dose. Physicians have already used MRIdian to treat a broad spectrum of radiation therapy patients with more than 45 different types of cancer, as well as patients for whom radiation therapy was previously not an option.

We currently market MRIdian through a direct sales force in North America. In the rest of the world, we market MRIdian through a hybrid model of both a direct sales force and distribution network. As of December 31, 2019, we had installed or delivered 41 MRIdian systems worldwide and had a backlog with total value of $227.3 million. We generated revenue of $87.8 million, $81.0 million, and $34.0 million for the years ended December 31, 2019, 2018 and 2017, respectively. We had net losses of $120.2 million, $76.4 million and $72.2 million for the years ended December 31, 2019, 2018 and 2017, respectively.

Cancer and Radiation Therapy Market

Incidence of Cancer

Cancer is a leading cause of death globally and the second leading cause of death in the United States behind cardiovascular disease. According to the American Cancer Society, nearly 1.8 million people are expected to be diagnosed with cancer in the United States during 2020 and approximately 0.6 million are expected to die from cancer, which translates to about 1,660 deaths per day. As a result of a growing and aging population, the International Agency for Research on Cancer (IARC), part of the World Health Organization, previously reported that the worldwide cancer burden has risen to 18.1 million new cases and 9.6 million cancer deaths in 2018.

Cancer Therapy

The primary goal of cancer therapy is to kill cancerous tissues, while minimizing damage to healthy tissues. There are three main ways to treat cancer: surgery, chemotherapy and radiation therapy. Surgery attempts to remove the tumor from the body, while minimizing trauma to healthy tissue and preventing the spread or translocation of the disease to other parts of the body. Surgery is particularly effective because the surgeon can see the tumor and surrounding healthy tissue directly throughout the course of the procedure and can adapt his or her planned removal approach mid-procedure accordingly. Chemotherapy uses drugs to kill cancer cells. Unlike surgery, most forms of chemotherapy circulate throughout the patient's body to reach cancer cells almost anywhere in the body systemically. Chemotherapy is most effective at destroying microscopic levels of disease. Radiation therapy is typically used as a local treatment, directed at a tumor and surrounding areas where microscopic cancerous cells are assumed to have spread. Radiation may be used as the primary treatment modality, or in combination with either chemotherapy or surgery or both. Radiation therapy works by damaging genetic material in cells and other cell components through interaction with ionizing energy. Effective radiation therapy balances destroying cancer cells with minimizing damage to normal cells. It can be used at high doses to ablate a tumor, an effect similar to surgery, or at moderate doses to target local microscopic disease, as is done with chemotherapy. Other, more recently developed ways of treating cancer, include hormone therapy and targeted therapy, such as immunotherapy.

Radiation Therapy

Radiation therapy has become widespread, with nearly two-thirds of all treated cancer patients in the United States receiving some form of radiation therapy during the course of their cancer treatments, according to estimates by American Society for Radiation Oncology, ASTRO. For most cancer types treated with radiation therapy, at least 75% of the patients are treated with the intent to cure the cancer. For lung and brain cancers, that number is somewhat lower, with 59% of lung cancer patients and 50% of brain cancer patients being treated with the goal of curing cancer. The remainder of cases are treated with palliative intent to relieve pain or other tumor related symptoms. The type of radiation therapy delivered by linac or Cobalt 60 based devices is a non-invasive outpatient procedure with little or no recovery time and can be used on patients who are unable to undergo conventional surgery. According to IMV Inc. (IMV), 97% of patients receiving external beam radiation therapy in the United States are treated using a linac.

Radiation is used to kill cancer cells primarily by damaging their DNA but can also kill healthy cells in the same way or cause them to become cancerous themselves. As a result, the goal of curative radiation therapy is to balance delivery of a sufficiently high dose of radiation to a tumor to kill the cancer cells while, at the same time, minimizing damage to healthy cells, particularly those in critical organs. Normal cells are better able to repair themselves after radiation than tumor cells, so doses of radiation are often fractionated, or delivered in separate sessions with rest periods in between. As a result, standard radiation therapy is often given once a day, five times a week, for one to nine weeks. According to a 2019 IMV report, patients made an estimated 18.5 million radiation therapy treatment visits in the United States in 2019.

Radiation Therapy Equipment Market

According to Markets and Markets 2019 Radiotherapy Market Global Forecasts 2023 report, the global radiotherapy market is estimated to grow to approximately $6.8 billion by 2023. According to IAEA Human Health Campus, there are nearly 12,200 linacs installed at nearly 7,500 centers worldwide. In North America, there are over nearly 4,000 linacs installed at over 2,200 centers. The annual market for linacs is estimated to be 1,000 units per year globally, the majority of which are replacements for older machines.

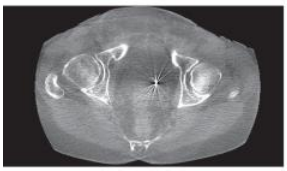
In the radiation therapy market, new technologies have historically been adopted at a rapid rate. According to IMV, the percentage of centers performing intensity modulated radiation therapy, or IMRT, grew from 30% in 2002 to 96% in 2012. The percentage of sites utilizing image-guided radiation therapy, or IGRT, grew even more quickly: from 15% in 2004 to 83% in 2012. The majority of IGRT procedures use on-board X-ray systems. As leading cancer centers adopt and study MR Image-Guided radiation therapy, we believe that our current-generation linac based MRI system will also follow a rapid adoption curve in the broader linac replacement market.

Limitations of Traditional Radiation Therapy

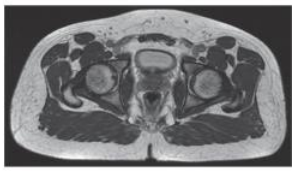
Limitations with traditional radiation therapy result from imaging technologies that make accurate visualization of a tumor and its relation to critical organs difficult or impossible during the treatment delivery. Most current traditional systems take images of the tumor before and after treatments, but, none do so continuously during the treatments in real time. As a result, treatments may not be delivered with the precision assumed by the physician and may not result in the necessary efficacy or reduction in local tumor recurrence. Also, healthy tissues may be exposed to radiation levels different from those predicted by the planning system and can result in patient injury.

- ***Inability to accurately SEE a tumor for treatment alignment.*** To locate a tumor, current radiation therapy systems rely on CT scans taken while the patient is on the delivery unit treatment table, or "on-table." Because it is difficult to differentiate between the tumor and nearby soft tissues with CT images, clinicians use surrogate registration markers, including existing bone structures, external marks and surgically implanted fiducials, to align a patient's tumor to the treatment beams prior to commencing treatment.

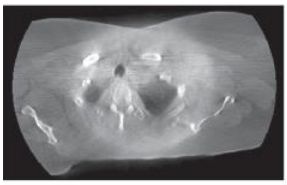
Comparison of On-Table CT Images to On-Table MRIdian Images



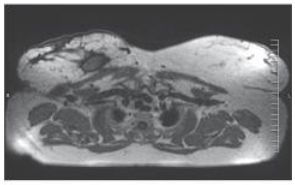
Prostate cancer, on-table CT image



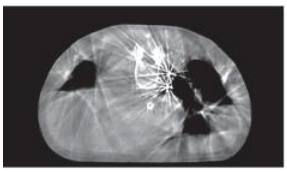
Prostate cancer, on-table MRIdian image



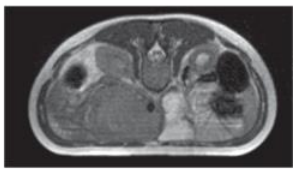
Breast cancer, on-table CT image



Breast cancer, on-table MRIdian image



Abdominal cancer, on-table CT image



Abdominal cancer, on-table MRIdian image

However, the spatial relationship between tumors and the registration markers used to locate them often changes between the time of the patient's initial imaging and the time of his or her first treatment session. This is particularly true for tumors which are located in soft tissue. By relying on a marker as a proxy for the tumor location, rather than on the tumor itself, clinicians risk missing the tumor when they deliver radiation beams into the patient's body. In addition, placement of surgically implanted fiducial markers comes with inherent risks: the procedures are invasive; there is a risk of pain, infection and bleeding; and fiducials may change location and even migrate inside the body. Fiducial placement also may add extra costs for payers, providers and patients. Despite placement of fiducials, physicians are often unable to track changes in tumor shape. Also, fiducials made of dense metals, such as gold, may cause artifacts which interfere with imaging.

- ***Inability to SHAPE and adapt treatment on-table.*** A physician designs a treatment plan and dose prescription based on images that are captured days or even weeks prior to initiation of radiation therapy. Creating a treatment plan can take up to several weeks in complex cases, and treatment itself can take up to nine weeks. However, during the course of therapy, tumors often change size, orientation or shape, and patient anatomy can change for a variety of reasons such as weight loss or gain. These changes can alter the planned radiation exposure to both the targeted regions and nearby healthy organs; this has the potential to increase the risk of local tumor recurrence and to reduce the safety of the radiation delivery. Adjusting for these changes on conventional delivery units requires re-planning, which includes getting new patient images needed to create a new treatment plan. This process may take several days and is highly resource intensive. As a result of these limitations, re-planning is infrequently performed.

  Due to limitations in imaging technologies, physicians may actually be unaware of changes in the tumor and surrounding anatomy. Consequently, they may continue to administer radiation dose according to the original treatment plan, without realizing its potential to reduce the effectiveness of the tumor treatment and to increase the risk of patient injury.

- ***Inability to STRIKE and track tumor and organ motion accurately.*** In addition to the difficulty of locating a tumor accurately in a patient's body at the time treatment begins, a further challenge is accounting for ongoing tumor movement that takes place during treatment. Tumors have been shown to move multiple centimeters relative to surrogate registration markers over the course of only a few seconds. Breathing and other normal bodily functions, such as changes in the bladder or bowel during treatment, can cause significant tumor motion. Although physicians use internal markers, external cameras and blocks placed on the patients' body to track respiratory and other motion, they are typically unable to track the tumor itself. As a result, physicians usually enlarge the total region to be irradiated. This limitation increases the probability of missing the targeted treatment area and exposing healthy tissues to unnecessary radiation.

Each of these limitations increases the risk of missing a tumor and hitting healthy tissue during treatment. If a tumor is insufficiently irradiated, it may not respond to treatment, resulting in a greater probability of local tumor recurrence and reduced overall survival for the patient. The ability to avoid irradiating healthy tissue has been shown to reduce side effects. If healthy tissues, particularly critical organs, are irradiated, the side effects can be severe, including: scarring of lung tissue; fibrosis and cardiotoxicity in lung and breast cancers; incontinence and sexual dysfunction in pelvic and prostate cancers; infertility in pediatric cancers; memory loss, seizures and necrosis in brain cancer; secondary cancers, and in serious cases, death. Many of these side effects can be costly for patients and the healthcare system.

Although MR technology is an imaging tool broadly used to differentiate between types of soft tissue in diagnostic settings, MR technology had not been available in the radiation treatment delivery room before the launch of ViewRay's MRIdian System. In the past, MR was not used with radiation therapy because the technologies interfered with each other: the magnetic field generated by MR interfered with the linac beam, while the radiofrequencies produced by the linac distorted the MR images. Current forms of CT have improved over time, but issues with radiation dose and image quality limit the utility of these technologies. Fluoroscopy and cone-beam CT, which is a form of on-board CT, involve the use of X-rays, a form of ionizing radiation, and pose an increased risk of radiation-induced cancer to the patient.

Our Solution

We developed MRIdian to address the key limitations of existing external-beam radiation therapy technologies. MRIdian employs MRI-based technology to provide real-time imaging that clearly defines the targeted tumor from the surrounding soft tissue and other critical organs, both before and during radiation treatment delivery.

MRIdian is the first and only MR-guided, on-table adaptive radiotherapy system with real-time, tissue tracking-based automated beam gating. MRIdian offers:

- MR-guided imaging that provides superior tissue visualization compared to cone-beam computed tomography, or CBCT, to enable precise contouring and reduced margins.
- Fully integrated, on-table adaptive workflow that allows complete re-optimization of the daily treatment plan.
- Real-time tissue tracking that controls the automated beam gating without the need for implanted markers.

We believe this combination of enhanced anatomy visualization and accurate dose calculation and delivery will significantly improve the safety and efficacy of radiation therapy, leading to better outcomes for patients suffering from cancer.

Over the past decade, significant technological advances in radiotherapy have come into clinical practice including improved treatment planning, better tumor localization, and individualized motion management. While life-saving developments continue, limitations such as poor soft tissue contrast, the use of surrogates to identify anatomy, and having no real-time imaging during beam-on have constrained the possibility to safely deliver higher, potentially more effective radiation doses.

In order for clinicians to deliver high precision adaptive radiotherapy, the MRIdian Linac was designed with a purpose-built magnet, high precision double stacked double focused MLC, a high dose rate linear accelerator, and a Treatment Planning and Delivery System (TPDS) software suite built from the ground up. We believe that MRIdian provides the following clinical and commercial benefits to physicians, hospitals and patients:

- The ability to SEE: SmartVISION®
  Unlike MRI systems used for diagnostic radiology, MRIdian's SmartVISION MR imaging was purpose-built for radiation oncology and MR-guided on-table adaptive radiotherapy. Most importantly, SmartVISION provides diagnostic-quality, multi-sequence MR imaging while co-existing in close proximity with the integrated linear accelerator. MRIdian's patented magnetic and radiofrequency shielding design ensures minimal interaction between the linear accelerator and magnetic field. MRIdian's MR imaging significantly reduces the risk of skin toxicities, trapped, or distorted dose, which occur when high magnetic fields interact with radiation beams. With a proprietary split-magnet magnetic design exclusive to SmartVISION, MRIdian provides a unique unobstructed beam path and optimal source-axis distance (SAD) enabling sophisticated beam dosimetry, exceptionally sharp penumbra tailored for stereotactic radiosurgery (SRS) and stereotactic body radiation therapy (SBRT), and high dose rate beam delivery.
- The ability to SHAPE: SmartADAPT™
  Patient anatomy changes from day to day resulting in significant changes to the position, shape, and size of the tumor and surrounding healthy tissue between treatment sessions. Using MRIdian's SmartADAPT adaptive radiotherapy software, clinicians can now acquire daily on-table MR setup scans in seconds and leverage high-contrast, high-definition imaging to rapidly reshape dose delivery to accommodate the anatomical changes that occur throughout the course of treatment. Taking advantage of groundbreaking advances in computing technology, SmartADAPT calculates new individualized Monte Carlo plans in seconds based on the exact anatomy at that time—all while the patient is in the treatment position.
- The ability to STRIKE: SmartTARGET™
  While the patient is on the table during beam delivery, transient gas bubbles, filling bladders and respiratory motion may cause tumors and surrounding organs at risk (OARs) to rapidly change position and shape. MRIdian's SmartTARGET continuously acquires MR images and tracks target tissue and OARs faster than human reaction time. SmartTARGET's real-time tissue tracking controls the automated beam gating by delivering the radiation dose only when the tumor is located in the pre-defined treatment boundary. If the tumor moves outside the pre-defined treatment boundary and OARs move into the treatment boundary, the beam automatically stops. When the tumor moves back into the boundary, the beam is turned on and the treatment resumes. SmartTARGET provides greater confidence that prescribed doses reach the target while avoiding critical structures.
- The ability to SIZE: SmartSITE™
  MRIdian's compact SmartSITE footprint addresses common physical space limitations and challenges associated with large-scale vaults and the need for a custom-built solution. MRIdian's SmartSITE design allows MRIdian to fit within almost any existing standard linear-accelerator vault and shielding configuration, helping reduce prolonged installation schedules and additional costs necessary to build custom, large-scale vaults. MRIdian components are also able to fit through conventional vault doorways, so there is no need to remove walls, raise ceilings, or dig trenches, eliminating interruptions and delays.

MRIdian can treat a broad spectrum of radiation therapy indications and disease sites with its ability to perform three-dimensional conformal radiation therapy, or 3D-conformal radiation therapy (CRT), IMRT, IGRT, SBRT and SRS. MRIdian treatments are supported by existing radiation therapy payment codes in almost all countries in which we offer MRIdian. We believe MRIdian's increased tumor target accuracy will allow physicians to treat patients with higher radiation doses over fewer treatment fractions; this potentially enables the clinic to treat more patients with greater overall efficiency and patient throughput.

Our Strategy

We are dedicated to making MR Image-Guided radiation delivery the standard of care for radiation therapy. To achieve our objective of providing clinicians new and innovative ways to deliver radiation therapy, we are focused on delivering on an integrated plan that incorporates a bold commercial strategy, a relentless focus on operational excellence, the pursuit of the highest customer satisfaction and therapy adoption. We are also committed to attracting, retaining and developing the best talent across all functions. We believe this will allow us to expand the market and target more customers, accelerate our sales cycle, and significantly improve the customer's overall experience.

- ***Investment in the commercial organization.*** We continue to invest in our United States sales force, while enhancing the international direct sales force to assist distributors in EMEA and Japan, which collectively make up about 70% of the global market opportunity according to IAEA Human Health Campus. We continue our efforts to develop a focused commercial presence that is highly competitive, resulting in the continued adoption of MRIdian through pipeline development activities in targeted markets worldwide.

- ***Operational excellence.*** While focusing external efforts on building the customer pipeline, we are also committed to achieving internal operational excellence in parallel. We continually seek to create efficiencies across the organization to reduce the purchase order to revenue recognition cycle time. This goal is to be driven by proactive engagement with customers to achieve vault readiness; driving supplier quality enhancements; and developing more robust and efficient manufacturing capabilities.

- ***Customer service.*** Key to our value system is pursuing the highest customer satisfaction. We measure this by continuously quantifying customer satisfaction and loyalty, and adjusting our priorities accordingly. By hearing the voices of the radiation oncologists, the medical physicists and radiation oncology dosimetrists, therapists and administrators, we continue to work to improve and refine the capabilities and resulting benefits of MRIdian over competitive radiation therapy systems. Current priorities are focused on addressing service and technical support, clinical workflow enhancements, reducing treatment times, the development of clinical data and maintaining our competitive lead in MR Image-Guided radiation therapy through continued innovation.

- ***MRIdian therapy adoption.*** We believe that MRIdian adoption will accelerate as we leverage three key drivers: innovation, clinical data and training.

    - ***Innovation.*** Innovation is one of our greatest strengths as an organization, a strength that we fully intend to capitalize on. We intend to continue to invest in our technology to maintain our leadership position in the emerging MR Image-Guided radiation therapy market. In the next year, we intend to introduce enhancements to the system and software to provide improved capabilities for MRIdian users and patients. As we continue to build a strong intellectual property portfolio, our pipeline includes projects to address treatment delivery speed, machine vision and biological imaging. We will work proactively with key opinion leaders, clinicians, hospitals and free-standing centers to refine and improve MRIdian's features, optimize clinical workflow and maximize patient throughput while incorporating our advanced features.

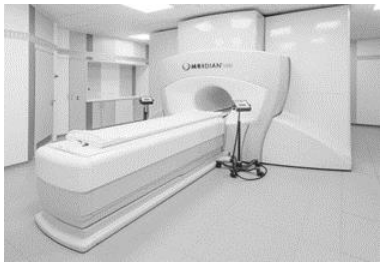
    - ***Clinical data***. MRIdian customers continue to develop an impressive compendium of clinical data. Over the last six years, over 45 different types of cancer have been treated on MRIdian systems. Radiation oncologists and medical physicists have expanded treatment to areas such as abdominal oligometastic cancer, tumors in the central lung, and non-invasive heart ablations.

    - ***Training.*** Training remains paramount to adoption. We plan to invest in peer-to-peer symposia and training courses to facilitate sharing of the best practices of key opinion leaders with new customers. We also plan to invest in our clinical field team. In order to drive awareness and adoption, we will continue to work with current customers and their respective institutions to host visiting physicians, train new users in best-practices, and engage in outreach events worldwide.

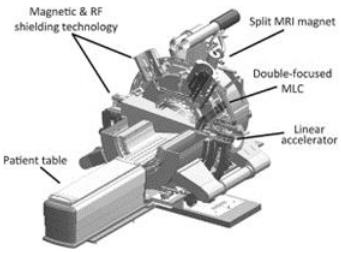
The MRIdian System

The MRIdian is comprised of three major components, (i) the MRI system, (ii) the radiation delivery system, and an (iii) integrated treatment planning and delivery software.

Photo of an Installed MRIdian (University of Heidelberg)



MRIdian System Components



MRIdian MRI System

The MRI system is the component of MRIdian that captures soft tissue images of the patient's body. To address the technical complications that arise from combining an MRI with an external-beam radiation delivery unit, we have designed a proprietary split superconducting magnet that will allow radiation doses to be delivered through a central gap, which eliminates MRI components from the path of the beam. Our MRI system captures and displays live, high-quality images in one plane, four times per second or in three planes, two times per second. These real-time images automatically track selected structures and control radiation treatment beam delivery.

We have engineered our MRI system to be able to produce clear images using a low-field strength 0.35 Tesla magnet, which helps enable us to minimize image and radiation dose distortions that result when higher field strength magnets are used.

MRIdian Radiation Delivery System

In the first-generation MRIdian, which we no longer make available for sale, radiation was delivered from three Cobalt-60 radiation therapy heads symmetrically mounted on a rotating ring gantry.

In the second generation MRIdian, our currently available system, we developed solutions to two long-standing problems that had prevented compact integration of a linac beam with an MRI system: 1) linac radiofrequency interference with the operation of the MRI; and 2) MRI magnetic interference with the operation of the linac. First, linacs utilize high-powered microwave generators similar to equipment used in radar at airports. These "radar stations" inside the linac create radiofrequency emissions, or "noise" that can corrupt the delicate signals measured from the patient's body to generate MR images. ViewRay solved this problem by introducing technology similar to that used in stealth aircraft. Airplanes built with stealth technology can hide from radar by using a coating that absorbs microwaves, thus preventing radar beams that strike the aircraft from bouncing back to the radar station. In a similar manner, we absorb the output of the linac "radar station" to hide it from the MRI, producing images as noise-free as those created without an integrated linac.

Second, MRIs utilize high-powered superconducting magnets required to image the patient's tissues that must be placed close to the linac components used for radiation therapy. But many linac components will not operate properly when placed close to or inside these strong magnetic fields. ViewRay overcame this challenge by creating magnetic shielding shells that create voids in the magnetic field, without significantly disturbing the magnetic field used for imaging. This allows the linac to operate on the MRIdian gantry as if there were no magnetic field present. MRIdian Linac uses the same split-magnet MRI system used in the first generation MRIdian system. It is specifically designed to fit in standard radiotherapy vaults so that customers do not need to build new vaults in order to replace an X-ray guided linear accelerator with a MRIdian. Existing first generation MRIdian systems currently in use can be upgraded to the MRIdian Linac in the field.

Integrated Treatment Planning and Delivery Software

Our proprietary treatment planning and delivery adaptive treatment software works with the integrated patented split-magnet MRI System, unobstructed radiation beam path and optimal source-axis-distance (SAD) of the Radiation Delivery System to unlock beam dosimetry, sharp SRS and SBRT-tailored penumbra, and high dose rate beam delivery.

Installed Base and Clinical Use

At December 31, 2019, five MRIdian with Cobalt-60 and 30 MRIdian Linac systems are in operation at 33 cancer centers (14 in the United States and 19 outside the United States). In addition, six MRIdian Linacs have been delivered to customers that are in varying stages of installation.

New Orders and Backlog

New orders are defined as the sum of gross product orders, representing MRIdian contract price, recorded in backlog during the period. Backlog is the accumulation of all orders for which revenue has not been recognized and which we consider valid. Backlog includes customer deposits or letters of credit, except when the sale is to a customer where a deposit is not deemed necessary or customary. Deposits received are recorded as customer deposit, which is a liability on the balance sheet. Orders may be revised or cancelled according to their terms or upon mutual agreement between the parties. Therefore, it is difficult to predict with certainty the amount of backlog that will ultimately result in revenue. The determination of backlog includes objective and subjective judgment about the likelihood of an order contract becoming revenue. We perform a quarterly review of backlog to verify that outstanding orders in backlog remain valid, and based upon this review, orders that are no longer expected to result in revenue are removed from backlog. Among other criteria we use to determine whether a transaction to be in backlog, we must possess both an outstanding and effective written agreement for the delivery of a MRIdian signed by a customer with a minimum customer deposit or a letter of credit requirement, except when the sale is to a customer where a deposit is not deemed necessary or customary (i.e. sale to a government entity, a large hospital, group of hospitals or cancer care group that has sufficient credit, sales via tender awards, or indirect channel sales that have signed contracts with end-customers). We decide whether to remove or add back an order from or to our backlog by evaluating the following criteria: changes in customer or distributor plans or financial conditions; the customer’s or distributor’s continued intent and ability to fulfill the order contract; changes to regulatory requirements; the status of regulatory approval required in the customer’s jurisdiction, if any; and other reasons for potential cancellation of order contracts.

We received new orders for MRIdian systems, totaling $118.5 million, $140.7 million and $113.6 million in fiscal years 2019, 2018 and 2017, respectively. Based on our assessment, we removed $21.9 million, $53.5 million and $11.1 million from the backlog for fiscal year 2019, 2018 and 2017, respectively. At December 31, 2019, we had a backlog with a total value of $227.3 million. There can be no assurance that backlog will result in revenue in any particular time period or at all.

Installation Process

Following execution of an order contract, it generally takes nine to 15 months for a customer to prepare an existing facility or construct a new vault, although in some cases customers may request installation for a date later in the future to meet their own clinical or business requirements. After the customer completes its vault customization, it typically takes approximately ninety days to complete the installation and on-site testing of the system, including the completion of customer test procedures. MRIdian is designed to fit into a typical radiation therapy vault, similar to other replacement linear accelerators. MRIdian’s components all fit through standard hospital vault entrances for assembly. On-site training takes approximately one week and can be conducted concurrent with installation and acceptance testing.

Our customers are responsible for removing any outgoing linear accelerator equipment and preparing the room for the MRIdian system unless otherwise stipulated within the contract with the customer. This includes ensuring adequate radiation and radio frequency shielding, preparing the floor for the mounting plate, and upgrading facility utilities to meet system requirements.

Clinical Development

To date, we have primarily relied on clinical symposia and case studies presented at ASTRO and the European Society for Radiotherapy and Oncology, or ESTRO, to raise awareness of MR Image-Guided radiation therapy and to market MRIdian to leading cancer centers. In order to promote broader adoption rates at other cancer centers and hospitals, we plan to work with our customers to collect and publish data on clinical efficacy, treatment times and clinical results for patients who have been treated on a MRIdian. Outcomes data presented at the 2017 Annual Meeting of ASTRO highlighted potentially compelling early results using the Company's MRIdian system for the treatment of inoperable, locally advanced pancreatic cancer. These initial results will be explored further in a multi-center, prospective, single-arm clinical trial for inoperable, locally advanced or borderline resectable pancreatic cancer. The trial, Stereotactic MRI-guided On-table Adaptive Radiation Therapy, or SMART, for Locally Advanced Pancreatic Cancer study is being conducted by ViewRay has six active centers and the first 28 of 133 patients have been enrolled as of December 31, 2019.

Additionally, in 2016, Washington University published a prospective study on Magnetic Resonance Image Guided Radiation Therapy for External Beam Accelerated Partial-Breast Irradiation using a one-week course of treatment. This study demonstrated that on-board MR image-guidance allowed for a greater than 50% reduction of margins while maintaining the same dose to the tumor with patients reporting 100% Excellent/Good Cosmesis.

While we do not currently have statistically significant, prospective evidence that MRIdian improves patient outcomes or decreases healthcare costs relative to CT-based radiotherapy, we believe sponsoring and supporting studies will demonstrate the benefits of MR Image-Guided radiation therapy and adaptive treatment planning. As data accumulate from the use of MRIdian, we plan to work with professional healthcare organizations to support further global marketing efforts, additional product clearances, approvals and/or registrations, potential improvements in reimbursement and delivery system reforms.

Selling and Marketing

We currently market MRIdian through a direct sales force in North America and continue to expand our global footprint by going direct and adding additional distributors to our network in key markets. We market MRIdian to a broad range of worldwide customers, including university research and teaching hospitals, community hospitals, private practices, government institutions and freestanding cancer centers. As with the traditional linac market, our sales and revenue cycles vary based on the particular customer and can be lengthy, sometimes lasting up to 18 to 24 months (or more) from initial customer contact to order contract execution.

To sell MRIdian globally, we use a combination of sales executives, sales directors and a network of international third-party distributors with internal support from sales operations, product management and application specialists. A targeted group of fourteen senior sales directors are responsible for selling MRIdian within North America. Our product management function helps market MRIdian and works with our engineering group to identify and develop upgrades and enhancements. We also have a team of program development managers who provide post-sales support.

We engage in various physician-targeted advertising efforts, and our selling and marketing practices include participating in trade shows and symposia.

Competition

We compete directly with companies marketing IGRT devices for the treatment of cancer using MRI, CT, ultrasound, optical tracking and X-ray imaging. We also compete with companies developing next-generation IGRT devices, specifically those developing MR Image-Guided devices, among others. We expect the following to drive worldwide competitive market dynamics; technological advances, including the ability to provide real-time imaging; clinical outcomes; reimbursement; system size, price, and operational complexity; and operational efficiency.

Our major competitors with devices approved for distribution in the United States or globally include Accuray Incorporated, or Accuray, Elekta AB, or Elekta, and Varian Medical Systems, Inc., or Varian. Many of our direct competitors have greater financial, sales and marketing, service infrastructure and research and development capabilities than we do, as well as more established reputations and current market share.

Elekta is the only competitor which also markets an MRI-guided device combined with a linear accelerator, called Unity. Elekta Unity received FDA clearance in early December of 2018 and Japanese Shonin approval in May 2019.

Other Image Guided therapy devices. The University of Sydney, Ingham Institute and the University of Queensland have formed a partnership to develop an MRI-linac. MagnetTX, which licensed its technology from the University of Alberta's Cross Cancer Institute, is working on an MRI-linac as well. Although these academic research centers and very early stage companies may not pose as immediate commercial competition, if they were to form a partnership or other relationship with one of our competitors, it could impact our sales negatively.

The limited capital expenditure budgets of our customers result in all suppliers to these entities competing for a limited pool of funds. Our customers may be required to select between two items of capital equipment. For example, some of our potential customers may consider expensive proton therapy systems, which could consume a significant portion of their capital expenditure budgets.

Manufacturing

We have adopted a model in which we rely on subsystem manufacturing, assembly and testing by our key suppliers. The MRIdian subsystems are then fully integrated at the customer site. Through this approach, we avoid the majority of the fixed cost structure of manufacturing facilities. We purchase major components and subsystems for MRIdian from national and international third-party original equipment manufacturers, or OEM, suppliers and contract manufacturers. These major components include the magnet, MRI electronics, ring gantry, radiation therapy heads, Cobalt-60 sources, linear accelerator, multi-leaf collimators, patient-treatment table and computers. We also purchase minor components and manufacture parts directly ourselves. For sales for which we are responsible for installation, we assemble and integrate these components with our proprietary software and perform multiple levels of testing and qualification at the customer site. The system undergoes a final acceptance test, which is performed in conjunction with the customer.

Many of the major subsystems and components of MRIdian are currently procured through single and sole source suppliers. Among these are the magnet, MRI electronics, MRI coils, ring gantry, Cobalt-60 sources, linear accelerator and the patient-treatment table. We have entered into multi-year supply agreements for most of our major components and subsystems.

We manage our supplier relationships with scheduled business reviews and periodic program updates. We closely monitor supplier quality and delivery performance to ensure compliance with all MRIdian system specifications. We believe our supply chain has adequate capacity to meet our projected sales over the next several years.

Intellectual Property

The proprietary nature of, and protection for, MRIdian components, new technologies, processes and know-how are important to our business. Our policy is to seek patent protection in the United States and in certain foreign jurisdictions for our MRIdian systems and other technology where available and when appropriate. We also in-license technology, inventions and improvements we consider important to the development of our business.

We hold a license to three issued U.S. patents, 15 issued foreign patents (eight of which were issued in Great Britain, Germany, France and the Netherlands as a result of two patent applications filed and allowed through the European Patent Office), one pending U.S. application and two pending foreign applications as of February 14, 2020. We own an additional 30 issued U.S. patents, 79 issued foreign patents (28 of which were issued in Great Britain, Germany, France, Italy and the Netherlands as a result of six patent applications filed and allowed through the European Patent Office), 24 pending U.S. applications and 121 pending foreign applications as of February 14, 2020. Assuming all required fees are paid, individual patents or patent applications owned or licensed by us will expire between 2021 and 2039. We also have a joint ownership interest with Case Western Reserve University in two U.S. issued patents.

Our portfolio includes patents and patent applications directed to system-wide aspects of MRIdian and to key aspects of its subsystems and components. The initial licensed patents for our core technology broadly cover the simultaneous use of MR imaging and isotopic external-beam radiation therapy and we have issued U.S. and foreign patents and pending continuation applications that extend this core technology to alternate beam technologies. Additionally, we have patents and patent applications that cover critical design elements including, among others, our methods for integrating MRI with the radiation delivery system, and the design of our disassemble, or “pop apart,” magnet which enables the MRI sub-system to fit into most standard radiation therapy vaults. In addition, we have U.S., and foreign patents and patent applications that cover technologies enabling the use of MR-imaging at a frequency sufficient to account for real-time organ motion to provide video-rate tissue tracking in disciplines in and outside of radiation therapy. Furthermore, we have patents issued in the U.S., Canada, Europe, Australia, Japan, Hong Kong and China, and additional applications pending in the U.S. and foreign jurisdictions, specifically directed to technology enabling the MRIdian Linac combination of MRI and linear accelerator technology.

We continue to review new technological developments in our system and in the field as a whole, in order to make decisions about what filings would be most appropriate for us. An additional key component of our intellectual property is our proprietary software used in planning and delivering MRIdian’s therapeutic radiation dose.

In December 2004, we entered into a licensing agreement with the University of Florida Research Foundation, Inc., or UFRF, whereby UFRF granted us a worldwide exclusive license to certain of UFRF’s patents in exchange for 33,653 shares of common stock and a royalty from sales of products developed and sold by us utilizing the licensed patents. Royalty payments are based on 1% of net sales, defined as the amount collected on sales of licensed products and/or licensed processes after deducting trade and/or quantity discounts, credits on returns and allowances, outbound transportation costs paid and sales tax. Minimum quarterly royalty payments of $50,000 commenced with the quarter ended March 31, 2014 and are payable in advance. Minimum royalties paid in any calendar year will be credited against earned royalties for that calendar year. The royalty payments continue until the earlier of (i) the date that no licensed patents remain enforceable; or (ii) the payment of earned royalties, once begun in 2014, cease for more than four consecutive calendar quarters. In addition to our patents, we also rely upon trade secrets, know-how, trademarks, copyright protection and continuing technological and licensing opportunities to develop and maintain our competitive position. We have periodically monitored and continue to monitor the activities of our competitors and other third parties with respect to their use of intellectual property. We require our employees, consultants and outside scientific collaborators to execute confidentiality and invention assignment agreements upon commencing employment or consulting relationships with us. Despite these safeguards, any of our know-how or trade secrets not protected by a patent could be disclosed to, or independently developed by, a competitor.

Coverage and Reimbursement

We believe that reimbursement rates in the United States have generally supported a favorable return on investment for the purchase of new radiotherapy equipment, including MRIdian. Standard radiation therapy treatments using MRIdian, including 3D-CRT, IMRT and SBRT, are generally reported under existing Current Procedural Terminology, or CPT, codes. Most payers, including Medicare, generally cover standard radiation therapy treatments furnished in outpatient hospital and free-standing centers.

Third-party payors, including public programs such as Medicare and Medicaid, establish coverage policies and reimbursement rates for procedures performed by physicians in hospitals and free-standing clinics. Private insurers often model their payment rates and coverage policies based on those established by Medicare. The U.S. Congress from time to time considers various Medicare and other healthcare reform proposals that could affect both private and public third-party payor coverage and reimbursement for healthcare services provided in hospitals and clinics. In addition, third-party payors regularly update reimbursement amounts, including annual updates to payments to physicians, hospitals and clinics for medical procedures, including radiation treatments using MRIdian.

The Centers for Medicare & Medicaid Services, or CMS, also publishes annual updates to the hospital outpatient prospective payment system, or HOPPS. In addition, third-party payors regularly update reimbursement amounts, including annual updates to payments to physicians, hospitals and clinics for medical procedures, including radiation treatments using MRIdian.

In 2019, CMS proposed an alternative payment model, or APM, for a majority of cancers that are typically treated with radiation therapy, or RT. Under the proposed APM, many parts of the country would be paid using a bundled payment amount based on historical Medicare payment for RT services included in the model. Other parts of the country would continue to be paid under the traditional fee-for-service system. We expect final regulation publication and implementation sometime in 2020. CMS will test whether a bundled payment approach would incentivize the use of shorter courses of RT, such as those that can be delivered using MRIdian, which could potentially reduce costs for Medicare and Medicare beneficiaries.

Foreign Reimbursement Regulations

Healthcare delivery, financing and payment systems vary from country to country and include single-payor and multiple public and private payors as well as public and private ownership of hospitals and centers. Our ability to achieve adoption of MRIdian, as well as significant sales volume in international markets we enter will depend in part on the availability of reimbursement for procedures performed using MRIdian, demonstrating the value of MRIdian for payers and purchasers, and in some countries, funding for capital equipment purchases.

Research and Development

Continued innovation and development of advanced technologies is critical to our goal of making MR Image-Guided radiation therapy the standard of care for cancer treatment. Our current development activities include improvements in and expansion of product capabilities, continued clinical workflow refinements, design improvements to reduce system costs and improvements in reliability.

The modular design of MRIdian enables the development of new capabilities and performance enhancements by generally allowing each subsystem to evolve within the overall platform design. Access to regular MRIdian upgrades protects customer investment in MRIdian and facilitates the adoption of new features and capabilities among existing installed base customers.

In addition, we believe our existing and expanding IP portfolio will enable us to continuously develop innovative technologies to further strengthen the differentiation of MRIdian in the marketplace. Magnetic resonance imaging is a powerful and versatile measurement technique and is widely used throughout radiology and medicine because of its ability to generate information about tissues and disease states.

Government Regulation

U.S. Medical Device Regulation and Nuclear Materials Regulation

As a manufacturer and seller of medical devices and devices that deliver radiation, we and some of our suppliers and distributors are subject to extensive and rigorous regulation by the FDA, the Nuclear Regulatory Commission, or the NRC, other federal, state and local authorities in the United States and foreign regulatory authorities. The U.S. Food, Drug, and Cosmetic Act, or FDCA, and the regulations promulgated by the FDA relating to medical devices and radiation-producing devices govern, among other things, the following activities that we perform or that are performed on our behalf, and that we will continue to perform or have performed on our behalf:

- product design, development and testing;
- manufacturing;
- approval or clearance;
- packaging, labeling and storage;
- marketing, advertising and promotion, sales;
- distribution, including importing and exporting;
- installation;
- possession and disposal;

- record keeping;
- service and surveillance, including post-approval monitoring and reporting;
- complaint handling; and
- repair or recall of products and issuance of field safety corrective actions.

FDA Clearance and Approval of Medical Devices

The FDA regulates medical devices in the United States to ensure that medical products distributed domestically are safe and effective for their intended uses. Unless an exemption applies, the FDA requires that all new medical devices and all marketed medical devices that have been significantly changed, or that will be marketed with a new indication for use, obtain either clearance via a 510(k) premarket notification or approval via a Premarket Approval, or PMA, application before the manufacturer may commercially market or distribute the product in the United States.

The FDA classifies medical devices into one of three classes. Devices deemed to pose the lowest risk are placed in Class I.

Moderate risk devices are placed in Class II, for which safety and effectiveness can be reasonably assured by adherence to: (i) a set of regulations referred to as General Controls, which require compliance with the applicable portions of the FDA's Quality System Regulation, or QSR, (ii) Special Controls, which can include performance standards, guidelines and post-market surveillance; and (iii) regulations regarding facility registration and product listing, reporting of adverse events and malfunctions, and appropriate, truthful and non-misleading labeling and promotional materials. Most Class II devices are subject to 510(k) premarket review and clearance by the FDA.

Devices deemed by the FDA to pose the greatest risk, such as life-sustaining, life-supporting or implantable devices, or devices deemed not substantially equivalent to a previously cleared 510(k) devices are placed in Class III. Class III devices require FDA approval of a PMA prior to marketing.

Both generations of the MRIdian System have been classified as Class II medical devices subject to the 510(k) clearance process.

510(k) clearance process. Most Class II devices are subject to premarket review and clearance by the FDA, which is accomplished through the 510(k) premarket notification process. Under the 510(k) process, the manufacturer must submit to the FDA a premarket notification, demonstrating that the device is "substantially equivalent" to a "predicate" device, which is a legally marketed similar device that is not subject to PMA requirements.

To be "substantially equivalent," the proposed device must have the same intended use as the predicate device and either have the same technological characteristics as the predicate device or have different technological characteristics and not raise different questions of safety or effectiveness than the predicate device. Clinical data are sometimes required to support substantial equivalence. The FDA is in the process of evaluating and implementing significant reforms to the device premarket review process, such as encouraging 510(k) applicants to use newer predicate devices to demonstrate substantial equivalence, and other policies that are intended to promote the use of modern technologies, improve the efficiency of the review process, and protect the public health.

The process of obtaining 510(k) clearance usually takes from three to 12 months from the date the application is filed and generally requires submitting supporting design and test data, which can be extensive and can prolong the process for a considerable period of time. If the FDA agrees that the device is substantially equivalent, it will grant clearance to commercially market the device.

After a device receives 510(k) clearance, any modification that could significantly affect its safety or effectiveness, or that would constitute a new or major change in the intended use of the device, may require a new 510(k) clearance or, depending on the modification, could require approval of a PMA. The FDA requires each manufacturer to make this determination in the first instance, but the FDA can review any such decision. If the FDA disagrees with the manufacturer's decision, it may retroactively require the manufacturer to submit a request for 510(k) clearance or PMA approval and can require the manufacturer to cease marketing and/or recall the product in the United States until 510(k) clearance or PMA approval is obtained.

We received 510(k) clearances for the treatment planning and delivery software system in January 2011 and for MRIdian in May 2012. Since obtaining 510(k) clearances in 2011 and 2012, we have made changes to MRIdian that we believe do not require further 510(k) clearance.

In February 2017, we received 510(k) clearance from the FDA to market the MRIdian Linac system. We received 510(k) clearance from the FDA for modifications of the MRIdian Linac system in June 2017 and February 2019.

Premarket application approval process. Submission and approval of a PMA is required before marketing of a Class III product may proceed. The PMA must contain sufficient valid scientific evidence to assure that the device is safe and effective for its intended use. The PMA process is the FDA's most stringent premarket review process for devices, typically requiring the submission of extensive information including clinical study data. None of our products have been subject to the PMA approval process, and we have no plans for any indication, system improvements or extensions that we believe would require a PMA.

Clinical trials. Clinical trials are generally required to support a PMA application and are sometimes required for 510(k) clearance. Clinical trials are subject to extensive monitoring, record keeping and reporting requirements. Clinical trials must be conducted under the oversight of an institutional review board, or IRB, for the relevant clinical trial sites and must comply with FDA regulations, including but not limited to those relating to good clinical practices. To conduct a clinical trial, the patient's informed consent must be obtained in form and substance that complies with both FDA requirements and state and federal privacy and human subject protection regulations. The clinical trial sponsor, the FDA or the IRB could suspend or terminate a clinical trial at any time for various reasons, including a belief that the subjects are being exposed to an unacceptable health risk. Even if a trial is completed, the results of clinical testing may not adequately demonstrate the safety and effectiveness of the device or may otherwise not be sufficient to obtain FDA clearance or approval to market the product.

Continuing FDA regulation. Any devices we manufacture or distribute pursuant to 510(k) clearance or PMA approval by the FDA are subject to pervasive and continuing regulation by the FDA and certain state agencies. These include product listing and establishment registration requirements, which help facilitate FDA inspections and other regulatory actions.

In addition, our manufacturing operations for medical devices and those of our suppliers must comply with the FDA's Quality System Regulation, or QSR. The QSR requires that each manufacturer, including third party manufacturers, establish and implement a quality system by which the manufacturer monitors the manufacturing process and maintains records that show compliance with FDA regulations and the manufacturer's written specifications and procedures. Among other things, the QSR requires that manufacturers establish performance requirements before production and follow stringent requirements applicable to the device design, testing, production, control, record keeping, documentation, labeling and installation, as well as supplier/contractor selection, complaint handling and other quality assurance procedures during all aspects of the manufacturing process. Compliance with the QSR is necessary to be able to continue to market medical devices that have received FDA approval or clearance, and to receive FDA clearance or approval to market new or significantly modified medical devices. The FDA makes announced and unannounced inspections of medical device manufacturers, and these inspections may include the manufacturing facilities of subcontractors. Following an inspection, the FDA may issue a FDA Form 483 report that describes the conditions or practices that the FDA investigator believes are in violation of FDA's requirements. FDA may also issue warning letters documenting regulatory violations observed during an inspection, for failure to adequately address inspectional observations, or for other violations of the FDCA. The manufacturer's failure to adequately and promptly respond to such reports or warning letters may result in further FDA enforcement action against the manufacturer and related consequences, including, among other things, fines, injunctions, civil penalties, recalls or seizures of products, total or partial suspension of production, FDA refusal to grant 510(k) clearance or PMA approval, withdrawal of existing clearances or approvals, and criminal prosecution.

Manufacturers must also comply with post-market surveillance regulations, including medical device reporting regulations, which require that manufacturers review and report to the FDA any incident in which their device may have caused or contributed to a death or serious injury, or malfunctioned in a way that would likely cause or contribute to a death or serious injury if it were to recur. In addition, corrections and removals reporting regulations require that manufacturers report to the FDA field corrections and product recalls or removals if undertaken to reduce a risk to health posed by the device or to remedy a violation of the FDCA that may present a risk to health. The FDA may also order a mandatory recall if there is a reasonable probability that the device would cause serious adverse health consequences or death.

The FDA and the Federal Trade Commission, or FTC, also regulate the promotion and advertising of MRIdian. In general, we may not promote or advertise MRIdian for uses not within the scope of our clearances or approvals or make unsupported safety and effectiveness claims.

Failure to comply with applicable FDA requirements, including delays in or failures to report incidents to the FDA or for promoting devices for unapproved or uncleared uses, can result in enforcement action by the FDA, such as:

- warning letters, untitled letters, fines, injunctions, consent decrees and civil penalties;
- customer notifications or repair, replacement, refunds, recall, administrative detention or seizure of our MRIdian systems;
- operating restrictions or partial suspension or total shutdown of production;
- refusing or delaying requests for 510(k) clearance or PMA approval of new or modified products;
- withdrawing 510(k) clearances or PMA approvals that have already been granted;
- refusal to grant export approval for products; or
- criminal prosecution.

Radiological health. We are also regulated by the FDA under the Electronic Product Radiation Control provisions of the FDCA because MRIdian contains radiation producing components, and because we assemble these components during manufacturing and service activities. The Electronic Product Radiation Control provisions require radiation producing products to comply with certain regulations and applicable performance standards. Manufacturers are required to certify in product labeling and reports to the FDA that their products comply with all necessary standards as well as maintain manufacturing, testing and sales records for their products. The Electronic Product Radiation Control provisions also require manufacturers to report product defects and affix appropriate labeling to covered products. Failure to comply with these requirements could result in enforcement action by the FDA, which can include any of the sanctions described above.

Nuclear Regulatory Commission and U.S. State Agencies

In the United States, as a manufacturer of medical devices and devices utilizing radioactive byproduct material (i.e. depleted uranium shielding and Cobalt-60 sources), we are subject to extensive regulation by not only federal governmental authorities, such as the NRC, but also by state and local governmental authorities, such as the Ohio Department of Health, to ensure such devices are safe and effective. In Ohio, the Department of Health, by agreement with the NRC, regulates the possession, use, and disposal of radioactive byproduct material as well as the manufacture of devices containing radioactive sealed sources to ensure compliance with state and federal laws and regulations. We have received sealed source device approval from the Ohio Department of Health for MRIdian and have entered into a standby letter of credit with PNC to provide certification of financial assurance for decommissioning Cobalt-60 radioactive materials in accordance with Ohio Department of Health regulations. We and/or our supplier of radiation sources must also comply with NRC and U.S. Department of Transportation regulations on the labeling and packaging requirements for shipment of radiation sources to hospitals or other users of MRIdian. Compliance with NRC, state and local requirements is required for distribution, installation, use and service within each state that we intend to install MRIdian systems.

Existing radiation therapy facilities practicing nuclear medicine, brachytherapy or Gamma Knife therapy are already required to have necessary NRC and/or state licenses and a radiation safety program requiring compliance to various provisions under NRC regulations at Part 35 of Title 10 of the Code of Federal Regulations (“Medical uses of byproduct material”). Use of MRIdian is regulated under Section 35.1000 of the NRC’s regulations (“Other medical uses of byproduct material or radiation from byproduct material”). In 2013, the NRC released licensing guidance under its regulations to guide our customers in the NRC requirements applicable to the use of MRIdian. We believe that this guidance is favorable in that it is consistent with clinical use of existing image-guided radiation therapy devices.

Moreover, our use, management, and disposal of certain radioactive substances and wastes are subject to regulation by several federal and state agencies depending on the nature of the substance or waste material. We believe that we are in compliance with all federal and state regulations for this purpose.

Outside the United States, various laws apply to the import, distribution, installation and use of MRIdian, in consideration of the nuclear materials within MRIdian. We do not believe that the MRIdian Linac falls under these regulations.

U.S. Privacy and Security Laws

We may also be subject to data privacy and security regulation by both the federal government and the states in which we conduct our business. The federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, as amended by the Health Information Technology and Clinical Health Act, or HITECH, and their respective implementing regulations, including the final omnibus rule published on January 25, 2013, imposes specified requirements relating to the privacy, security and transmission of individually identifiable health information. Further, “business associates,” defined as independent contractors or agents of covered entities that create, receive, maintain or transmit protected health information in connection with providing a service for or on behalf of a covered entity are also subject to certain HIPAA privacy and security standards. HITECH also increased the civil and criminal penalties that may be imposed against covered entities, business associates and possibly other persons, and gave state attorneys general new authority to file civil actions for damages or injunctions in federal courts to enforce the federal HIPAA laws and seek attorney’s fees and costs associated with pursuing federal civil actions. In addition, state laws govern the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts.

U.S. Fraud and Abuse Laws and Regulations

The healthcare industry is also subject to a number of fraud and abuse laws and regulations, including physician anti-kickback, false claims and physician payment transparency laws. Violations of these laws can lead to civil and criminal penalties, including exclusion from participation in federal healthcare programs and significant monetary penalties, among others. These laws, among other things, constrain the sales, marketing and other promotional activities of manufacturers of medical products, such as us, by limiting the kinds of financial arrangements we may have with hospitals, physicians and other potential purchasers of medical products who may seek reimbursement from a federal or state health care program such as Medicare or Medicaid.

Anti-kickback laws. The federal Anti-Kickback Statute makes it a criminal offense to knowingly and willfully solicit, offer, receive or pay any remuneration in exchange for, or to induce, the referral of business, including the purchase, order, lease of any good, facility, item or service, that are reimbursable by a state or federal health care program, such as Medicare or Medicaid. The term "remuneration" has been broadly interpreted to include anything of value. The Anti-Kickback Statute has been interpreted to apply to the purchase of medical devices from a particular manufacturer or the referral of patients to a particular supplier of diagnostic services utilizing such devices. Although, there are established statutory exceptions and regulatory safe harbors that define certain financial transactions and practices that are not subject to the Anti-Kickback Statute, the exceptions and safe harbors are drawn narrowly. Failure to meet all of the requirements of a particular applicable statutory exception or regulatory safe harbor does not make the conduct per se illegal under the Anti-Kickback Statute. Instead, the legality of the arrangement will be evaluated on a case-by-case basis based on a cumulative review of all its facts and circumstances.

Generally, courts have taken a broad interpretation of the scope of the Anti-Kickback Statute, holding that the statute may be violated if merely one purpose of a payment arrangement is to induce referrals or purchases. Further, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation.

Violations of this law are punishable by up to five years in prison, and can also result in criminal fines, administrative civil money penalties and exclusion from participation in federal healthcare programs. In addition, a claim including items or services resulting from a violation of the federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the federal False Claims Act. Many states have also adopted statutes similar to the federal Anti-Kickback Statute, some of which apply to payments in connection with the referral of patients for healthcare items or services reimbursed by any source, not only governmental payor programs.

False Claims Act. The federal civil False Claims Act prohibits anyone from knowingly and willfully presenting, or causing to be presented, claims for payment, that are false or fraudulent, such as claims for payment of services not provided as claimed. In addition to actions initiated by the government itself, the statute authorizes actions to be brought on behalf of the federal government by a private party having knowledge of the alleged fraud called a "relator". Because the complaint is initially filed under seal, the action may be pending for some time before the defendant is even aware of the action. If the government is ultimately successful in obtaining redress in the matter or if the relator succeeds in obtaining redress without the government's involvement, then the relator is typically entitled to receive a percentage of the recovery. When an entity is determined to have violated the False Claims Act, it may be required to pay up to three times the actual damages sustained by the government, plus civil penalties ranging from $11,181 to $22,363 for each separate false claim, and may be excluded from participation in federal health care programs, and, although the federal False Claims Act is a civil statute, violations may also implicate various federal criminal statutes. Several states have also adopted comparable state false claims act, some of which apply to all payors.

Civil monetary penalties laws. The civil monetary penalties statute imposes penalties against any person or entity that, among other things, is determined to have presented or caused to be presented a claim to a federal health program that the person knows or should know is for an item or service that was not provided as claimed or is false or fraudulent.

Other fraud and abuse laws. HIPAA also created new federal criminal statutes that prohibit among other actions, knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program, including private third-party payors, knowingly and willfully embezzling or stealing from a healthcare benefit program, willfully obstructing a criminal investigation of a healthcare offense, and knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false, fictitious or fraudulent statement in connection with the delivery of or payment for healthcare benefits, items or services. Like the federal Anti-Kickback Statute, the intent standard for certain healthcare fraud statutes under HIPAA was amended by the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, or collectively, the Affordable Care Act, such that a person or entity no longer needs to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation.

Physician payment transparency laws. There has been a recent trend of increased federal and state regulation of payments made to physicians and other healthcare providers and entities. The Affordable Care Act, among other things, imposed new reporting requirements on certain manufacturers, including certain device manufacturers, for payments provided to physicians and teaching hospitals, as well as ownership and investment interests held by physicians and their immediate family members. Failure to submit timely, accurately, and completely the required information may result in civil monetary penalties of up to an aggregate of $169,170 per year and up to an aggregate of $1,127,799 per year for "knowing failures." Device manufacturers must submit reports by the 90th day of each calendar year.

Certain states also mandate implementation of compliance programs, impose restrictions on device manufacturer marketing practices and/or require the tracking and reporting of gifts, compensation and other remuneration to healthcare providers and entities.

The laws and regulations and their enforcement are constantly undergoing change, and we cannot predict what effect, if any, changes may have on our business. In addition, new laws and regulations may be adopted which adversely affect our business. There has been a trend in recent years, both in the United States and internationally, toward more stringent regulation and enforcement of requirements applicable to medical device manufacturers and requirements regarding protection and confidentiality of personal data.

State Certificate of Need Laws

In some states, a certificate of need, or CON, or similar regulatory approval is required by hospitals and other healthcare providers prior to the acquisition of high-cost capital items, including MRIdian, or the provision of new services. These laws generally require appropriate state agency determination of public need and approval prior to the acquisition of such capital items or addition of new services. CON requirements may preclude our customers from acquiring, or significantly delay acquisition of, MRIdian and/or from performing treatments using MRIdian. CON laws are the subject of ongoing legislative activity, and a significant increase in the number of states regulating the offering and use of MRIdian through CON or similar requirements could adversely affect us.

Healthcare Reform

In the United States and foreign jurisdictions, there have been, and we expect there will continue to be, a number of legislative and regulatory changes to the healthcare system seeking, among other things, to reduce healthcare costs that could affect our results of operations.

By way of example, in the United States, the Affordable Care Act was signed into law in March 2010. Among other things, the Affordable Care Act implemented a series of payment system reforms.

There is uncertainty with respect to the Affordable Care Act and changes that the current presidential administration and the U.S. Congress may implement. Any changes will likely take time to unfold and could have an impact on coverage and reimbursement for healthcare items and services covered by plans that were authorized by the Affordable Care Act. Other changes under the Affordable Care Act, such as the December 2019 repeal of an annual medical device excise tax, could have more immediate impact on payment rates and other aspects of the health care system.

We expect that additional state and federal healthcare reform measures will be adopted in the future, any of which could limit the amounts that federal and state governments will pay for healthcare products and services, which could result in reduced demand for MRIdian or additional pricing pressure. Other changes, such as the recently proposed radiation oncology APM, could incentivize the purchase of MRIdian systems.

Similarly, we expect governments in other countries to continue introducing changes in their delivery, financing, and payment systems to reduce costs and improve outcomes. Some of these changes could result in reduced demand for MRIdian and bring additional price pressure. Other changes could incentivize the purchase of MRIdian systems.

Foreign Regulation of Medical Devices

Our activities outside the United States are subject to regulatory requirements that vary from country to country and frequently differ significantly from those in the United States. Failure to obtain and maintain regulatory approval or clearance in any foreign country in which we market or plan to market MRIdian and MRIdian Linac may have a negative effect on our ability to generate revenue and harm our business.

In general, MRIdian and MRIdian Linac are regulated outside the United States as medical devices by foreign governmental agencies similar to the FDA and the FTC. In addition, in foreign countries where we have operations or sell MRIdian, we are subject to laws and regulations applicable to manufacturers of medical devices, radiation producing devices and to the healthcare industry, and laws and regulation of general applicability relating to environmental protection, safe working conditions, manufacturing practices and other matters. These laws and regulations are often comparable to, or more stringent than U.S. laws and regulations. Our sales of MRIdian in foreign countries are also subject to regulation of matters such as product standards, packaging requirements, labeling requirements, import restrictions, tariff regulations, duties and tax requirements. We rely in some countries on our foreign distributors to assist us in complying with applicable regulatory requirements.

Regulation in the EU

In the European Union, or EU, we are required under the European Medical Device Directive (Council Directive 93/42/EEC) to affix the CE mark to our MRIdian systems in order to sell the MRIdian systems in member countries of the EU. The CE mark is an international symbol that represents adherence to certain essential principles of safety and effectiveness mandated in the European Medical Device Directive (the so-called “essential requirements”). Once affixed, the CE mark enables a product to be sold within the EEA, which is composed of the 28 Member States of the EU plus Norway, Iceland and Liechtenstein.

To demonstrate compliance with the essential requirements, we must undergo a conformity assessment procedure which varies according to the type of medical device and its classification. Except for certain low risk medical devices where the manufacturer can issue an EC Declaration of Conformity based on a self-assessment of the conformity of its products with the essential requirements of the Medical Devices Directive, a conformity assessment procedure requires the intervention of an organization accredited by a Member State of the EEA to conduct conformity assessments, or a Notified Body. Depending on the relevant conformity assessment procedure, the Notified Body would typically audit and examine the technical file and the quality system for the manufacture, design and final inspection of our devices. The Notified Body issues a CE Certificate of Conformity following successful completion of a conformity assessment procedure conducted in relation to the medical device and its manufacturer and their conformity with the

essential requirements. This Certificate entitles the manufacturer to affix the CE mark to its medical devices after having prepared and signed a related EC Declaration of Conformity.

We received the CE Certificate of Conformity from our Notified Body in November 2014, allowing us to affix the CE mark to MRIdian with Cobalt-60 in order to sell it throughout the EEA. In September 2016, we received approval for CE mark in the European Union for our MRIdian Linac.

If we modify MRIdian we may need to undergo a new conformity assessment procedure to be able to affix the CE mark to the modified product. Additionally, we will need to undergo new conformity assessments for any new products that we may develop in the future before we are able to affix the CE mark to these new products. We cannot be certain that the outcome of these conformity assessments will be positive and that we will be able to affix the CE mark for modified or new products or that we will continue to meet the quality and safety standards required to maintain the CE marks that we already have or may have in the future. In addition, if we are unable to affix the CE mark to our future products, we would be unable to sell them in EU member countries.

In September 2012, the European Commission published proposals for the revision of the EU regulatory framework for medical devices. The proposals would replace the Medical Devices Directive and the Active Implantable Medical Devices Directive with two new regulations: the Medical Devices Regulation and the In-Vitro Diagnostic Medical Devices Regulation. Unlike directives, which must be implemented into the national laws of the EU Member States, the regulations would be directly applicable, i.e., without the need for adoption of EU Member State laws implementing them, in all EEA Member States and are intended to eliminate current differences in the regulation of medical devices among EEA Member States.

The Medical Devices Regulation will apply to ViewRay starting on May 26, 2020. Once applicable, the new regulation will among other things:

- strengthen the rules on placing devices on the market and reinforce surveillance once they are available;
- establish explicit provisions on manufacturers' responsibilities for the follow-up of the quality, performance and safety of devices placed on the market;
- improve the traceability of medical devices throughout the supply chain to the end-user or patient through a unique identification number; and
- set up a central database to provide patients, healthcare professionals and the public with comprehensive information on products available in the EU.

Regulation in Other Countries

We will be subject to additional regulations in foreign countries in which we intend to market, sell and import MRIdian. We or our distributors must receive all necessary approvals or clearance prior to marketing and importing MRIdian in those international markets. We received a license and permission to import MRIdian into the United Arab Emirates in December 2014. We received regulatory approval for MRIdian with Cobalt-60 in Italy in January 2015, Korea in September 2015, as well as Japan and China in August 2016. We also received regulatory approval for MRIdian Linac in Israel in November 2017. We will seek approvals in other countries as may be required in the future.

The International Standards Organization promulgates internationally recognized standards, including those for the requirements of quality systems. We are certified to the ISO 13485:2016 standard, which specify the quality system requirements for medical device manufacturers. To support our ISO certifications, we are subject to surveillance audits by a Notified Body yearly and recertification audits every three years that assess our continued compliance with the relevant ISO standards. Our most recent recertification audit occurred in March 2017.

Employees

At December 31, 2019, we had 309 full-time employees, 90 of whom were engaged in research and development, and 219 in sales and marketing, business development, finance, human resources, facilities and general management and administration. None of our employees are covered by a collective bargaining agreement, and we have not experienced any work stoppages. We consider our relations with our employees to be good.

General

We make our periodic and current reports, including our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, proxy statements and any amendments to those reports, available free of charge, on our website as soon as practicable after such material is electronically filed or furnished with the Securities and Exchange Commission (the "SEC"). Our website address is www.viewray.com and the reports are filed under "SEC Filings", on the Company – Investor Relations portion of our website. Our Code of Business Conduct and Ethics, Corporate Governance Guidelines and the charters of the Audit Committee, Compensation Committee, and Nominating and Corporate Governance Committee are also available under "Corporate Governance", on the Investor Relations portion of our website. Investors and others should note that we announce material financial and operational information to our investors using our investor relations website (http://investors.viewray.com/), press releases, SEC filings and public conference calls and webcasts. Please note that information on, or that can be accessed through, our website is not deemed "filed" with the SEC and is not to be incorporated by reference into any of our filings under the Securities Act of 1933, as amended (the "Securities Act"), or the Securities Exchange Act of 1934, as amended (the "Exchange Act").

We operate our business as one segment as defined by U.S. generally accepted accounting principles. Our financial results for the years ended December 31, 2019, 2018 and 2017 are discussed in "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Item 8. Financial Statements and Supplementary Data" of this Annual Report.

We commenced operations as a Florida corporation in 2004 and subsequently reincorporated in Delaware in 2007. Our corporate headquarters are located at 2 Thermo Fisher Way, Oakwood Village, Ohio 44146. Our telephone number is (440) 703-3210, and our website address is www.viewray.com.

Item 1A. RISK FACTORS

You should consider carefully the risks and uncertainties described below, together with all of the other information in this Annual Report on Form 10-K and other filings we have made and make in the future with the Securities and Exchange Commission, or the SEC. If any of the following risks are realized, our business, financial condition, results of operations and prospects could be materially and adversely affected.

Risks Related to Our Business and Strategy

The coronavirus disease, which began in China, has been declared a pandemic by the World Health Organization and has spread to many other parts of the world and may adversely affect our business operations and financial condition.

The coronavirus disease, which began in China, has been declared a pandemic by the World Health Organization, or WHO, and has spread to many other parts of the world and may adversely affect our business operations and financial condition. The outbreak continues to grow globally and related government and private sector responsive actions may adversely affect our business operations. It is impossible to predict the effect and potential spread of the coronavirus globally.

Should the coronavirus continue to spread or not be satisfactorily contained, our business plans could be materially delayed or interrupted. Our sales and revenue cycles, including MRIdian deliveries or installation, as well as our other business operations, could be significantly delayed as we may experience adverse impacts, including but not limited to our teammates, global supply chain partners, transportation service providers, and customers. For example, we have experienced delays in installation of systems in China due to the restrictions imposed by government agencies in response to the spread of coronavirus.

If our business operations are adversely impacted by the spread of coronavirus, our costs associated with operating our business could be significantly higher than planned, which will have a material adverse effect on our business. The coronavirus could also adversely impact our teammate population, as well as our near-term and long-term revenues, earnings and cash flow and may require significant additional expenditures to mitigate such impacts. This situation is developing rapidly, and additional impacts may arise that we are not aware of currently.

We have incurred significant losses since our inception and anticipate that we will continue to incur significant losses for the foreseeable future. In the future, these factors may raise substantial doubt about our ability to continue as a going concern.

We have historically incurred substantial net losses, including net losses of $120.2 million, $76.4 million and $72.2 million during the years ended December 31, 2019, 2018 and 2017, respectively. At December 31, 2019, we had an accumulated deficit of $519.2 million. We expect our net losses to continue as a result of ongoing investments in product development and expansion of our commercial operations, including increased manufacturing, and sales and marketing. These net losses have had, and will continue to have, a negative impact on our working capital, total assets and stockholders' equity. Because of the numerous risks and uncertainties associated with our development and commercialization efforts, we are unable to predict when we will become profitable, and we may never become profitable. Even if we do achieve profitability, we may not be able to sustain or increase profitability on a quarterly or annual basis. Our inability to achieve and then maintain profitability would harm our business, financial condition, results of operations and cash flows.

Further, the net losses we incur may fluctuate significantly from quarter-to-quarter and year-to-year, such that a period-to-period comparison of our results of operations may not be a good indication of our future performance quarter-to-quarter and year-to-year, due to factors including the timing of product approval, commercial ramp, clinical trials, any litigation that we may file or that may be filed against us, the execution of collaboration, licensing or other agreements and the timing of any payments we make or receive under them. These factors may raise substantial doubt about our ability to continue as a going concern.

If clinicians do not widely adopt MR Image-Guided radiation therapy or MRIdian Linac fails to achieve and sustain sufficient market acceptance, we will not generate sufficient revenue and our growth prospects, financial condition and results of operations could be harmed.

Our MR Image-Guided radiation therapy system, MRIdian, may never gain significant acceptance in the marketplace and, therefore, may never generate substantial revenue or allow us to achieve or maintain profitability. Widespread adoption of MR Image-Guided radiation therapy depends on many factors, including: acceptance by clinicians that MR Image-Guided radiation therapy is clinically-effective and cost-effective in treating a wide range of cancers; demand by patients for MR Image-Guided treatment; successful education of clinicians on the various aspects of this therapeutic approach; and coverage and adequate reimbursement for procedures performed using MR Image-Guided radiation therapy. If we are not successful in conveying to clinicians and hospitals that MR Image-Guided radiation therapy provides equivalent or superior radiation therapy compared to existing technologies, we may experience reluctance or refusal on the part of clinicians and hospitals to order, and third-party payors to pay for, performing a treatment in which MRIdian is utilized. Our ability to achieve commercial market acceptance for MRIdian or any other future products also depends on the strength of our sales, marketing and distribution organizations. In addition, our expectations regarding clinical benefits and cost savings from using MRIdian may not be accurate. These hurdles may make it difficult to demonstrate to physicians, hospitals and other healthcare providers that MRIdian is an appropriate option for radiation therapy, and may be both superior to available radiation therapy systems and more cost-effective than alternative technologies.

Furthermore, we may encounter difficulty in gaining inclusion in cancer treatment guidelines and gaining broad market acceptance by healthcare providers, third-party payors and patients. Healthcare providers may have difficulty in obtaining adequate reimbursement from government and/or third-party payors for cancer treatment, which may negatively impact adoption of MRIdian.

We may not be able to generate sufficient revenue from the commercialization of our MRIdian systems to achieve and maintain profitability.

We rely entirely on the commercialization of MRIdian Linac to generate revenue. During the year ended December 31, 2019, we recognized revenue of $79.5 million from installation or delivery of 13 MRIdian Linac systems and two system upgrades; $7.8 million from service revenue at certain customer sites; and $0.5 million from distribution rights revenue. In order to successfully commercialize MRIdian Linac, we will need to: continue to expand our marketing efforts to develop new relationships and expand existing relationships with customers; continue to expand our commercial footprint via direct sales and distribution network; receive clearance or approval for MRIdian systems in additional countries; achieve and maintain compliance with all applicable regulatory requirements; and develop and commercialize new features for MRIdian systems. We cannot assure you that we will be able to achieve or maintain profitability. If we fail to successfully commercialize MRIdian systems, we may never receive a return on the substantial investments in product development, sales and marketing, regulatory compliance, manufacturing and quality assurance that we have made, as well as further investments we intend to make.

In addition, potential customers may decide not to purchase MRIdian systems, or our customers may decide to cancel orders due to changes in treatment offerings, research and product development plans, difficulties in obtaining coverage or reimbursement for MR Image-Guided radiation therapy treatment, complications with facility build-outs, utilization of MR Image-Guided radiation therapy or other cancer treatment methods developed by other parties, lack of financing or the inability to obtain or delay in obtaining a certificate of need from state regulatory agencies or zoning restrictions, all of which are circumstances outside of our control.

In addition, demand for MRIdian systems may not increase as quickly as we predict, and we may be unable to increase our revenue levels as we expect. Even if we succeed in increasing adoption of MRIdian systems by hospitals and other healthcare providers, maintaining and creating relationships with our existing and new customers and developing and commercializing new features for MRIdian systems, we may not be able to generate sufficient revenue to achieve or maintain profitability.

We are an early, commercial-stage company and have a limited history commercializing MRIdian, which may make it difficult to evaluate our current business and predict our future performance.

We are an early, commercial-stage company and have a limited operating history. We commenced operations as a Florida corporation in 2004 and subsequently reincorporated in Delaware in 2007. However, we did not begin commercial operations until 2013. Our limited history commercializing MRIdian may make it difficult to evaluate our current business and predict our future performance. Any assessment as to if or when we may become profitable or predictions about our future success or viability, are subject to significant uncertainty. We have encountered and will continue to encounter risks and difficulties frequently experienced by early, commercial-stage companies in rapidly evolving industries. If we do not address these risks successfully, our business could be harmed.

If MRIdian does not perform as expected, or if we are unable to satisfy customers' demands for additional product features, our reputation, business and results of operations will suffer.

Our success depends on the market's confidence that MRIdian can provide reliable, high-quality MR Image-Guided radiation therapy. At December 31, 2019, there were five MRIdian with Cobalt-60 and 30 MRIdian Linacs installed. In addition, six MRIdian Linacs have been delivered to customers that are in varying stages of installation. Consequently, we have limited statistics regarding the efficacy or reliability of MRIdian. We believe that our customers are likely to be particularly sensitive to product defects and errors, including functional downtime that limits the number of patients that can be treated using the system or a failure that is costly to repair. We cannot assure that similar product defects or other errors will occur in the future. This could also include the mistreatment of a patient with MRIdian caused by human error on the part of MRIdian's operators or prescribing physicians or as a result of a machine malfunction. We may be subject to regulatory enforcement action or legal claims arising from any defects or errors that may occur. Any failure of MRIdian to perform as expected could harm our reputation, business and results of operations.

In addition, our customers are technologically well informed and at times have specific demands or requests for additional functionality. If we are unable to meet those demands through the development of new features for MRIdian or future products, or those new features or products do not function at the level that our customers expect, or we are unable to increase patient throughput as expected or we are unable to obtain regulatory clearance or approval of those new features or products, where applicable, our reputation, business and results of operations could be harmed.

The safety and efficacy of MRIdian systems for certain uses is not currently supported by long-term clinical data, and may therefore be less safe and effective than initially anticipated.

To date, we have not been required to complete long-term clinical studies in connection with the sale of MRIdian with Cobalt-60 or MRIdian Linac. As a result, we currently lack the breadth of published long-term clinical data supporting the efficacy of MRIdian with Cobalt-60 or MRIdian Linac and the benefits each offers that might have been generated in connection with other marketing authorization processes. In addition, because only a few MRIdian systems have been installed at customer sites, we have limited complication or patient survival rate data with respect to treatments using the systems. If future patient studies or clinical testing do not support our belief that MRIdian with Cobalt-60 or MRIdian Linac offers a more advantageous treatment for a wide variety of cancer types, market acceptance of these systems could fail to increase or could decrease, and our business could be harmed.

If we choose to, or are required to, conduct additional studies, the results of these studies or experience could reduce the rate of coverage and reimbursement by both public and private third-party payors for procedures that are performed with MRIdian with Cobalt-60 or MRIdian Linac, slow the market adoption of our product by physicians, significantly reduce our ability to achieve expected revenues and prevent us from becoming profitable. In addition, if future studies and experience indicate that MRIdian with Cobalt-60 or MRIdian Linac causes unexpected or serious complications or other unforeseen negative effects, we could be subject to mandatory product recalls or suspension or withdrawal of FDA clearance, and our reputation with physicians, patients and healthcare providers may suffer.

There have been instances of patients' severe injury or death due to a variety of factors, including operator error, misuse, radiation therapy product or customer system malfunctions, and other factors. If our redundant safety systems do not operate as we expect, or any of these or other causes arose in the use of our products, MRIdian with Cobalt-60 or MRIdian Linac could severely injure or kill a patient. This could result in lawsuits, fines or damage to our reputation.

We may be delayed or prevented from implementing our long-term sales strategy if we fail to educate clinicians and patients about the benefits of MRIdian.

In order to increase revenue, we must increase awareness of the range of benefits that we believe MRIdian offers to both existing and potential customers, primarily cancer clinicians. An important part of our sales strategy involves educating and training clinicians to utilize the entire functionality of MRIdian. In addition, we must further educate clinicians about the ability of MRIdian to treat a wide range of cancer types effectively and efficiently. If clinicians are not properly educated about the use of MRIdian for radiation therapy, they may be unwilling or unable to take advantage of the full range of functionality that we believe MRIdian offers, which could have a negative impact on MRIdian sales. Clinicians may decide that certain tumors can be adequately treated using traditional radiation therapy systems, notwithstanding the benefits of MRIdian. We must also succeed in educating customers about the potential for reimbursement for procedures performed using MRIdian. In addition, we need to increase awareness of MRIdian among potential patients, who are increasingly educated about cancer treatment options and therefore impact adoption of new technologies by clinicians. If our efforts to expand sales of MRIdian in the long-term are not successful, our business and results of operations will be harmed.

We may not be able to gain the support of leading hospitals and key opinion leaders, or to publish the results of our clinical trials in peer-reviewed journals, which may make it difficult to establish MRIdian as a standard of care and achieve market acceptance.

Our strategy includes developing relationships with leading hospitals and key opinion leaders in our industry. If these hospitals and key industry thought leaders determine that MRIdian is not clinically effective or that alternative technologies are more effective, or if we encounter difficulty promoting adoption or establishing MRIdian as a standard of care, our ability to achieve market acceptance of MRIdian could be significantly limited.

We believe that publication of scientific and medical results in peer-reviewed journals and presentation of data at leading conferences are critical to the broad adoption of MRIdian. Publication in leading medical journals is subject to a peer-review process, and peer reviewers may not consider the results of studies involving MRIdian sufficiently novel or worthy of publication.

We have limited experience in marketing and selling MRIdian, and if we are unable to adequately address our customers' needs, it could negatively impact sales and market acceptance of MRIdian and we may never generate sufficient revenue to achieve or sustain profitability.

We have limited experience in marketing and selling MRIdian. We have only been selling MRIdian since 2013 and have five MRIdian with Cobalt-60 and 30 MRIdian Linac installed at December 31, 2019. In addition, six MRIdian Linacs have been delivered to customers that are in varying stages of installation. Our devices have only been used to treat patients since early 2014. MRIdian is a new technology in the radiation therapy systems sector and our future sales will largely depend on our ability to increase our sales and marketing efforts and adequately address our customers' needs. We believe it is necessary to maintain a sales force that includes sales representatives with specific technical backgrounds that can address those needs as part of the sales cycle. Competition for these types of employees is intense and we may not be able to attract and retain sufficient personnel to maintain an effective sales and marketing force. If we are unable to adequately address our customers' needs, it could negatively impact sales and market acceptance of MRIdian and we may never generate sufficient revenue to achieve or sustain profitability.

The long sales cycle and low unit volume sales of MRIdian, as well as other factors, may contribute to substantial fluctuations in our operating results and stock price and make it difficult to compare our results of operations to prior periods and predict future financial results.

Because of the relatively small number of systems we expect to install in any period, each installation of a MRIdian may represent a significant percentage of our revenue for a particular period. Additionally, customer site construction, certificate of need and additional zoning and licensing permits are often required in connection with the sale of a MRIdian, any of which may further delay the installation process. When we are responsible for installing a system, we only recognize revenue from the sale of a MRIdian after the system has been installed and accepted by the customer. When a qualified third party is responsible for the installation, we recognize revenue when title is transferred. Therefore, if we do not install a MRIdian or transfer title when anticipated, our operating results will vary significantly from our expectations. We have had experiences with customers postponing installation of MRIdian systems due to delays in facility build-outs, which are often lengthy and costly processes for our existing and potential customers. In addition, we have experienced delays in our installations due to concerns regarding the coronavirus pandemic. If our customers delay or cancel purchases, we may be required to modify or terminate contractual arrangements with our suppliers, which may result in the loss of deposits. Due to future fluctuations in revenue and costs, as well as other potential fluctuations, you should not rely upon our operating results in any particular period as an indication of future performance. In addition to the other risks described, the following factors may also contribute to these fluctuations:

- delays in business operations and installation caused by the concerns in connection with the coronavirus pandemic;
- timing of when we are able to recognize revenue associated with sales of MRIdian;
- actions relating to regulatory matters, including regulatory requirements in some states for a certificate of need prior to the installation of a MRIdian;
- delays in shipment due to, for example, unanticipated construction delays at customer locations where MRIdian is to be installed, labor disturbances or natural disasters;
- delays in our manufacturing processes or unexpected manufacturing difficulties;
- timing of the announcements of contract executions or other customer and commercial developments;
- timing of the announcement, introduction and delivery of new products or product features by us and by our competitors;
- timing and level of expenditures associated with expansion of sales and marketing activities and our overall operations;
- fluctuations in our gross margins and the factors that contribute to such fluctuations, as described in “Management’s Discussion and Analysis of Financial Condition and Results of Operations” elsewhere in this Annual Report;
- our ability to effectively execute on our strategic and operating plans;
- the extent to which MRIdian gains market acceptance and the timing of customer demand for MRIdian;
- our ability to protect our proprietary rights and defend against third-party challenges;
- disruptions in the supply or changes in the costs of raw materials, labor, product components or transportation services; and
- changes in third-party coverage and reimbursement, government regulation or in a customer’s ability to obtain financing.

These factors are difficult to forecast and may contribute to fluctuations in our reported revenue and results of operations and variation from our expectations, particularly during the periods in which our sales volume is low. Any fluctuations in our financial results may cause volatility in our stock price.

Each MRIdian is a major capital equipment item and is subject to a lengthy sales cycle. The time from initial customer contact to execution of a contract can take 18 to 24 months or more. Following execution of a contract, it generally takes nine to 15 months for a customer to customize an existing facility or construct a new vault. During this time, facilities support and transitioning, as well as permitting, are typically required, which can take several months. The time required to customize an existing facility prior to installation, including modifications of a standard vault to accommodate an MRI, is typically currently two to three months. If a customer does not have an existing vault available, it may take longer to construct a new vault. In some cases, customers may request installation for a date later in the future to meet their own clinical or business requirements. Upon the commencement of installation at a customer’s facility, it typically takes approximately 50 to 90 days to complete the installation and on-site testing of the system, including the completion of acceptance test procedures. If a small number of customers defer installation of a MRIdian for even a short period, recognition of a significant amount of revenue may be deferred to a subsequent period. Because our operating costs are relatively fixed, our inability to recognize revenue in a particular period may impact our profitability in that period. The inability to recognize revenue in a particular period may also make it difficult to compare our operating results with prior periods. The price of a MRIdian requires a portion of our target customers to obtain outside financing before committing to purchase a MRIdian. This

financing may be difficult for our customers to obtain in any given period, if at all. The requirement of site-specific modifications or construction may also delay adoption or overall demand. In addition, while we believe that our backlog of orders provides a better measure at any particular point in time of the long-term performance prospects of our business than our operating results for a particular period, investors may attribute significant weight to our operating results for a particular period, which may be volatile and as a result, cause fluctuations in our stock price.

A large portion of our revenue in any given reporting period may be derived from a small number of contracts.

Given that a significant portion of the purchase price for MRIdian will generally be recognized as revenue in a single reporting period, we expect a small number of contracts in any given reporting period to account for a substantial portion of our revenue in any period. Any decrease in revenue from these contracts could harm our operating results. Accordingly, our revenue and results of operations may vary from period to period. We are also subject to credit risk associated with the concentration of our accounts receivable from our customers. If one or more of our customers at any given time were either to terminate their contracts with us, cease doing business with us or fail to pay us on a timely basis, our business, financial condition and results of operations could be harmed.

The payment structure we use in our customer arrangements may lead to fluctuations in operating cash flows in a given period.

While our customers typically provide a deposit upon entering into an order contract with us, the substantial majority of the payment owed for a MRIdian is not due until the time of shipment of a MRIdian or following final acceptance by the customer upon installation. If we miss targeted shipments or our customers do not actively work towards completing installation, our receipt of payments and our operating cash flows could be impacted. In addition, if customers do not adhere to our payments terms, our operating cash flows could be impacted in any given period. Due to these fluctuations in operating cash flows and other potential fluctuations, you should not rely upon our operating results in any particular period as an indication of future performance.

Amounts included in backlog may not result in actual revenue and are an uncertain indicator of our future earnings.

We define backlog as the accumulation of all orders for which revenue has not been recognized and we consider valid. The determination of backlog includes, among other factors, our subjective judgment about the likelihood of an order becoming revenue and the regulatory approval required in the customer's jurisdiction, if any. Our judgments in this area have been, and in the future, may be, incorrect and we cannot assure you that, for any order included in backlog, we will recognize revenue with respect to it. In addition, orders can be delayed for a number of reasons, many of which are beyond our control, including supplier delays, which may cause delays in our manufacturing process, customer delays in commencing or completing construction of its facility, delays in obtaining zoning or other approvals, delays in obtaining financing and delays associated with the ongoing coronavirus pandemic. We may not be aware of these delays affecting our suppliers and customers and as a result may not consider them when evaluating the contemporaneous effect on backlog. Moreover, orders generally do not have firm dates by when a customer must take delivery or accept our systems, and certain customers may not provide a deposit or letter of credit with the contract, either of which could allow a customer greater flexibility to delay the order without cancelling the contract. Further, our backlog could be reduced due to cancellation of orders by customers. Should a cancellation occur, our backlog and anticipated revenue would be reduced unless we were able to replace it. Reductions in our backlog could negatively impact our future results of operations or the price of our common stock.

We evaluate our backlog at least quarterly to determine if the orders continue to meet our criteria for inclusion in backlog. We may adjust our reported backlog to account for any changes in: customer or distributor plans or financial conditions; the customer's or distributor's continued intent and ability to fulfill the order contract; regulatory requirements; the status of regulatory approval required in the customer's jurisdiction (or other factors); or due to changes in our judgment about the likelihood of completing an order contract. Because revenue will not be recognized until we have fulfilled our obligations to a customer, there may be a significant amount of time from signing a contract with a customer or shipping a system and revenue recognition. We cannot assure you that our backlog will result in revenue on a timely basis or at all, or that any cancelled contracts will be replaced.

Our ability to achieve profitability depends substantially on increasing our gross margins by standardizing the selling price, reducing costs of MRIdian and improving our economies of scale, which we may not be able to achieve.

We are not, and never have been, profitable. The MRIdian purchase contracts we have entered into to date have been at a range of selling prices. Generally, earlier contracts have been at lower prices and more recent contracts have been at higher prices. Our ability to enter into contracts at higher selling prices depends on a number of factors including:

- our ability to achieve commercial market acceptance for our system;
- the pricing of competitors' systems;
- availability of coverage and adequate reimbursement by commercial and government payors; and
- our ability to manufacture and install our systems in a timely and cost-effective manner.

We bear the risk of warranty claims on all products we supply, including equipment and component parts manufactured by third parties. We cannot assure you that we will be successful in claiming recovery under any warranty or indemnity provided to us by our suppliers or vendors in the event of a successful warranty claim against us by a customer or that any recovery from the vendor or

supplier would be adequate. In addition, warranty claims brought by our customers related to third-party components may arise after our ability to bring corresponding warranty claims against the suppliers expires, which could result in additional costs to us. There is a risk that warranty claims made against us will exceed our warranty reserve and our business, financial condition and results of operations could be harmed.

Our customer contracts provide that our customers commit to purchase a MRIdian system for a fixed price, and a MRIdian system will generally not be delivered for nine to 15 months. In some circumstances, delivery can be postponed several months due to customer delays related to construction, vault preparation or concurrent facility expansion, and the cost of product supplies may increase significantly in the intervening time period. In addition, inflation may generally reduce the real value of the purchase price payable upon the achievement of future progress payment milestones. Either of these occurrences could cause our gross margins to decline or cause us to lose money on the sale of a MRIdian.

Moreover, our gross margins may decline in a given period due in part to significant replacement rates for components, resulting in increased warranty expense, negative profit margins on service contracts and customer dissatisfaction. If we are unable to reduce our product costs and improve or maintain quality and reliability, our gross margin may be negatively impacted. Additionally, we may face increased demands for compensation from customers who are not satisfied with the quality and reliability of MRIdian, which could increase our service costs or require us to issue credits against future service payments and negatively impact future product sales. For example, we may have to extend a warranty period due to our failure to meet up-time requirements. We continually work to reduce the cost of our MRIdian product; however, we may be unable to reduce our product cost as quickly as we anticipate and, in some instances, may experience increases in costs from our suppliers.

Even if we are able to implement cost reduction and quality improvement efforts successfully, our service operations may remain unprofitable given the relatively small size and geographic dispersion of our installed base, which prevents us from achieving significant economies of scale for the provision of services. If we are unable to achieve increasingly higher gross margins on our MRIdian systems, we may never become profitable.

We may not be able to develop new products or enhance the capabilities of MRIdian to keep pace with our industry's rapidly changing technology and customer requirements.

Our industry is characterized by rapid technological changes, new product introductions and enhancements and evolving industry standards. Our business prospects depend on our ability to develop new products and applications for our technology in new markets that develop as a result of technological and scientific advances, while improving the performance, cost-effectiveness and efficiency of MRIdian. New technologies, techniques or products could emerge that might offer better combinations of price and performance than MRIdian systems. The market for radiation therapy treatment products is characterized by rapid innovation and advancement in technology. It is important that we anticipate changes in technology and market demand, as well as physician, hospital and healthcare provider practices to successfully develop, obtain clearance or approval, if required, and successfully introduce new, enhanced and competitive technologies to meet our prospective customers' needs on a timely and cost-effective basis. Nevertheless, we must carefully manage our introduction of new products. If potential customers believe that new products will offer enhanced features or be sold for a more attractive price, they may delay purchases until they are available. We may also have excess or obsolete inventory as we transition to new products, and we have no experience in managing product transitions. If we do not successfully innovate and introduce new technology into our anticipated product lines, or effectively manage the transitions of our technology to new product offerings, our business, financial condition and results of operations could be harmed.

We face competition from numerous companies, many of whom have greater resources than we do or offer alternative technologies at lower prices than our MRIdian systems, which may make it more difficult for us to achieve significant market penetration and profitability.

The market for radiation therapy equipment is characterized by intense competition and pricing pressure. In particular, we compete with a number of existing therapy equipment companies, including Elekta AB, Varian Medical Systems, Inc. and Accuray Incorporated. Many of these competitors are large, well-capitalized companies with significantly greater market share and resources than we have. As a result, these companies may be better positioned than we are to spend more aggressively on marketing, sales, intellectual property and other product initiatives and research and development activities. In addition, we may compete with certain MRI-linear accelerator research projects that are currently in development and may be commercialized.

Existing technologies may offer certain advantages compared to the MRI technology used by our MRIdian system. For example, computed tomography, or CT, is known to hold certain potential advantages over MRI technology for use in radiation therapy. Diagnostic CT is currently the most widely adopted imaging modality for treatment planning, and can be used to directly measure the electron density of patient tissues, which enables more accurate dose computation. In addition, CT imaging provides superior imaging of bones and boney anatomy than MRI, which is advantageous when imaging those structures for planning and alignment for treatment. Finally, CT is a less expensive technology than MRI and might be preferred by customers seeking a lower cost solution.

Our current competitors or other potential competitors may develop new products at any time or may receive approval or clearance in new jurisdictions; for example, Elekta received FDA 510k clearance in the United States for its Unity product in December 2018. In addition, competitors may be able to respond more quickly and effectively than we can to new or changing opportunities,

technologies, standards or customer requirements. If we are unable to develop products that compete effectively against the products of existing or future competitors, our future revenue could be negatively impacted. Some of our competitors may compete by changing their pricing model or by lowering the price of their therapy systems. If these competitors' pricing techniques are effective, it could result in downward pressure on the price of all therapy systems. If we are unable to maintain or increase our selling prices in the face of competition, we may not improve our gross margins.

In addition to the competition that we face from technologies performing similar functions to MRIdian, competition also exists for the limited capital expenditure budgets of our customers. A potential purchaser may be forced to choose between two items of capital equipment. Our ability to compete may also be negatively impacted when purchase decisions are based largely upon price, because MRIdian is a premium-priced system relative to other capital expenditures and alternative radiation therapy technologies. In certain circumstances, a purchaser may decide that an alternative radiation therapy system priced below MRIdian may be sufficient for its patient population given the relative upfront cost savings.

Negative press regarding MR Image-Guided radiation therapy for the treatment of cancer could harm our business.

The comparative efficacy and overall benefits of MR Image-Guided radiation therapy are not yet well understood, particularly with respect to certain types of cancer. These types of reports could negatively impact the market's acceptance of MR Image-Guided radiation therapy, and therefore our ability to generate revenue could be negatively impacted.

We may acquire other businesses, form joint ventures or make investments in other companies or technologies that could negatively affect our operating results, dilute our stockholders' ownership, increase our debt or cause us to incur significant expense.

We may pursue acquisitions of businesses and assets. We also may pursue strategic alliances and joint ventures that leverage our proprietary technology and industry experience to expand our offerings or distribution. We have no experience with acquiring other companies and limited experience with forming strategic partnerships. We may not be able to find suitable partners or acquisition candidates, and we may not be able to complete such transactions on favorable terms, if at all. If we make any acquisitions, we may not be able to integrate these acquisitions successfully into our existing business, and we could assume unknown or contingent liabilities. Any future acquisitions also could result in the incurrence of debt, contingent liabilities or future write-offs of intangible assets or goodwill, any of which could have a negative impact on our cash flows, financial condition and results of operations. Integration of an acquired company also may disrupt ongoing operations and require management resources that we would otherwise focus on developing our existing business. We may experience losses related to investments in other companies, which could harm our financial condition and results of operations. We may not realize the anticipated benefits of any acquisition, strategic alliance or joint venture.

Foreign acquisitions involve unique risks in addition to those mentioned above, including those related to integration of operations across different cultures and languages, currency risks and the particular economic, political and regulatory risks associated with specific countries.

To finance any acquisitions or joint ventures, we may choose to issue shares of common stock as consideration, which could dilute the ownership of our stockholders. Additional funds may not be available on terms that are favorable to us, or at all. If the price of our common stock is low or volatile, we may not be able to acquire other companies or fund a joint venture project using our stock as consideration.

Risks Related to Our Reliance on Third Parties

We rely on a limited number of third-party suppliers and, in some cases, sole suppliers, for the majority of our components, subassemblies and materials and may not be able to find replacements or immediately transition to alternative suppliers.

We rely on a number of suppliers, including several sole suppliers such as Japan Superconductor Technology, Inc., Siemens AG, Norman Noble, Inc. and Tesla Engineering Limited, for components of MRIdian. For us to be successful, our suppliers must be able to provide us with products and components in substantial quantities, in compliance with regulatory requirements, in accordance with agreed upon specifications, at acceptable costs and on a timely basis. We have experienced and may in the future experience delays in obtaining components and materials from suppliers, including as a result of concerns regarding the coronavirus pandemic, which could impede our ability to manufacture, assemble and install MRIdian on our expected timeline, which could result in order cancellations or contractual penalties.

If we are required to transition to new third-party suppliers for certain components of MRIdian, we believe that there are only a few other manufacturers that are currently capable of supplying the necessary components. In addition, the use of components or materials furnished by these alternative suppliers could require us to alter our operations. Furthermore, if we are required to change the manufacturer of a critical component of MRIdian, we will be required to verify that the new manufacturer maintains facilities, procedures and operations that comply with our quality and applicable regulatory requirements, which could further impede our ability to manufacture MRIdian in a timely manner. Transitioning to a new supplier could be time-consuming and expensive, may result in interruptions in our operations and product delivery, could affect the performance specifications of MRIdian or could require that we

modify the design of MRIdian. If the change in manufacturer results in a significant change to MRIdian, a new 510(k) clearance from the FDA or similar international regulatory authorization may be necessary, which could cause substantial delays. The occurrence of any of these events could harm our ability to meet the demand for MRIdian in a timely manner or cost-effectively.

An interruption in our commercial operations could occur if we encounter delays or difficulties in securing these components and materials and we cannot assure you that we will be able to secure alternative equipment and materials we require for MRIdian. Any such interruption could harm our reputation, business, financial condition and results of operations.

In addition, we are in early stages of developing suppliers for components that are specific to MRIdian Linac. The inability of these suppliers to produce reliable components and to sufficiently scale up manufacturing could harm our ability to install MRIdian Linac systems in a timely or cost-effective manner.

We depend on third-party distributors to market and distribute MRIdian in international markets.

We expect a significant amount of our revenue to come from international sales and we depend on a number of distributors for sales in certain international markets. Our distributors may not be able to successfully market and sell MRIdian, including as a result of concerns regarding the coronavirus pandemic, and may not devote sufficient time and resources to support the marketing and selling efforts that enable the product to develop, achieve or sustain market acceptance. In some jurisdictions, we rely on our distributors to manage the regulatory process, and we are dependent on their ability to do so effectively. In addition, if a dispute arises with a distributor or if a distributor is terminated by us or goes out of business, it may take time to locate an alternative distributor, to seek appropriate regulatory approvals and to train that distributor's personnel to market MRIdian; our ability to sell and service MRIdian in the region formerly serviced by the terminated distributor could be harmed. Any of our distributors could become insolvent or otherwise become unable to pay amounts owed to us when due. Any of these factors could reduce our revenue from affected international markets, increase our costs in those markets or damage our reputation. In addition, if we are unable to attract additional international distributors, our international revenue may not grow.

Failures by our third-party distributors to deliver or install MRIdian properly and on time could harm our reputation.

We rely on arrangements with third-party distributors for sales and installation of MRIdian in certain international markets. As a result of our reliance on third-party distributors, we may be subject to disruptions and increased costs due to factors beyond our control, including labor strikes, third-party error, concerns regarding the coronavirus pandemic and other issues. If the services of any of these distributors become unsatisfactory, including their failure to properly install MRIdian, we may experience delays in meeting our customers' product demands and we may not be able to find a suitable replacement on a timely basis or on commercially reasonable terms. Any failure to deliver, install or service products in a timely manner may damage our reputation and could cause us to lose current or potential customers.

We rely on third parties to store our inventory and to perform spare parts shipping and other logistics functions on our behalf. A failure or disruption with our logistics providers could harm our business.

Customer service is a critical element of our sales strategy. Third-party logistics providers store most of our spare parts inventory in depots around the world and perform a significant portion of our spare parts logistics and shipping activities. If any of our logistics providers suffers an interruption in its business or experiences delays, disruptions or quality control problems in its operations or we have to change and qualify alternative logistics providers for our spare parts, shipments of spare parts to our customers may be delayed and our reputation, business, financial condition and results of operations could be negatively harmed.

If third-party payors do not provide coverage and adequate payment to our customers, it could negatively impact sales of MRIdian.

In the United States, hospitals and other healthcare providers who purchase MRIdian generally rely on third-party payors to reimburse all or part of the costs and fees associated with the treatments performed with our system. Accordingly, sales of MRIdian depend, in part, on whether coverage and adequate payment for radiation oncology services are available to our customers from third-party payors, such as government healthcare insurance programs, including the Medicare and Medicaid programs, and private insurance plans. In general, third-party payors in the United States have become increasingly cost-conscious, which has limited coverage and payment for certain procedures including MR Image-Guided radiation therapy. Third-party payors have also increased utilization controls related to the use of products such as ours by healthcare providers.

Furthermore, there are no uniform coverage and payment policies for MR Image-Guided radiation therapy among third-party payors. Payors continue to review their coverage policies carefully for existing and new therapies and can, without notice, deny coverage for treatments that include the use of MRIdian.

The Medicare program is used as a model by many private payors and other governmental payors to develop their coverage and payment policies for medical services and procedures. Medicare coverage of advanced and conventional radiation therapies using MRIdian currently varies depending upon the geographic location in which the services are provided. The Centers for Medicare & Medicaid Services, or CMS, has not adopted national coverage determination for such therapies that would determine coverage nationally. In the absence of a national coverage determination, Medicare Administrative Contractors, or MACs, with jurisdiction over specific geographic regions have the discretion to determine whether and when the use of MR Image-Guided radiation therapy will be considered medically necessary and covered in their respective regions. A number of MACs have adopted or proposed local coverage

determinations covering radiation therapy. However, these local coverage determinations do not ensure that coverage will be available for MR Image-Guided radiation therapy for all types of cancer, because the coverage policies may limit coverage to only certain types of cancer.

Even if MR Image-Guided radiation therapy is covered and paid by third-party payors, adverse changes in payors' coverage and payment policies that affect MRIdian could harm our ability to market and sell MRIdian. We cannot be sure that third-party payors will pay our customers for procedures using MRIdian at levels that will enable us to achieve or maintain adequate sales and price levels for MRIdian. Without coverage and adequate payment from third-party payors, the market for MRIdian may be limited.

Third-party payors regularly update payment amounts and, from time to time, revise the methodologies used to determine payment amounts. This includes annual updates to payments to physicians, hospitals and free-standing radiation centers for radiation treatments performed with MRIdian. Generally, because the cost of MRIdian is recovered by the healthcare provider as part of the payment for performing the treatment and not separately paid, these updates could directly affect the demand for MRIdian. An example of payment updates is the Medicare program's updates to hospital and physician payments, which are done on an annual basis using prescribed statutory formulas.

Third-party payors are incentivizing value-based health care by moving away from fee-for-service payment systems to alternative payment models that pay providers based on an episode of care. Under such models, providers are paid a prospectively determined payment amount per episode and must furnish all medically necessary services to treat the patient. Providers may enter into risk-share arrangements with payors under such models. An example of such a model is Medicare's July 2019 proposal to implement a Radiation Oncology Alternative Payment Model, or RO APM. While the exact timetable for implementation is not clear as of the date of this Annual Report on Form 10-K, we and other radiation oncology community stakeholders expect implementation to occur sometime in 2020. Depending on the final design of the RO APM, the implementation of the RO APM could affect the demand for MRIdian. Demand can also change as CMS makes changes to the RO APM model in later years as well as if other third-party payors adopt similar models.

Any significant changes, or proposed changes, in payment rates or payment methodologies for radiation therapy or MR Image-Guided therapy specifically, could further increase uncertainty, influence our customers' decisions, reduce demand for MRIdian, cause customers to cancel orders and affect our revenue and harm our business.

Foreign governments also have their own healthcare payment systems, which vary significantly by country and region, and we cannot be sure that adequate payments will be made available to customers in those countries with respect to MRIdian under any such foreign health care financing and delivery systems.

Our employees, consultants and commercial partners may engage in misconduct or other improper activities, including insider trading and non-compliance with regulatory standards and requirements.

We are exposed to the risk that our employees, consultants, distributors, and commercial partners may engage in fraudulent or illegal activity. Misconduct by these parties could include intentional, reckless or negligent conduct or disclosure of unauthorized activities that violate the regulations of the FDA and non-U.S. regulators, including those laws requiring the reporting of true, complete and accurate information to such regulators, manufacturing standards, healthcare fraud and abuse laws and regulations in the United States and abroad or laws that require the true, complete and accurate reporting of financial information or data. In particular, sales, marketing and business arrangements in the healthcare industry, including the sale of medical devices, are subject to extensive laws and regulations intended to prevent fraud, misconduct, kickbacks, self-dealing and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing and promotion, sales commission, customer incentive programs and other business arrangements. It is not always possible to identify and deter misconduct by our employees and other third parties, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to comply with these laws or regulations. If any such actions are instituted against us and we are not successful in defending ourselves or asserting our rights, those actions could result in the imposition of significant fines or other sanctions, including the imposition of civil, criminal and administrative penalties, damages, monetary fines, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, contractual damages, reputational harm, diminished profits and future earnings and curtailment of operations, any of which could adversely affect our ability to operate our business and our results of operations. Whether or not we are successful in defending against such actions or investigations, we could incur substantial costs, including legal fees, and divert the attention of management in defending ourselves against any of these claims or investigations.

Risks Related to Our Financial Condition and Capital Requirements

We may need to raise additional capital to fund our existing commercial operations, develop and commercialize new features for MRIdian and new products and expand our operations.

Based on our current business plan, we expect that our existing cash and cash equivalents will enable us to conduct our planned operations for at least the next 12 months. If our available cash balances and anticipated cash flow from operations are insufficient to

satisfy our liquidity requirements and debt covenants, we may, from time to time, seek to raise capital through a variety of sources, including the public equity market, private equity financing, and/or public or private debt.

We may consider raising additional capital in the future to expand our business, to pursue strategic investments, to take advantage of financing opportunities or for other reasons, including to:

- increase our sales and marketing efforts to increase market adoption of MRIdian and address competitive developments;
- provide for supply and inventory costs associated with plans to accommodate potential increases in demand for MRIdian systems;
- fund development and marketing efforts of any future products and technologies or additional features to then-current products;
- acquire, license or invest in new technologies;
- acquire or invest in complementary businesses or assets; and
- finance capital expenditures and general and administrative expenses.

Our present and future funding requirements will depend on many factors, including:

- our ability to achieve revenue growth and improve gross margins;
- our rate of progress in establishing coverage and reimbursement arrangements with domestic and international commercial third-party payors and government payors;
- the cost of expanding our operations and offerings, including our sales and marketing efforts;
- our rate of progress in, and cost of the sales and marketing activities associated with, establishing adoption of MRIdian;
- the cost of research and development activities;
- the effect of competing technological and market developments;
- costs related to international expansion; and
- the potential cost of and delays in product development as a result of any regulatory oversight applicable to MRIdian.

The various ways we could raise additional capital carry potential risks. If we raise funds by issuing equity securities, dilution to our stockholders will result. Any equity securities issued also could provide for rights, preferences or privileges senior to those of holders of our common stock. If we raise funds by issuing debt securities, those debt securities would have rights, preferences and privileges senior to those of holders of our common stock. The terms of debt securities issued or borrowings pursuant to a credit agreement could impose significant restrictions on our operations. If we raise funds through collaborations and licensing arrangements, we might be required to relinquish significant rights to certain components contained within MRIdian or grant licenses on terms that are not wholly favorable to us.

We have incurred, and will continue to incur, significant costs as a result of operating as a public company and our management expects to continue to devote substantial time to public company compliance programs.

As a public company, we have incurred, and will continue to incur significant legal, accounting and other expenses due to our compliance with regulations and disclosure obligations applicable to us, including compliance with the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, as well as rules implemented by the SEC, and the Nasdaq Stock Market. Stockholder activism, the current political environment and the current high level of government intervention and regulatory reform may lead to substantial new regulations and disclosure obligations, which may lead to additional compliance costs and impact, in ways we cannot currently anticipate, the manner in which we operate our business. Our management and other personnel have devoted, and will continue to devote a substantial amount of time to these compliance programs and monitoring of public company reporting obligations and as a result of the new corporate governance and executive compensation related rules, regulations and guidelines prompted by the Dodd-Frank Wall Street Reform and Consumer Protection Act, or the Dodd-Frank Act, and further regulations and disclosure obligations expected in the future, and we will likely need to devote additional time and costs to comply with such compliance programs and rules. These rules and regulations will continue to cause us to incur significant legal and financial compliance costs and will make some activities more time-consuming and costly.

To comply with the requirements of being a public company, we may need to undertake various actions, including implementing new internal controls and procedures and hiring additional accounting or internal audit staff. The Sarbanes-Oxley Act requires that we maintain effective disclosure controls and procedures and internal control over financial reporting. We have developed and refined our disclosure controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file with the SEC is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and that information required to be disclosed in reports under the Securities Exchange Act of 1934, or the Exchange Act, is accumulated

and communicated to our principal executive and financial officers. Our current controls and any new controls that we develop may become inadequate and weaknesses in our internal control over financial reporting may be discovered in the future. Any failure to develop or maintain effective controls could negatively impact the results of periodic management evaluations and annual independent registered public accounting firm attestation reports regarding the effectiveness of our internal control over financial reporting that we are required to include in our periodic reports we will file with the SEC under Section 404 of the Sarbanes-Oxley Act, harm our operating results, cause us to fail to meet our reporting obligations or result in a restatement of our prior period financial statements. In the event that we are not able to demonstrate compliance with the Sarbanes-Oxley Act, that our internal control over financial reporting is perceived as inadequate or that we are unable to produce timely or accurate financial statements, investors may lose confidence in our operating results and the price of our common stock could decline. In addition, if we are unable to continue to meet these requirements, our common stock may not be able to remain eligible for quotation on The Nasdaq Global Market.

Regulations related to "conflict minerals" may force us to incur additional expenses, may result in damage to our business reputation and may adversely impact our ability to conduct our business.

The Dodd-Frank Wall Street Reform and Consumer Protection Act and the rules promulgated by the SEC under such act require companies, including us, to disclose the existence in their products of certain metals, including tantalum, tin, gold, tungsten and their derivatives, that originate from the Democratic Republic of the Congo and adjoining countries. Under these rules, we are required to obtain sourcing data from suppliers, perform supply chain due diligence, and file annually with the SEC a specialized disclosure report on Form SD covering the prior calendar year. These requirements could adversely affect the sourcing, availability, and pricing of minerals used in the manufacture of components used in MRIdian. We may face reputational harm if we determine that certain of our components contain minerals not determined to be conflict free or if we are unable to alter our processes or sources of supply to avoid using such materials. Additionally, we may also encounter customers who require that all of the components of our products be certified as conflict free. If we are not able to meet this requirement, such customers may choose not to purchase our products, which could adversely impact sales of our products, and impact our results of operations. In addition, we have incurred and expect to incur additional costs to comply with these disclosure requirements, including costs related to determining the source of any of the relevant minerals and metals used in MRIdian.

Our loan and security agreement with Silicon Valley Bank (SVB), contains operating and financial covenants that may restrict our business and financing activities.

At December 31, 2019, we had $56.0 million in outstanding debt to SVB. Borrowings under our loan and security agreement with SVB are secured by substantially all of our personal property, except that the collateral does not include any intellectual property held by the Company, provided, however, the collateral does include all accounts and proceeds of such intellectual property. Our loan and security agreement restrict our ability to, among other things:

- dispose of or sell our assets;
- make material changes in our business;
- merge with or acquire other entities or assets;
- incur additional indebtedness;
- create liens on our assets;
- pay dividends;
- make investments; and
- pay off subordinated indebtedness.

The operating and financial restrictions and covenants in our loan and security agreement, as well as any future financing agreements into which we may enter, may restrict our ability to finance our operations and engage in, expand or otherwise pursue our business activities and strategies. Our ability to comply with these covenants may be affected by events beyond our control, and future breaches of any of these covenants could result in a default under our loan and security agreement. If not waived, future defaults could cause all of the outstanding indebtedness under our loan and security agreement to become immediately due and payable and terminate all commitments to extend further credit.

If we do not have or are unable to generate sufficient cash available to repay our debt obligations when they become due and payable, either upon maturity or in the event of a default, we may not be able to obtain additional debt or equity financing on favorable terms, if at all, which may negatively impact our ability to operate and continue our business as a going concern.

Our ability to use our net operating losses to offset future taxable income may be subject to certain limitations.

At December 31, 2019, we had federal net operating loss carryforwards, or NOLs, of $440.7 million, which begin to expire in the year ending December 31, 2024, and $260.5 million related to state net operating loss carryforwards, which begin to expire in the year ending December 31, 2020. We also had federal and state research and development tax credit carryforwards of $5.5 million and $3.0 million, respectively, which begin to expire in the year ending December 31, 2027. Under Section 382 of the Internal Revenue Code of 1986, as amended, or the Code, a corporation that undergoes an "ownership change" is subject to limitations on its ability to utilize its NOLs to offset future taxable income. We believe we have experienced three ownership changes which had a corresponding limitation of tax attributes. Future owner or equity changes, including changes that may be outside of our control, could result in additional limitations on net operating loss and credit carryforwards. Our NOLs may also be limited under similar provisions of state law. We have recorded a full valuation allowance related to our NOLs and other deferred tax assets due to the uncertainty of the ultimate realization of the future tax benefits of such assets.

We face risks related to the current global economic environment, including risks arising in connection with the coronavirus pandemic, which could delay or prevent our customers from obtaining financing to purchase MRIdian and implement the required facilities, which could harm our business, financial condition and results of operations.

The state of the global economy continues to be uncertain. The current global economic conditions and uncertain credit markets and concerns regarding the availability of credit pose a risk that could impact customer demand for MRIdian, as well as our ability to manage normal commercial relationships with our customers, suppliers and creditors, including financial institutions. If the current global economic environment deteriorates, including as a result of concerns regarding the coronavirus pandemic, our business could be negatively affected.

Risks Related to Administrative, Organizational and Commercial Operations and Growth

We may be unable to manage our future growth effectively, which could make it difficult to execute our business strategy.

We anticipate growth in our business operations. This future growth could create a strain on our organizational, administrative and operational infrastructure, including manufacturing operations, supply chain, quality control, technical support and customer service, sales force management and general and financial administration. We may not be able to maintain the quality of or installation timelines of MRIdian or satisfy customer demand as it grows. Our ability to manage our growth properly will require us to continue to improve our operational, financial and management controls, as well as our reporting systems and procedures. We may implement new enterprise software systems in a number of areas affecting a broad range of business processes and functional areas. The time and resources required to implement these new systems is uncertain and failure to complete this in a timely and efficient manner could harm our business.

If we are unable to support demand for MRIdian and our future products, including ensuring that we have adequate resources to meet increased demand, or we are unable to successfully manage the evolution of our MR Image-Guided radiation technology, our business could be harmed.

As our commercial operations and sales volume grow, we will need to continue to increase our workflow capacity for manufacturing, customer service, billing and general process improvements and expand our internal quality assurance program, among other things. We will also need to purchase additional equipment, some of which can take several months or more to procure, set up and validate, and increase our manufacturing, maintenance, software and computing capacity to meet increased demand. We cannot assure you that any of these increases in scale, expansion of personnel, purchase of equipment or process enhancements will be successfully implemented.

The loss of or our inability to attract and retain key personnel, including highly skilled executives, scientists and salespeople, could negatively impact our business.

The loss or incapacity of existing members of our executive management team could negatively impact our operations if we experience difficulties in hiring qualified successors. Our executive officers have employment agreements; however, the existence of an employment agreement does not guarantee the retention of the executive officer for any period of time.

Our commercial, manufacturing and research and development programs and operations depend on our ability to attract and retain highly skilled engineers, scientists and salespeople. We may not be able to attract or retain qualified personnel in the future due to the competition for qualified personnel among medical device businesses, including in California, Colorado and Ohio. We also face competition from universities and public and private research institutions in recruiting and retaining highly qualified scientific personnel. Recruiting and retention difficulties can limit our ability to support our commercial, manufacturing and research and development programs. All of our employees are at-will, which means that either we or the employee may terminate his or her employment at any time.

We have a limited history of manufacturing, assembling and installing MRIdian in commercial quantities and may encounter related problems or delays that could result in lost revenue.

The pre-installation manufacturing processes for MRIdian include sourcing components from various third-party suppliers, subassembly, assembly, system integration and testing. We must manufacture and assemble MRIdian in compliance with regulatory requirements and at an acceptable cost in order to achieve profitability. We have only a limited history of manufacturing, assembling and installing MRIdian and, as a result, we may have difficulty manufacturing, assembling and installing MRIdian in sufficient quantities in a timely manner. To manage our manufacturing and operations with our suppliers, we forecast anticipated product orders and material requirements to predict our inventory needs up to 18 months in advance and enter into purchase orders on the basis of these requirements. Our limited manufacturing history may not provide us with sufficient data to accurately predict future component demand and to anticipate our costs effectively.

Likewise, we have experienced and may in the future experience delays in the assembly and installation of MRIdian at customer sites on our expected timeline associated with contractor timing delays, which could result in order cancellations or contractual penalties. For example, one of our end customers has informed us that they believe we are late on delivery of one system and that we will be subject to penalties as a result. While we have disputed that claim, there can be no assurance that we will be successful, and penalties could adversely affect our results of operations. In another instance, one of our end customers experienced flooding at its site on two occasions, which has delayed our ability to complete installation and which may adversely affect our results of operations.

Alternatively, delays or postponements of scheduled customer installations could lead to excess inventory due to our limited flexibility to postpone or delay component shipments from suppliers. Accordingly, we may encounter difficulties in production of MRIdian, including problems with quality control and assurance, component supply shortages or surpluses, increased costs, shortages of qualified personnel and difficulties associated with compliance with local, state, federal and foreign regulatory requirements. In addition, if we are unable to maintain larger-scale manufacturing capabilities, our ability to generate revenue will also be limited and our reputation could be harmed. If we cannot achieve the required level and quality of production, we may need to make changes in our supply chain or enter into licensing and other arrangements with third parties who possess sufficient manufacturing facilities and capabilities in compliance with regulatory requirements. Even if we outsource necessary production or enter into licensing or other third-party arrangements, the associated cost could reduce our gross margin and harm our financial condition and results of operations.

If we were sued for product liability or professional liability, we could face substantial liabilities that exceed our resources.

The marketing, sale and use of MRIdian could lead to the filing of product liability claims were someone to allege that MRIdian did not effectively treat the conditions its users were intending to target, caused serious medical conditions or injury, or failed to perform as designed. We may also be subject to liability for errors in, a misunderstanding of or inappropriate reliance upon the information we provide in the ordinary course of our business activities, such as customer support or operating instructions. A product liability claim could result in substantial damages and be costly and time-consuming for us to defend.

We maintain product liability insurance, but the amounts of insurance coverage may not fully protect us from the financial impact of defending against product liability claims (and we have significant deductibles). Any product liability claim brought against us, with or without merit, could increase our insurance rates or prevent us from securing insurance coverage in the future. Additionally, any product liability lawsuit could lead to regulatory investigations, product recalls or withdrawals, damage our reputation or cause current vendors, suppliers and customers to terminate existing agreements and potential customers and partners to seek other suppliers of radiation therapy systems, any of which could negatively impact our results of operations.

International tariffs, including tariffs applied to our MRIdian systems sold into China, could materially and adversely affect our business operations and financial condition.

Recent U.S. government actions are imposing greater restrictions and economic disincentives on international trade impacting imports and exports. The U.S. government has adopted changes, and intends to adopt further changes, to trade policy and in some cases, to renegotiate, or potentially terminate, certain existing bilateral or multi-lateral trade agreements. It has initiated the imposition of additional tariffs on certain foreign goods, including radiation therapy equipment. Additionally, the government may also propose export rule changes that lower the percentage of permissible U.S. content for certain non-U.S. manufactured goods being sold to certain specified companies, further restrict the sale of foreign-made goods that are based on U.S. technology, and regulate the use of any U.S. origin content in certain manufacturing equipment used to produce goods for certain companies.

For example, in June 2018, the U.S. Government announced 25% tariffs on radiation therapy equipment imported from China, and in August 2018, China retaliated by announcing 25% tariffs on medical or surgical x-ray equipment, which may include MRIdian systems. The United States Trade Representative (“USTR”) has subsequently announced supplemental lists of products that are subject to tariffs if the goods imported into the United States originate in China, which could increase the cost of imported products.

Changes in U.S. trade policy could result in one or more U.S. trading partners adopting responsive trade policy making it more difficult or costly for us to export our products to those countries. As indicated above, these measures could also result in increased costs for goods imported into the U.S. This in turn could require us to increase prices to our customers, which may reduce demand, or, if we are unable to increase prices, result in lowering our margin on goods and services sold. To the extent that trade tariffs and other restrictions imposed by the U.S. increase the price of radiation therapy equipment and related parts imported into the U.S., the cost of

our materials may be adversely affected and the demand from customers for products and services may be diminished, which could adversely affect our revenues.

We cannot predict future trade policy, the terms of any renegotiated trade agreements or additional imposed tariffs and their impact on our business. The adoption and expansion of trade restrictions, the occurrence of a trade war, or other governmental action related to tariffs or trade agreements or policies have the potential to adversely impact demand for our products, our costs, our customers, our suppliers, and the U.S. economy, which in turn could adversely impact our business, financial condition and results of operations.

Changes in U.S. social, political, regulatory and economic conditions or in laws and policies governing foreign trade, manufacturing, development and investment in the territories and countries where we currently develop and sell products, and any negative sentiments towards the United States as a result of such changes, could adversely affect our business. In addition, negative sentiments towards the United States among non-U.S. customers and among non-U.S. employees or prospective employees could adversely affect sales or hiring and retention, respectively.

The results of the United Kingdom's referendum on withdrawal from the EU may have a negative effect on global economic conditions, financial markets and our business.

The U.K. held a referendum on June 23, 2016 in which a majority voted for the U.K.'s withdrawal from the European Union, which is commonly referred to as Brexit. On January 29, 2020, the U.K. Parliament approved a withdrawal agreement submitted on January 22, 2020, and the U.K. officially withdrew from the EU on January 31, 2020. The effects of Brexit and the perceptions as to the impact of the withdrawal of the U.K. from the European Union may adversely affect business activity and economic and market conditions in the U.K., the Eurozone, and globally and could contribute to instability in global financial and foreign exchange markets, including volatility in the value of the pound sterling and the euro. In addition, Brexit could lead to additional political, legal and economic instability in the European Union. Any of these effects of Brexit could adversely affect the value of our assets in the U.K., as well as our business, financial condition, results of operations and cash flows.

We face risks associated with our international business.

In addition to our marketing and sales of MRIdian in the United States, we also market MRIdian in other regions, with contracts signed with customers and distributors in those regions. Our international business operations are subject to a variety of risks, including:

- delays impacting our business operations caused by concerns in connection with the coronavirus pandemic;
- difficulties in staffing and managing foreign and geographically dispersed operations;
- effective compliance with various U.S. and international laws, including export control laws and the U.S. Foreign Corrupt Practices Act of 1977, or the FCPA, and anti-money laundering laws;
- effective compliance with privacy, data protection and information security laws, such as the European Union General Data Protection Regulation (GDPR) and the Cybersecurity Law of the People's Republic of China;
- differing regulatory requirements for obtaining clearances or approvals to market MRIdian and future product enhancements for MRIdian;
- changes and uncertainties relating to foreign rules and regulations that may impact our ability to sell MRIdian, perform services or repatriate profits to the United States;
- tariffs, export or import restrictions, restrictions on remittances abroad, imposition of duties or taxes that limit our ability to move MRIdian out of these countries or interfere with the import of essential materials into these countries;
- limitations on our ability to enter into cost-effective arrangements with distributors of MRIdian, or at all;
- fluctuations in foreign currency exchange rates;
- imposition of limitations on production, sale or export of MRI-guided radiation therapy systems in foreign countries;
- imposition of limitations on or increase of withholding and other taxes on remittances and other payments by foreign subsidiaries or joint ventures;
- differing multiple payor reimbursement regimes, government payors or patient self-pay systems;
- imposition of differing labor laws and standards;
- economic, political or social instability in foreign countries and regions;
- dependence on, and potential disruptions to, our international supply chain, including as a result of changes in foreign laws and regulations, tariffs, export or import restrictions, political, economic and social instability or otherwise;

- an inability, or reduced ability, to protect our intellectual property, including any effect of compulsory licensing imposed by government action; and
- availability of government subsidies or other incentives that benefit competitors in their local markets that are not available to us.

We expect that we will begin expanding into more markets; however, we cannot assure you that our expansion plans will be realized, or if realized, be successful. We expect each market to have particular regulatory and funding hurdles to overcome and future developments in these markets, including the uncertainty relating to governmental policies and regulations, could harm our business. If we expend significant time and resources on expansion plans that fail or are delayed, our reputation, business and financial condition may be harmed.

Our results may be impacted by changes in foreign currency exchange rates.

Currently, the majority of our international order contracts are denominated in U.S. dollars. We pay certain of our suppliers in a foreign currency under the terms of their supply agreements, and we may pay other suppliers in the future in foreign currency. As a result, an increase in the value of the U.S. dollar relative to foreign currencies could require us to reduce our selling price or risk making MRIdian less competitive in international markets or could cause our costs to increase. Also, if our international sales increase, we may enter into a greater number of transactions denominated in non-U.S. dollars, which could expose us to foreign currency risks, including changes in currency exchange rates. We do not currently engage in any hedging transactions. If we are unable to address these risks and challenges effectively, our international operations may not be successful, and our business could be harmed.

We could be negatively impacted by violations of applicable anti-corruption laws or violations of our internal policies designed to ensure ethical business practices.

We operate in a number of countries throughout the world, including in countries that do not have as strong a commitment to anti-corruption and ethical behavior that is required by U.S. laws or by corporate policies. We are subject to the risk that we, our U.S. employees or our employees located in other jurisdictions or any third parties such as our sales agents and distributors that we engage to do work on our behalf in foreign countries may take action determined to be in violation of anti-corruption laws in any jurisdiction in which we conduct business, including the FCPA and the Bribery Act of 2010, or the U.K. Anti-Bribery Act. In addition, we operate in certain countries in which the government may take an ownership stake in an enterprise and such government ownership may not be readily apparent, thereby increasing potential anti-corruption law violations. Any violation of the FCPA and U.K. Anti-Bribery Act or any similar anti-corruption law or regulation could result in substantial fines, sanctions, civil and/or criminal penalties and curtailment of operations in certain jurisdictions and might harm our business, financial condition or results of operations. In addition, we have internal ethics policies with which we require our employees to comply in order to ensure that our business is conducted in a manner that our management deems appropriate. If these anti-corruption laws or internal policies were to be violated, our reputation and operations could also be substantially harmed. Further, detecting, investigating and resolving actual or alleged violations is expensive and can consume significant time and attention of our senior management.

We are subject to export restrictions and laws affecting trade and investments, and the future sale of our MRIdian system may be further limited or prohibited in the future by a government agency or authority.

As a global company headquartered in the United States, our MRIdian system is subject to U.S. laws and regulations that may limit, restrict or require a license to export (and re-export from other countries) our MRIdian system and related product and technical information due to MRIdian's use of hazardous materials, including MRIdian with Cobalt's use of Cobalt-60, lead and depleted uranium. We are also subject to the export and import laws of those foreign jurisdictions to which we sell or from which we re-export our MRIdian system. Compliance with these laws and regulations could significantly limit our operations and our sales in the future and failure to comply, even indirectly, could result in a range of penalties, including restrictions on exports of our MRIdian system for a specified time period, or forever, and severe monetary penalties. In certain circumstances, these restrictions may affect our ability to interact with any of our future foreign subsidiaries and otherwise limit our trade with third parties, including suppliers and customers, operating inside and outside the United States. In addition, if we introduce new products, we may need to obtain licenses or approvals from the United States and other governments to ship them into foreign countries. Failure to receive the appropriate approvals may mean that our commercial efforts and expenses related to such efforts may not result in any revenue, which could harm our business.

We depend on our information technology systems, and any failure of these systems could harm our business.

We depend on information technology and telecommunications systems for significant elements of our operations. We have developed proprietary software for the management and operation of MRIdian by our customers. We have installed, and expect to expand, a number of enterprise software systems that affect a broad range of business processes and functional areas, including for example, systems handling human resources, financial controls and reporting, contract management, inventory management, regulatory compliance and other infrastructure operations. In addition to the aforementioned business systems, we intend to extend the capabilities of both our preventative and detective security controls by augmenting the monitoring and alerting functions, the network design and the automatic countermeasure operations of our technical systems. These information technology and telecommunications systems support a variety of functions, including sales and marketing, manufacturing operations, customer service support, billing and reimbursement, research and development activities and general administrative activities.

Information technology and telecommunications systems are vulnerable to damage from a variety of sources, including telecommunications or network failures, malicious human acts and natural disasters. Moreover, despite network security and back-up measures, some of our servers are potentially vulnerable to physical or electronic break-ins, computer viruses and similar disruptive problems. Despite the precautionary measures we have taken to prevent unanticipated problems that could affect our information technology and telecommunications systems, failures or significant downtime of our information technology or telecommunications systems or those used by our third-party service providers could prevent us from providing maintenance and support services to our customers, conducting research and development activities and managing the administrative aspects of our business. Any disruption or loss of information technology or telecommunications systems on which critical aspects of our operations depend could harm our business.

Our operations are vulnerable to interruption or loss due to natural or other disasters, power loss, strikes and other events beyond our control.

We conduct a significant portion of our activities, including administration and data processing, at facilities located in California, Colorado, Ohio and other areas that have experienced major earthquakes, tornadoes and other natural disasters. A major earthquake, tornado or other disaster (such as pandemic outbreaks, a major fire, hurricane, flood, tsunami, volcanic eruption or terrorist attack) affecting our facilities, or those of our suppliers, could significantly disrupt our operations, and delay or prevent product shipment or installation during the time required to repair, rebuild or replace our suppliers' damaged manufacturing facilities; these delays could be lengthy and costly. If any of our suppliers' or customers' facilities are negatively impacted by a disaster, shipments of MRIdian could be delayed. Additionally, customers may delay purchases of MRIdian until operations return to normal. Even if we are able to quickly respond to a disaster, the ongoing effects of the disaster could create some uncertainty in the operations of our business. In addition, our facilities may be subject to a shortage of available electrical power and other energy supplies. Any shortages may increase our costs for power and energy supplies or could result in blackouts, which could disrupt the operations of our affected facilities and harm our business. Further, MRIdian is typically shipped from a limited number of ports, and any disaster, strike or other event blocking shipment from these ports could delay or prevent shipments and harm our business. In addition, concerns about terrorism, the effects of a terrorist attack, political turmoil or an outbreak of epidemic diseases, such as Ebola or influenza, could have a negative effect on our operations, those of our suppliers and customers and the ability to travel, which could harm our business, financial condition and results of operations.

The recently enacted tax reform bill could adversely affect our business and financial condition.

On December 22, 2017, President Trump signed into law the "Tax Cuts and Jobs Act," or the TCJA, which significantly amends the Internal Revenue Code of 1986. The TCJA, among other things, reduces the corporate tax rate from a top marginal rate of 35% to a flat rate of 21%, limits the tax deduction for interest expense to 30% of adjusted earnings, eliminates net operating loss carrybacks, imposes a one-time tax on offshore earnings at reduced rates regardless of whether they are repatriated, allows immediate deductions for certain new investments instead of deductions for depreciation expense over time, and modifies or repeals many business deductions and credits. We have completed our evaluation of the impact of these changes on our effective tax rate and reflected the amounts in our financial statements. However, the overall impact of the TCJA also depends on the future interpretations and regulations that may be issued by U.S. tax authorities, and it is possible that future guidance could adversely impact us.

Risks Related to Intellectual Property

Litigation or other proceedings or third-party claims of intellectual property infringement can and are requiring us to spend significant time and money and could prevent us from selling MRIdian or impact our stock price.

There is considerable intellectual property litigation and contested patent disputes in the medical device area. Third parties may assert claims that we are employing their proprietary technology without authorization, including claims from competitors or from non-practicing entities that have no relevant product revenue and against whom our own patent portfolio may have no deterrent effect. As we continue to commercialize MRIdian in its current or an updated form, launch new products and enter new markets, we expect that competitors may claim that MRIdian infringes their intellectual property rights as part of business strategies designed to impede our successful commercialization and entry into new markets. Varian Medical Systems, Inc., made such a claim on September 10, 2019,

through a lawsuit against us in the U.S. District Court for the Northern District of California (Case No. 19-cv-5697-SI) alleging infringement of two patents relating to multi-leaf collimator technology. Although we are presently unaware of any basis by which a third-party would be justified in making such claims, in the future, we may receive additional letters or other threats or claims from third parties inviting us to take licenses under, or alleging that we infringe, their patents. Third parties may have obtained, and may in the future obtain, patents under which such third parties may claim that the use of our technologies constitutes patent infringement.

Moreover, we may become party to future adversarial proceedings regarding our patent portfolio or the patents of third parties. Such proceedings could include contested post-grant proceedings such as oppositions, inter partes review, reexamination, interference or derivation proceedings before the U.S. Patent and Trademark Office or foreign patent offices. The legal threshold for initiating litigation or contested proceedings is low, so that even lawsuits or proceedings with a low probability of success might be initiated. Litigation and contested proceedings can also be expensive and time-consuming, and our adversaries in these proceedings may have the ability to dedicate substantially greater resources to prosecuting these legal actions than we can.

We could incur substantial costs and divert the attention of our management and technical personnel in defending ourselves against any of these claims or in any of such proceedings. Indeed, such costs are currently being incurred, and attention being diverted, with regard to the patent litigation brought against us by Varian Medical Systems, Inc. Any adverse ruling or perception of an adverse ruling in defending ourselves against these claims could have a negative impact on our cash position and stock price. Furthermore, parties making claims against us may be able to obtain injunctive or other relief, which could block our ability to develop, commercialize and sell products, and could result in the award of substantial damages against us. In the event of a successful claim of infringement or misappropriation against us, we may be required to pay damages, obtain one or more licenses from third parties or be prohibited from selling certain products, all of which could have a negative impact on our cash position, business and financial condition.

In addition, we may be unable to obtain these licenses at a reasonable cost, if at all. We could therefore incur substantial costs related to royalty payments for licenses obtained from third parties, which could negatively affect our gross margins. Moreover, we could encounter delays in product introductions while we attempt to develop alternative methods or products. Defense of any lawsuit or adversarial proceeding or failure to obtain any of these licenses on favorable terms could prevent us from commercializing products, and the prohibition of sale of MRIdian or future products could impact our ability to grow and maintain profitability and could harm our business.

If we are unable to adequately protect our proprietary technology or maintain issued patents that are sufficient to protect MRIdian, others could compete against us more directly, which could harm our business, financial condition and results of operations.

Our commercial success will depend in part on our success in obtaining and maintaining issued patents and other intellectual property rights in the United States and elsewhere and protecting our proprietary technology. If we do not adequately protect our intellectual property and proprietary technology, competitors may be able to use our technologies and erode or negate any competitive advantage we may have, which could harm our business and ability to achieve profitability.

We cannot provide any assurances that any of our patents have, or that any of our pending patent applications that mature into issued patents will include, claims with a scope sufficient to protect MRIdian, any additional features we develop for MRIdian or any new products. Other parties may have developed technologies that may be related or competitive to our platform, may have filed or may file patent applications and may have received or may receive patents that overlap or conflict with our patent applications, either by claiming the same methods or devices or by claiming subject matter that could dominate our patent position. The patent positions of medical device companies, including our patent position, involve complex legal and factual questions, and, therefore, the issuance, scope, validity and enforceability of any patent claims that we may obtain cannot be predicted with certainty. Patents, if issued, may be challenged, deemed unenforceable, invalidated or circumvented. U.S. patents and patent applications may also be subject to supplemental examination or contested post-grant proceedings such as inter partes review, reexamination, interference or derivation proceedings before the U.S. Patent and Trademark Office and challenges in district court. Patents may be subjected to opposition, post-grant review or comparable proceedings lodged in various foreign, both national and regional, patent offices. These proceedings could result in either loss of the patent or denial of the patent application or loss or reduction in the scope of one or more of the claims of the patent or patent application. In addition, such proceedings may be costly. Thus, any patents that we may own or exclusively license may not provide any protection against competitors. Furthermore, an adverse decision in an interference proceeding can result in a third-party receiving the patent right sought by us, which in turn could affect our ability to commercialize MRIdian.

Furthermore, though an issued patent is presumed valid and enforceable, its issuance is not conclusive as to its validity or its enforceability and it may not provide us with adequate proprietary protection or competitive advantages against competitors with similar products. Competitors may also be able to design around our patents. Other parties may develop and obtain patent protection for more effective technologies, designs or methods. We may not be able to prevent the unauthorized disclosure or use of our technical knowledge or trade secrets by consultants, agents, distributors, suppliers, vendors, former employees and current employees. The laws of some foreign countries do not protect our proprietary rights to the same extent as the laws of the United States, and we may encounter significant problems in protecting our proprietary rights in these countries. If any of these developments were to occur, they each could have a negative impact on our results of operations and business.

Our ability to enforce our patent rights depends on our ability to detect infringement. It is difficult to detect infringers who do not advertise the components that are used in their products. Moreover, it may be difficult or impossible to obtain evidence of infringement in a competitor's or potential competitor's product. Any litigation to enforce or defend our patent rights, even if we were to prevail, could be costly and time-consuming and would divert the attention of our management and key personnel from our business operations. We may not prevail in any lawsuits that we initiate and the damages or other remedies awarded if we were to prevail may not be commercially meaningful.

In addition, proceedings to enforce or defend our patents could put our patents at risk of being invalidated, held unenforceable or interpreted narrowly. Such proceedings could also provoke third parties to assert claims against us, including that some or all of the claims in one or more of our patents are invalid or otherwise unenforceable. If any of our patents covering MRIdian are invalidated or found unenforceable, our financial position and results of operations could be negatively impacted. In addition, if a court found that valid, enforceable patents held by third parties covered MRIdian, our financial position and results of operations could be harmed.

The degree of future protection for our proprietary rights is uncertain, and we cannot ensure that:

- any of our patents, or any of our pending patent applications, if issued, will include claims having a scope sufficient to protect MRIdian or any other products;
- any of our pending patent applications will issue as patents;
- we will be able to successfully commercialize MRIdian on a substantial scale before our relevant patents expire;
- we were the first to make the inventions covered by each of our patents and pending patent applications;
- we were the first to file patent applications for these inventions;
- others will not develop similar or alternative technologies that do not infringe our patents;
- any of our patents will be found to ultimately be valid and enforceable;
- any patents issued to us will provide a basis for an exclusive market for our commercially viable products, will provide us with any competitive advantages or will not be challenged by third parties;
- we will develop additional proprietary technologies or products that are separately patentable; or
- our commercial activities or products will not infringe upon the patents of others.

We rely, in part, upon unpatented trade secrets, unpatented know-how and continuing technological innovation to develop and maintain our competitive position, which we seek to protect, in part, by confidentiality agreements with our employees and our collaborators and consultants. We also have agreements with our employees and selected consultants that obligate them to assign their inventions to us and have non-compete agreements with some, but not all, of our consultants. It is possible that technology relevant to our business will be independently developed by a person that is not a party to such an agreement. Furthermore, if the employees and consultants who are parties to these agreements breach or violate the terms of these agreements, we may not have adequate remedies for any such breach or violation, and we could lose our trade secrets through such breaches or violations. Further, our trade secrets could otherwise become known or be independently discovered by our competitors.

If we are not able to meet the requirements of our license agreement with the University of Florida Research Foundation, Inc., we could lose access to the technologies licensed thereunder and be unable to manufacture, market or sell MRIdian.

We license patents and patent applications from the UFRF, covering our combination of MRI and radiation therapy, and other key technologies, incorporated into MRIdian under a license agreement that requires us to pay royalties to UFRF. In addition, the license agreement obligates us to pursue an agreed development plan and to submit periodic reports and restricts our ability to take actions to defend the licensed patents. The license agreement terminates when the underlying patents expire in 2025, although UFRF has the right to unilaterally terminate the agreement if we do not meet our royalty payment obligations, including minimum royalty payments of $50,000 per quarter, or if we fail to satisfy other development and commercialization obligations related to our utilization of the technology. If UFRF were to terminate the agreement or if we were to otherwise lose the ability to exploit the licensed patents, our competitive advantage could be reduced, we may not be able to find a source to replace the licensed technology and we may be prevented from selling MRIdian. The license agreement reserves to UFRF the initial right to defend or prosecute any claim arising with respect to the licensed technology. If UFRF does not vigorously defend the patents, we may be required to engage in expensive patent litigation to enforce our rights and any competitive advantage we have based on the licensed technology may be hampered. Any of these events could harm our business, financial condition and results of operations.

Changes in U.S. patent laws may limit our ability to obtain, defend or enforce our patents.

Past or future patent reform legislation or precedent could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents. For example, the Leahy-Smith America Invents Act, or the Leahy-Smith Act, includes a number of significant changes to U.S. patent law. These include provisions that affect the way patent applications are prosecuted and also affect patent litigation. The first to file provisions of the Leahy-Smith Act limit the rights of an inventor to patent an invention if not the first to file an application for patenting that invention, even if such invention was the first invention.

The Leahy-Smith Act also created an administrative tribunal known as the Patent Trial and Appeal Board, or PTAB, that provides a venue for companies to challenge the validity of a competitor's patents at a cost that is much lower than district court litigation and on timelines that are much faster. Although it is not clear what, if any, long-term impact the PTAB proceedings will have on the operation of our business, the initial results of patent challenge proceedings before the PTAB since its inception in 2013 have resulted in the invalidation of many U.S. patent claims. The availability of the PTAB as a lower-cost, faster and potentially more potent tribunal for challenging patents could therefore increase the likelihood that our own patents will be challenged, thereby increasing the uncertainties and costs of maintaining and enforcing them. Moreover, if such challenges occur with regard to our UFRF-licensed patents, as indicated above, we have only limited rights to control the defense.

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

In addition to patent protection, we also rely upon copyright and trade secret protection, as well as non-disclosure agreements and invention assignment agreements with our employees, consultants and third parties, to protect our confidential and proprietary information. In addition to contractual measures, we try to protect the confidential nature of our proprietary information using physical and technological security measures. Such measures may not, for example, in the case of misappropriation of a trade secret by an employee or third party with authorized access, provide adequate protection for our proprietary information. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret can be difficult, expensive and time-consuming, and the outcome is unpredictable. In addition, trade secrets may be independently developed by others in a manner that could prevent legal recourse by us. If any of our confidential or proprietary information, such as our trade secrets, were to be disclosed or misappropriated, or if any such information was independently developed by a competitor, our competitive position could be harmed.

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

The laws of some foreign countries do not protect intellectual property rights to the same extent as the laws of the United States. Many companies have encountered significant problems in protecting and defending intellectual property rights in certain foreign jurisdictions. This could make it difficult for us to stop the infringement of our patents, if obtained, or the misappropriation of our other intellectual property rights. For example, many foreign countries have compulsory licensing laws under which a patent owner must grant licenses to third parties. In addition, many countries limit the enforceability of patents against certain third parties, including government agencies or government contractors. In these countries, patents may provide limited or no benefit. Patent protection must ultimately be sought on a country-by-country basis, which is an expensive and time-consuming process with uncertain outcomes. Accordingly, we may choose not to seek patent protection in certain countries, and we will not have the benefit of patent protection in such countries.

Proceedings to enforce our patent rights in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business. Accordingly, our efforts to protect our intellectual property rights in such countries may be inadequate. In addition, changes in the law and legal decisions by courts in the United States and foreign countries may affect our ability to obtain adequate protection for our technology and the enforcement of intellectual property.

Third parties may assert ownership or commercial rights to inventions we develop.

Third parties may, in the future, make claims challenging the inventorship or ownership of our intellectual property. We have written agreements with collaborators that provide for the ownership of intellectual property arising from our collaborations. These agreements provide that we must negotiate certain commercial rights with collaborators with respect to joint inventions or inventions made by our collaborators that arise from the results of the collaboration. In some instances, there may not be adequate written provisions to address clearly the resolution of intellectual property rights that may arise from a collaboration. If we cannot successfully negotiate sufficient ownership and commercial rights to the inventions that result from our use of a third-party collaborator's materials where required, or if disputes otherwise arise with respect to the intellectual property developed with the use of a collaborator's technology, we may be limited in our ability to capitalize on the market potential of these intellectual property rights. In addition, we may face claims by third parties that our agreements with employees, contractors or consultants obligating them to assign intellectual property to us are ineffective or in conflict with prior or competing contractual obligations of assignment, which could result in ownership disputes regarding intellectual property we have developed or will develop and interfere with our ability to capture the commercial value of such intellectual property. Litigation may be necessary to resolve an ownership dispute, and if we are not successful, we may be precluded from using certain intellectual property or may lose our exclusive rights in that intellectual property. Either outcome could harm our business.

Third parties may assert that our employees or consultants have wrongfully used or disclosed confidential information or misappropriated trade secrets.

We employ individuals who were previously employed at universities or other medical device companies, including our competitors or potential competitors. Although we try to ensure that our employees and consultants do not use the proprietary information or know-how of others in their work for us, we may be subject to claims that we or our employees, consultants or independent contractors have inadvertently or otherwise used or disclosed intellectual property, including trade secrets or other proprietary information, of a former employer or other third parties. Litigation may be necessary to defend against these claims. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees.

A network or data security incident may allow unauthorized access to our products, our network or our data and also that of our customers, resulting in disruption of critical information systems, harm to our reputation and creation of additional liability that could adversely impact our financial results.

Increasingly, companies are subject to a wide variety of attacks on their products, networks and systems on an ongoing basis. In addition to traditional computer "hackers," malicious code (such as viruses and worms), employee theft or misuse, and denial-of-service attacks, sophisticated nation-state and nation-stated supported actors now engage in attacks (including advanced persistent threat intrusions). Despite significant efforts to create security barriers to such threats, it is virtually impossible to entirely mitigate these risks. If we do not allocate and effectively manage the resources necessary to build and sustain the proper infrastructure in our business technology or in our product design, we could be subject to, among other things: transaction errors; processing inefficiencies; the loss of customers; business disruptions; the loss of or damage to intellectual property through a security breach; or the inability to comply with applicable laws.

To meet business objectives, we rely on both internal information technology (IT) systems and networks, and those of third parties and their vendors, to process and store sensitive data, including confidential research, business plans, financial information, intellectual property, and personal data that may be subject to legal protection. The extensive information security and cybersecurity threats, which affect companies globally, pose a risk to the security and availability of these IT systems and networks, and the confidentiality, integrity, and availability of our sensitive data. We assess these threats and makes investments to increase internal protection, detection, and response capabilities, and seek to ensure that our third-party providers have required capabilities and controls, to address this risk.

If a breach of data security were to occur at a customer site through one of our products as a result of third-party action, employee error, malfeasance or otherwise, and the confidentiality, integrity or availability of our customers' data, including patient health information (PHI) and personally identifiable information (PII) were disrupted, we could incur significant liability to our customers and to individuals or businesses whose information was being stored by our customers. Our systems may be perceived as less desirable, which could negatively affect our business and damage our reputation. In addition, a network or security breach could result in the loss of customers and make it more challenging to acquire new customers. Because techniques used to obtain unauthorized access to, or to sabotage, systems change frequently and generally are not recognized until launched against a target, we may be unable to anticipate these techniques or to implement adequate preventive measures. In addition, security breaches impacting our network could result in a risk of loss or unauthorized disclosure of customers' data, which, in turn, could lead to litigation, governmental audits and investigations and possible liability, damage our relationships with our existing customers, and have a negative impact on our ability to attract and retain new customers. In addition, the costs associated with the investigation, remediation and potential notification of the breach to customers and counter-parties could be material.

Third parties may attempt to fraudulently induce employees or customers into disclosing sensitive information such as user names, passwords or other information or otherwise compromise the security of our internal networks, electronic systems and/or physical facilities in order to gain access to our data or our customers' data, which could result in significant legal and financial exposure, interruptions or malfunctions in our operations, and, ultimately, harm to our future business prospects and revenue. We may be required to expend significant capital and financial resources to protect against threats such as these, or to alleviate problems caused by breaches in security.

To date, we have not experienced any material impact to the business or operations resulting from information or cybersecurity attacks; however, because of the frequently changing attack techniques, along with the increased volume and sophistication of the attacks, there is the potential that we could be adversely impacted. This impact could result in reputational, competitive, operational or other business harm as well as financial costs and regulatory action.

Risks Related to Regulatory Matters

MRIdian and our operations are subject to extensive government regulation and oversight both in the United States and abroad, and our failure to comply with applicable requirements could harm our business.

MRIdian is a medical device that is subject to extensive regulation in the United States and elsewhere, including by the FDA and its foreign counterparts. The FDA and foreign regulatory agencies regulate, among other things, with respect to medical devices:

- design, development and manufacturing;
- testing, labeling, content and language of instructions for use and storage;
- clinical trials;
- product safety;
- marketing, sales and distribution;
- premarket clearance and approval;
- record keeping procedures;
- advertising and promotion;
- recalls and field safety corrective actions;
- post-market surveillance, including reporting of deaths or serious injuries and malfunctions that, if they were to recur, could lead to death or serious injury;
- post-market approval studies; and
- product import and export.

The regulations to which we are subject are complex and have tended to become more stringent over time. Regulatory changes could result in restrictions on our ability to carry on or expand our operations, higher than anticipated costs or lower than anticipated sales.

In the United States, before we can market a new medical device, or a new use of, new claim for or significant modification to an existing product, we must first receive either clearance under Section 510(k) of the FDCA or approval of a premarket approval, or PMA, application from the FDA, unless an exemption applies. In the 510(k) clearance process, the FDA must determine that a proposed device is "substantially equivalent" to a device legally on the market, known as a "predicate" device, in order to clear the proposed device for marketing. To be "substantially equivalent," the proposed device must have the same intended use as the predicate device, and either have the same technological characteristics as the predicate device or have different technological characteristics and not raise different questions of safety or effectiveness than the predicate device. Clinical data are sometimes required to support substantial equivalence. The PMA process is typically required for devices that are deemed to pose the greatest risk, such as life-sustaining, life-supporting or implantable devices.

Certain modifications made to products cleared through a 510(k) may require a new 510(k) clearance, or possible PMA approval. The 510(k) clearance process can be expensive, lengthy and uncertain. The FDA's 510(k) clearance process usually takes from three to 12 months, but can last longer. Despite the time, effort and cost, we cannot assure you that any particular device will be approved or cleared by the FDA. Any delay or failure to obtain necessary regulatory approvals could harm our business.

In the United States, we have obtained 510(k) premarket clearance from the FDA to market MRIdian for the provision of stereotactic radiosurgery and precision radiotherapy for lesions, tumors and conditions anywhere in the body where radiation treatment is indicated. An element of our strategy is to continue to upgrade MRIdian to incorporate new software and hardware enhancements. We expect that such upgrades, as well as other future modifications, may require new 510(k) clearance; however, future upgrades may be subject to the substantially more costly, time-consuming and uncertain PMA process. If the FDA requires us to go through a lengthier, more rigorous examination for future products or modifications to existing products than we had expected, product introductions or modifications could be delayed or cancelled, which could cause our sales to decline. In August 2016, we filed for FDA 510(k) clearance for the MRIdian Linac and received FDA clearance in February 2017. In June 2017, we received 510(k) clearance to market RayZR, our high-resolution MLC. In February 2019, we received 510(k) clearance for modifications to the MRIdian Linac system, including image pulse sequencing, changing from four to eight frames per second for imaging during radiation therapy delivery and modifications to the multi-channel radiofrequency system.

The FDA can delay, limit or deny clearance or approval of a device for many reasons, including:

- we may not be able to demonstrate to the FDA's satisfaction that MRIdian is substantially equivalent to the proposed predicate device or safe and effective for its intended use;
- the data from our pre-clinical studies and clinical trials may be insufficient to support clearance or approval, where required; and
- the manufacturing process or facilities we use may not meet applicable requirements.

In addition, the FDA may change its clearance and approval policies, adopt additional regulations or revise existing regulations, or take other actions, which may prevent or delay approval or clearance of our future products under development or impact our ability to modify our currently cleared product on a timely basis. For example, the FDA issued guidance ("Deciding When to Submit a 510(k) for a Change to an Existing Device" and "Deciding When to Submit a 510(k) for a Software Change to an Existing Device") on October 25, 2017 to assist industry in determining when a change to a previously 510(k)-cleared product requires a new premarket notification to be submitted to the FDA. These guidance documents replaced the 1997 guidance on the same topic. In November 2018, the FDA announced plans to significantly revise aspects of the 510(k) program to reduce reliance on older predicate devices (e.g., predicates that are less than 10 years old). In January 2019, the FDA also finalized guidance on an alternative 510(k) pathway, the "Safety and Performance Based Pathway," which relies on modern performance-based criteria and current technological principles to demonstrate substantial equivalence rather than on direct comparisons to older predicates; the draft guidance was published earlier in 2018. With the changes to the 510(k) pathway, the FDA expects increased use of the de novo pathway, which is for the review of novel, low to moderate risk devices for which there is no existing predicate to use in determining substantial equivalence. The FDA intends these reform actions to improve the efficiency and transparency of the clearance process, as well as bolster patient safety. The FDA's proposed changes to the 510(k) pathway and these guidance documents could impose additional regulatory requirements upon us that could: increase the costs of compliance; restrict our ability to maintain our current clearances; and delay our ability to obtain 510(k) clearances.

Even after we have obtained the proper regulatory clearance or approval to market a product, we have ongoing responsibilities under FDA regulations. The failure to comply with applicable regulations could jeopardize our ability to sell MRIdian and result in enforcement actions such as:

- warning letters;
- fines;
- injunctions;
- civil penalties;
- termination of distribution;
- recalls or seizures of products;
- delays in the introduction of products into the market;
- total or partial suspension of production;
- refusal to grant future clearances or approvals;
- withdrawals or suspensions of current clearances or approvals, resulting in prohibitions on sales of MRIdian; and
- in the most serious cases, criminal penalties.

Any of these sanctions could result in higher than anticipated costs or lower than anticipated sales and harm our reputation, business, financial condition and results of operations.

We also cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative or executive action, either in the United States or abroad. For example, certain policies of the Trump administration may impact our business and industry. The Trump administration has taken several executive actions, including the issuance of a number of Executive Orders, that could impose significant burdens on, or otherwise materially delay, the FDA's ability to engage in routine regulatory and oversight activities such as implementing statutes through rulemaking, issuance of guidance, and review and approval of marketing applications. Uncertainty at the FDA or if the FDA were under-staffed, could result in delays in FDA's responsiveness or in its ability to review submissions or applications, issue regulations or guidance, or implement or enforce regulatory requirements in a timely fashion or at all.

Moreover, on January 30, 2017, President Trump issued an Executive Order, applicable to all executive agencies, including the FDA, that requires that for each notice of proposed rulemaking or final regulation to be issued in fiscal year 2017, the agency shall identify at least two existing regulations to be repealed, unless prohibited by law. These requirements are referred to as the "two-for-one"

provisions. This Executive Order includes a budget neutrality provision that requires the total incremental cost of all new regulations in the 2017 fiscal year, including repealed regulations, to be no greater than zero, except in limited circumstances. For fiscal years 2018 and beyond, the Executive Order requires agencies to identify regulations to offset any incremental cost of a new regulation and approximate the total costs or savings associated with each new regulation or repealed regulation. In interim guidance issued by the Office of Information and Regulatory Affairs within OMB on February 2, 2017, the administration indicates that the "two-for-one" provisions may apply not only to agency regulations, but also to significant agency guidance documents. In addition, on February 24, 2017, President Trump issued an executive order directing each affected agency to designate an agency official as a "Regulatory Reform Officer" and establish a "Regulatory Reform Task Force" to implement the two-for-one provisions and other previously issued executive orders relating to the review of federal regulations, however it is difficult to predict how these requirements will be implemented, and the extent to which they will impact the FDA's ability to exercise its regulatory authority. If these executive actions impose constraints on FDA's ability to engage in oversight and implementation activities in the normal course, our business may be negatively impacted.

In order to sell MRIdian in member countries of the European Economic Area, or EEA, MRIdian must comply with the essential requirements of the EU Medical Devices Directive (Council Directive 93/42/EEC). Compliance with these requirements is a prerequisite to be able to affix the CE mark to MRIdian, without which they cannot be sold or marketed in the EEA. To demonstrate compliance with the essential requirements we must undergo a conformity assessment procedure, which varies according to the type of medical device and its classification. Except for low-risk medical devices, where the manufacturer can issue an EC Declaration of Conformity based on a self-assessment of the conformity of its products with the essential requirements of the EU Medical Devices Directive, a conformity assessment procedure requires the intervention of an organization accredited by a Member State of the EEA to conduct conformity assessments, or a Notified Body. Depending on the relevant conformity assessment procedure, the Notified Body would typically audit and examine the technical file and the quality system for the manufacture, design and final inspection of our devices. The Notified Body issues a CE Certificate of Conformity following successful completion of a conformity assessment procedure conducted in relation to the medical device and its manufacturer and their conformity with the essential requirements. This certificate entitles the manufacturer to affix the CE mark to its medical devices after having prepared and signed a related EC Declaration of Conformity.

As a general rule, demonstration of conformity of medical devices and their manufacturers with the essential requirements must be based, among other things, on the evaluation of clinical data supporting the safety and performance of the products during normal conditions of use. Specifically, a manufacturer must demonstrate that the device achieves its intended performance during normal conditions of use, that the known and foreseeable risks, and any adverse events, are minimized and acceptable when weighed against the benefits of its intended performance, and that any claims made about the performance and safety of the device (e.g., product labeling and instructions for use) are supported by suitable evidence. We have the right to affix the CE mark to MRIdian with Cobalt-60 since November 2014 and MRIdian Linac since September 2016. If we fail to remain in compliance with applicable European laws and directives, we would not be able to continue to affix the CE mark to MRIdian with Cobalt-60 and MRIdian Linac, which would prevent us from selling MRIdian with Cobalt-60 or MRIdian Linac within the EEA. We will also need to obtain regulatory approval in other foreign jurisdictions in which we plan to market and sell MRIdian with Cobalt-60 and MRIdian Linac.

Modifications to MRIdian and our future products may require new 510(k) clearances or PMA approvals, or may require us to cease marketing or recall the modified products until clearances are obtained.

In the United States, we have obtained 510(k) premarket clearance from the FDA to market MRIdian for the provision of stereotactic radiosurgery and precision radiotherapy for lesions, tumors and conditions anywhere in the body where radiation treatment is indicated. Any modification to a 510(k)-cleared device that could significantly affect its safety or effectiveness, or that would constitute a major change in its intended use, design or manufacture, requires a new 510(k) clearance or, possibly, approval of a PMA.

In February 2017, we received a 510(k) premarket clearance from the FDA to market the MRIdian system that contains MRIdian Linac. As we make other changes or enhancements to our MRIdian system, we will need to determine whether additional FDA clearance is required or not. However, the FDA may not agree with our decisions regarding whether new clearances or approvals are necessary. We have made modifications to MRIdian in the past and have determined based on our review of the applicable FDA regulations and guidance that in certain instances new 510(k) clearances or PMA approvals were not required. We may make similar modifications or add additional features in the future that we believe do not require a new 510(k) clearance or approval of a PMA. If the FDA disagrees with our determination and requires us to submit new 510(k) notifications or PMA applications for modifications to our previously cleared products for which we have concluded that new clearances or approvals are unnecessary, we may be required to cease marketing or to recall the modified product until we obtain clearance or approval, and we may be subject to significant regulatory fines or penalties.

Furthermore, the FDA's ongoing review of and proposed changes to the 510(k) clearance process may make it more difficult for us to make modifications to our previously cleared products, either by imposing more strict requirements on when a new 510(k) notification for a modification to a previously cleared product must be submitted, or applying more onerous review criteria to such submissions. More recently, the FDA issued guidance "Deciding When to Submit a 510(k) for a Change to an Existing Device" and "Deciding When to Submit a 510(k) for a Software Change to an Existing Device") on October 25, 2017 (replacement of a 1997 guidance document) to assist industry in determining when a change to a previously 510(k)-cleared product requires a new premarket notification to be submitted to the FDA. In November 2018, the FDA announced plans to significantly revise aspects of the 510(k) program to reduce reliance on older predicate devices (e.g., predicates that are less than 10 years old). In January 2019, the FDA also

finalized guidance on an alternative 510(k) pathway, the "Safety and Performance Based Pathway," which relies on modern performance-based criteria and current technological principles to demonstrate substantial equivalence rather than on direct comparisons to older predicates; the draft guidance was published earlier in 2018. In addition, FDA issued guidance "Postmarket Management of Cybersecurity in Medical Devices" on December 28, 2016 and on October 18 2018, the FDA published related draft guidance, "Content of Premarket Submissions for Management of Cybersecurity in Medical Devices". These new guidance documents could impose additional regulatory requirements upon us that could: increase the costs of compliance; restrict our ability to maintain our current clearances; and delay our ability to obtain 510(k) clearances. We cannot guarantee whether the FDA's approach in future guidance will result in substantive changes to existing policy and practice regarding the assessment of whether a new 510(k) is required for changes or modifications to existing devices. The FDA continues to review its 510(k) clearance process, which could result in additional changes to regulatory requirements or guidance documents, which could increase the costs of compliance or restrict our ability to maintain current clearances.

If treatment guidelines for cancer radiation therapies change or the standard of care evolves, we may need to redesign and seek new marketing authorization from the FDA for MRIdian.

If treatment guidelines for cancer radiation therapies or the standard of care evolves, we may need to redesign MRIdian and seek new clearances or approvals from the FDA for MRIdian. Our 510(k) clearance from the FDA is based on current treatment guidelines. If treatment guidelines change so that different treatments become desirable, the clinical utility of MRIdian could be diminished and our business could suffer. For example, competition by other forms of cancer treatment, in particular personalized medicine approaches in targeting drugs and biologics, could reduce the use of radiation therapy as a standard of care in certain indications.

The misuse or off-label use of MRIdian with Cobalt-60 or MRIdian Linac may harm our reputation in the marketplace, result in injuries that lead to product liability suits or result in costly investigations, fines or sanctions by regulatory bodies if we are deemed to have engaged in the promotion of these uses, any of which could be costly to our business.

Clinicians or physicians may misuse MRIdian with Cobalt-60 or MRIdian Linac or use improper techniques if they are not adequately trained or otherwise, potentially leading to injury and an increased risk of product liability. If MRIdian with Cobalt-60 or MRIdian Linac is misused or used with improper technique, we may become subject to costly litigation by our customers or their patients. Product liability claims could divert management's attention from our core business, be expensive to defend and result in sizeable damage awards against us that may not be covered by insurance. In addition, any of the events described above could harm our business and lead to regulatory action.

In addition, MRIdian with Cobalt-60 and MRIdian Linac have been cleared by the FDA for specific treatments. We train our marketing and direct sales force to not promote MRIdian with Cobalt-60 and MRIdian Linac for uses outside of the FDA-cleared indications for use, known as "off-label uses." For example, MRIdian with Cobalt and MRIdian Linac have not been indicated for diagnostic use. We cannot, however, prevent a physician from using MRIdian with Cobalt-60 or MRIdian Linac off-label, when in the physician's independent professional medical judgment, he or she deems it appropriate. There may be increased risk of injury to patients if physicians attempt to use MRIdian with Cobalt-60 or MRIdian Linac off-label. Furthermore, the use of MRIdian with Cobalt-60 or MRIdian Linac for indications other than those cleared by the FDA or authorized by any foreign regulatory body may not effectively treat such conditions, which could harm our reputation in the marketplace among physicians and patients.

If the FDA or any foreign regulatory body determines that our promotional materials or training constitute promotion of an off-label use, it could request that we modify our training or promotional materials or subject us to regulatory or enforcement actions, including the issuance or imposition of an untitled letter, which is used for violators that do not necessitate a warning letter, injunction, seizure, civil fine or criminal penalties. It is also possible that other federal, state or foreign enforcement authorities might take action under other regulatory authority, such as false claims laws, if they consider our business activities to constitute promotion of an off-label use, which could result in significant penalties, including, but not limited to, criminal, civil and administrative penalties, damages, fines, disgorgement, exclusion from participation in government healthcare programs and the curtailment of our operations.

Our MRIdian systems may cause or contribute to adverse medical events that we are required to report to regulatory bodies outside of the U.S. and to the FDA, and if we fail to do so, we would be subject to sanctions that could harm our reputation, business, financial condition and results of operations. The discovery of serious safety issues with our MRIdian systems, or a recall of our MRIdian systems either voluntarily or at the direction of the FDA or another governmental authority, could have a negative impact on us.

We are subject to the FDA's medical device reporting regulations and similar foreign regulations, which require us to report to the FDA when we receive or become aware of information that reasonably suggests that MRIdian may have caused or contributed to a death or serious injury or malfunctioned in a way that, if the malfunction were to recur, it could cause or contribute to a death or serious injury. The timing of our obligation to report is triggered by the date we become aware of the adverse event as well as the nature of the event. We may fail to report adverse events of which we become aware within the prescribed timeframe. We may also fail to recognize that we have become aware of a reportable adverse event, especially if it is not reported to us as an adverse event or if it is an adverse event that is unexpected or removed in time from the use of MRIdian. If we fail to comply with our reporting obligations, the FDA could take action, including warning letters, untitled letters, administrative actions, criminal prosecution, imposition of civil monetary penalties, revocation of our device clearance, seizure of MRIdian or delay in clearance of future products.

The FDA and foreign regulatory bodies have the authority to require the recall of commercialized products in the event of material deficiencies or defects in design or manufacture of a product or in the event that a product poses an unacceptable risk to health. The FDA's authority to require a recall must be based on a finding that there is reasonable probability that the device could cause serious injury or death. We may also choose to voluntarily recall a product if any material deficiency is found. A government-mandated or voluntary recall by us could occur as a result of an unacceptable risk to health, component failures, malfunctions, manufacturing defects, labeling or design deficiencies, packaging defects, repeated misuse or other deficiencies or failures to comply with applicable regulations. We cannot assure you that similar or more significant product defects or other errors will not occur in the future. Recalls involving MRIdian could be particularly harmful to our business, financial condition and results of operations because it is currently our only product.

Companies are required to maintain certain records of recalls and corrections, even if they are not reportable to the FDA or other regulatory bodies. We may initiate voluntary withdrawals or corrections for MRIdian in the future that we determine do not require notification of the FDA or other regulators in the US and around the world. If the FDA disagrees with our determinations, it could require us to report those actions as recalls and we may be subject to enforcement action. A future recall announcement could harm our reputation with customers, potentially lead to product liability claims against us and negatively affect our sales.

Any actual or perceived failure by us to comply with legal or regulatory requirements related to privacy or data security in one or multiple jurisdictions could result in proceedings, actions or penalties against us.

Many jurisdictions have enacted or are considering enacting privacy and/or data security legislation, including laws and regulations applicable to the collection, use, storage, transfer, disclosure and/or processing of personal information. For example, the U.S. Department of Health and Human Services has promulgated rules governing the privacy and security of individually identifiable health information under the Health Insurance Portability and Accountability Act of 1996, or HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act, or HITECH. These privacy and security rules protect medical records and other patient health information (PHI) by limiting their use and disclosure, giving individuals the right to access, amend and seek accounting of their own health information, limiting most uses and disclosures of health information to the minimum amount reasonably necessary to accomplish the intended purpose, and requiring administrative, technical and physical safeguards. Although we are not a covered entity under HIPAA, we have entered into agreements with certain covered entity customers, such as health care providers, under which we are considered to be a "business associate" under HIPAA. As a business associate, we are contractually bound and may also be directly responsible under HIPAA, as amended by HITECH, to implement policies, procedures and reasonable and appropriate security measures to protect any individually identifiable health information we may create, receive, maintain or transmit on behalf of covered entities. We may also be subject to state laws protecting the confidentiality of medical records where those state laws have stricter provisions than HIPAA.

The costs of compliance with, and other burdens imposed by, such laws and regulations that are applicable to the businesses of our customers may limit the use and adoption of our products and reduce overall demand for them. These privacy and data security related laws and regulations are evolving and may result in increasing regulatory and public scrutiny and escalating levels of enforcement and sanctions. Although we continually work to comply with those federal, state, and foreign laws and regulations, industry standards, contractual obligations and other legal obligations that apply to us, those laws, regulations, standards and obligations are evolving and may be modified, interpreted and applied in an inconsistent manner from one jurisdiction to another, and may conflict with one another, other requirements or legal obligations, our practices or the features of our platform. Any failure or perceived failure by us to comply with federal, state or foreign laws or regulations, industry standards, contractual obligations or other legal obligations, or any actual or suspected security incident, whether or not resulting in unauthorized access to, or acquisition, release or transfer of personal information or other data, may result in governmental enforcement actions and prosecutions, private litigation, fines and penalties or adverse publicity and could cause our customers to lose trust in us, which could have an adverse effect on our reputation and business. Any inability to adequately address privacy and security concerns, even if unfounded, or comply with applicable laws, regulations, policies, industry standards, contractual obligations, or other legal obligations could result in additional cost and liability to us, damage our reputation, inhibit sales, and adversely affect our business.

We also expect that there will continue to be new proposed laws, regulations and industry standards concerning privacy, data protection and information security in the United States, the European Union and other jurisdictions, and we cannot yet determine the impact such future laws, regulations and standards may have on our business. In addition to government activity, privacy advocacy groups and technology and other industries are considering various new, additional or different self-regulatory standards that my place additional burdens on us. New laws, amendments to or re-interpretations of existing laws and regulations, industry standards, contractual obligations and other obligations may require us to incur additional costs and restrict our business operations. Such laws and regulations may require companies to implement privacy and security policies, inform individuals of security breaches that affect their personal information, and, in some cases, obtain individuals' consent to use personal information for certain purposes.

Our failure to comply with applicable laws and regulations could result in enforcement action against us, including fines and public censure, claims for damages by customers and other affected individuals, damage to our reputation and loss of goodwill (both in relation to existing customers and prospective customers), any of which could harm our business, results of operations and financial condition.

If we or our distributors do not obtain and maintain international regulatory registrations or approvals for MRIdian, we will not be able to market and sell MRIdian outside of the United States.

Sales of our devices outside the United States are subject to foreign regulatory requirements that vary widely from country to country. In addition, the FDA regulates exports of medical devices from the United States. While the regulations of some countries may not impose barriers to marketing and selling MRIdian or only require notification, others require that we or our distributors obtain the approval of a specified regulatory body. Complying with foreign regulatory requirements, including obtaining registrations or approvals, can be expensive and time-consuming, and we cannot be certain that we or our distributors will receive regulatory approvals in each country in which we plan to market MRIdian or that we will be able to do so on a timely basis. The time required to obtain registrations or approvals, if required by other countries, may be longer than that required for FDA clearance, and requirements for such registrations or approvals may significantly differ from FDA requirements. If we modify MRIdian, we or our distributors may need to apply for additional regulatory approvals before we are permitted to sell the modified product. In addition, we may not continue to meet the quality and safety standards required to maintain the authorizations that we or our distributors have received. If we or our distributors are unable to maintain our authorizations in a particular country, we will no longer be able to sell MRIdian in that country, which could harm our business.

Regulatory clearance or approval by the FDA does not ensure marketing authorization by regulatory authorities in other countries, and authorization for marketing by one or more foreign regulatory authorities does not ensure marketing authorization will be granted by regulatory authorities in other foreign countries or by the FDA. However, a failure or delay in obtaining marketing authorization in one country may have a negative effect on the regulatory process in others.

We must manufacture MRIdian in accordance with federal and state regulations, and we could be forced to recall our installed systems or terminate production if we fail to comply with these regulations.

The methods used in, and the facilities used for, the manufacture of MRIdian must comply with the FDA's QSR, which is a complex regulatory scheme that covers the procedures and documentation of the design, testing, production, process controls, quality assurance, labeling, packaging, handling, storage, distribution, installation, servicing and shipping of MRIdian. Furthermore, we are required to verify that our suppliers maintain facilities, procedures and operations that comply with our quality and applicable regulatory requirements. The FDA enforces the QSR through periodic announced or unannounced inspections of medical device manufacturing facilities, which may include the facilities of subcontractors. MRIdian is also subject to similar state regulations and various laws and regulations of foreign countries governing manufacturing.

We cannot guarantee that we or any subcontractors will take the necessary steps to comply with applicable regulations, which could cause delays in the delivery of MRIdian. In addition, failure to comply with applicable FDA requirements or later discovery of previously unknown problems with MRIdian or manufacturing processes could result in, among other things:

- warning letters or untitled letters;
- fines, injunctions or civil penalties;
- suspension or withdrawal of approvals or clearances;
- seizures or recalls of MRIdian;
- total or partial suspension of production or distribution;
- administrative or judicially imposed sanctions;
- FDA's refusal to grant pending or future clearances or approvals for MRIdian;
- clinical holds;
- refusal to permit the import or export of MRIdian; and
- criminal prosecution of us or our employees.

Any of these actions could significantly and negatively impact supply of MRIdian. If any of these events occurs, our reputation could be harmed, we could be exposed to product liability claims and we could lose customers and suffer reduced revenue and increased costs.

Legislative or regulatory reforms in the United States or the EU may make it more difficult and more costly for us to obtain regulatory clearances or approvals for MRIdian or to produce, market or distribute MRIdian after clearance or approval is obtained.

From time to time, legislation is drafted and introduced in Congress that could significantly change the statutory provisions governing the regulation of medical devices or the reimbursement thereof. In addition, the FDA or the NRC regulations and guidance are often revised or reinterpreted by the FDA or NRC in ways that may significantly affect our business and our MRIdian systems In addition, as part of Food and Drug Administration Safety and Innovation Act, or FDASIA, Congress reauthorized the Medical Device User Fee

Amendments with various FDA performance goal commitments and enacted several “Medical Device Regulatory Improvements” and miscellaneous reforms, which are further intended to clarify and improve medical device regulation both pre- and post-clearance or approval. Any new statutes, regulations or revisions or reinterpretations of existing regulations may impose additional costs or lengthen review times of any future products or make it more difficult to manufacture, market or distribute MRIdian or future products. We cannot determine what effect changes in regulations, statutes, legal interpretation or policies, when and if promulgated, enacted or adopted may have on our business in the future. Such changes could, among other things, require:

- additional testing prior to obtaining clearance or approval;
- changes to manufacturing methods;
- recall, replacement or discontinuance of MRIdian or future products; or
- additional record keeping.

Any of these changes could require substantial time and cost and could harm our business and our financial results.

On April 5, 2017, the European Parliament passed the Medical Devices Regulation, which repealed and replaced the Medical Devices Directive. The Medical Devices Regulation, among other things, is intended to establish a uniform, transparent, predictable and sustainable regulatory framework across the EEA for medical devices and ensure a high level of safety and health while supporting innovation.

The Medical Devices Regulation will become applicable three years after publication. Once applicable, the new regulations will among other things:

- strengthen the rules on placing devices on the market and reinforce surveillance once they are available;
- establish explicit provisions on manufacturers' responsibilities for the follow-up of the quality, performance and safety of devices placed on the market;
- improve the traceability of medical devices throughout the supply chain to the end-user or patient through a unique identification number;
- set up a central database to provide patients, healthcare professionals and the public with comprehensive information on products available in the EU;
- strengthen rules for the assessment of certain high-risk devices, which may have to undergo an additional check by experts before they are placed on the market.

These modifications may have an impact on the way we conduct our business in the EEA.

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

Our third-party manufacturers’ activities and our own activities involve the controlled storage, use and disposal of hazardous materials, including Cobalt-60, lead and depleted uranium. We and our manufacturers are subject to federal, state, local and foreign laws and regulations governing the use, generation, manufacture, storage, handling and disposal of these hazardous materials. We currently carry no insurance specifically covering environmental claims relating to the use of hazardous materials, but we do reserve funds to address these claims at both the federal and state levels. Although we believe that our safety procedures for handling and disposing of these materials and waste products comply with the standards prescribed by these laws and regulations, we cannot eliminate the risk of accidental injury or contamination from the use, storage, handling or disposal of hazardous materials. In the event of an accident, state or federal or other applicable authorities may curtail our use of these materials and interrupt our business operations. In addition, if an accident or environmental discharge occurs, or if we discover contamination caused by prior operations, including by prior owners and operators of properties we acquire, we could be liable for cleanup obligations, damages and fines. If such unexpected costs are substantial, this could significantly harm our financial condition and results of operations.

We are subject to federal and state fraud and abuse laws and health information privacy and security laws, which, if violated, could subject us to substantial penalties. Additionally, any challenge to or investigation into our practices under these laws could cause adverse publicity and be costly to respond to, and thus could harm our business.

There are numerous U.S. federal and state laws pertaining to healthcare fraud and abuse, including anti-kickback, false claims and physician transparency laws. Our relationships with providers and hospitals are subject to scrutiny under these laws. We may also be subject to patient privacy regulation by both the federal government and the states in which we conduct our business. The laws that may affect our ability to operate include:

- the federal Anti-Kickback Statute, which prohibits, among other things, persons from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in cash or in kind, to induce either the referral of an individual or furnishing or arranging for a good or service, for which payment may be made, in whole or in part, under

federal healthcare programs, such as Medicare and Medicaid. A person or entity does not need to have actual knowledge of the statute or specific intent to violate it to have committed a violation. Moreover, the government may assert that a claim including items or services resulting from a violation of the federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the False Claims Act; Some states have adopted laws similar to the federal Anti-Kickback Statute, some of which apply to the referral of patients for healthcare items or services reimbursed by any source, not only the Medicare and Medicaid programs;

- federal civil and criminal false claims laws and civil monetary penalty laws, which prohibit, among other things, individuals or entities from knowingly presenting, or causing to be presented, claims for payment from Medicare, Medicaid or other third-party payors that are false or fraudulent;
- HIPAA, which created federal criminal statutes that prohibit, among other things, executing a scheme to defraud any healthcare benefit program and making false statements relating to healthcare matters. Similar to the federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it to have committed a violation;
- the federal physician sunshine requirements under the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, collectively referred to as the Affordable Care Act, which require certain manufacturers of drugs, devices, biologics and medical supplies to report annually to the U.S. Department of Health and Human Services information related to payments and other transfers of value to physicians, which is defined broadly to include other healthcare providers and teaching hospitals and ownership and investment interests held by physicians and their immediate family members;
- state law equivalents of each of the above federal laws, such as anti-kickback and false claims laws that may apply to items or services reimbursed by any third-party payor, including commercial insurers;
- state laws that require device companies to comply with the industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government, or otherwise restrict payments that may be made to healthcare providers and other potential referral sources; and
- state laws that require device manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers or marketing expenditures.

These laws, among other things, constrain our business, marketing and other promotional activities by limiting the kinds of financial arrangements, including sales programs, we may have with hospitals, physicians or other potential purchasers of medical devices. We have a variety of arrangements with our customers that could implicate these laws. Due to the breadth of these laws, the narrowness of statutory exceptions and safe harbors available, and the range of interpretations to which they are subject, it is possible that some of our current or future practices might be challenged under one or more of these laws. Even an unsuccessful challenge or investigation into our practices could cause adverse publicity, and be costly to respond to, and thus could harm our business, financial condition and results of operations.

If our operations are found to be in violation of any of the laws described above or any other governmental regulations that apply to us, we may be subject to penalties, including administrative, civil and criminal penalties, damages, fines, exclusion from participation in government healthcare programs, such as Medicare and Medicaid, imprisonment and the curtailment or restructuring of our operations, any of which could negatively impact our ability to operate our business and our results of operations.

Healthcare policy changes, including legislation reforming the U.S. healthcare system, could harm our cash flows, financial condition and results of operations.

In March 2010, the Affordable Care Act was enacted in the United States, which made a number of substantial changes in the way healthcare is financed by both governmental and private insurers.

We expect that the current presidential administration and U.S. Congress will seek to modify, repeal, or otherwise invalidate all or certain provisions of, the Affordable Care Act. There is uncertainty with respect to the impact the current presidential administration and the U.S. Congress may have, if any, and any changes will likely take time to unfold, and could have an impact on coverage and reimbursement for healthcare items and services covered by plans that were authorized by the Affordable Care Act.

We expect that additional state and federal healthcare reform measures will be adopted in the future, any of which could limit the amounts that federal and state governments will pay for healthcare products and services, which could result in reduced demand for MRIdian or additional pricing pressure.

Risks Related to Ownership of Our Common Stock

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

Factors that could cause volatility in the market price of our common stock include, but are not limited to:

- impacts to our business operations caused by concerns in connection with the coronavirus pandemic;
- actual or anticipated fluctuations in our financial condition and operating results;
- actual or anticipated changes in our growth rate relative to our competitors or market expectations;
- commercial success and market acceptance of MRIdian;
- success of our competitors in discovering, developing or commercializing products;
- ability to commercialize or obtain regulatory approvals for MRIdian, or delays in commercializing or obtaining regulatory approvals;
- strategic transactions undertaken by us;
- additions or departures of key personnel;
- product liability claims;
- prevailing economic conditions;
- disputes concerning our intellectual property or other proprietary rights;
- FDA or other U.S. or foreign regulatory actions affecting us or the healthcare industry;
- healthcare reform measures in the United States;
- sales of our common stock by our officers, directors or significant stockholders;
- future sales or issuances of equity or debt securities by us;
- business disruptions caused by earthquakes, tornadoes or other natural disasters; and
- changes in the manner that investors and securities analysts who provide research on us to the marketplace analyze the value of our common stock.

In addition, the stock markets in general, and the markets for medical device companies in particular, have experienced extreme volatility that have been often unrelated to the operating performance of the issuer. These broad market fluctuations may negatively impact the price or liquidity of our common stock. In the past, when the price of a stock has been volatile, holders of that stock have sometimes instituted securities class action litigation against the issuer. If any of our stockholders were to bring such a lawsuit against us, we could incur substantial costs defending the lawsuit and the attention of our management would be diverted from the operation of our business.

Future sales of our common stock or securities convertible or exchangeable for our common stock may cause our stock price to decline.

If our existing stockholders or option holders sell, or indicate an intention to sell, substantial amounts of our common stock in the public market after any applicable legal restrictions on resale lapse, the price of our common stock could decline. The perception in the market that these sales may occur could also cause the price of our common stock to decline. At December 31, 2019, we have outstanding a total of 147,191,695 shares of common stock.

In addition, at December 31, 2019, based on the number of shares subject to outstanding awards under our 2008 Stock Option and Incentive Plan, or 2008 Plan, and 2018 Inducement Plan, or 2018 Plan, 576,287 shares and 5,296,486 shares, respectively, of common stock are subject to outstanding options; based on the number of shares subject to outstanding awards or available for issuance under our 2015 Equity Incentive Award Plan, or 2015 Plan, and 2015 Employee Stock Purchase Plan, or 2015 ESPP, 10,737,609 shares and 2,743,340 shares, respectively, of common stock are subject to outstanding options or reserved for future issuance. These shares will become eligible for sale in the public market to the extent permitted by the provisions of various vesting schedules and Rule 144 and Rule 701 under the Securities Act, which includes, for shares held by directors, executive officers and other affiliates, volume limitations under Rule 144 under the Securities Act. The 2015 Plan contains provisions for the annual increase of the number of shares reserved for issuance under such plan. If the shares we may issue from time to time under the 2008 Plan, 2015 Plan, 2018 Plan or 2015 ESPP are sold, or if it is perceived that they will be sold, by the award recipients in the public market, the price of our common stock could decline.

You may experience dilution of your ownership interests because of the future issuance of additional shares of our common or preferred stock or other securities that are convertible into or exercisable for our common or preferred stock.

In the future, we may issue our authorized but previously unissued equity securities, resulting in the dilution of the ownership interests of our present stockholders and the purchasers of our common stock. We are authorized to issue an aggregate of 300,000,000 shares of common stock and 10,000,000 shares of "blank check" preferred stock. We may issue additional shares of our common stock or other securities that are convertible into or exercisable for our common stock in connection with hiring or retaining employees, future acquisitions, future sales of our securities for capital raising purposes, or for other business purposes. The future issuance of any such additional shares of our common stock may create downward pressure on the trading price of the common stock. We may need to raise additional capital in the near future to meet our working capital needs, and there can be no assurance that we will not be required to issue additional shares, warrants or other convertible securities in the future in conjunction with these capital raising efforts, including at a price (or exercise prices) below the price you paid for your stock.

Our operating results for a particular period may fluctuate significantly or may fall below the expectations of investors or securities analysts, each of which may cause our stock price to fluctuate or decline.

We expect our operating results to be subject to fluctuations. Our operating results will be affected by numerous factors, including:

- impacts to our business operations caused by concerns in connection with the coronavirus pandemic;
- variations in the level of expenses related to MRIdian systems or future development programs;
- level of underlying demand for MRIdian and any other products we develop;
- addition or termination of clinical trials or funding support;
- receipt, modification or termination of government contracts or grants, and the timing of payments we receive under these arrangements;
- our execution of any collaborative, licensing or similar arrangements, and the timing of payments we may make or receive under these arrangements;
- any intellectual property infringement lawsuit or opposition, interference or cancellation proceeding in which we may become involved; and
- regulatory developments affecting MRIdian with Cobalt-60, MRIdian Linac or our competitors.

If our operating results for a particular period fall below the expectations of investors or securities analysts, the price of our common stock could decline substantially. Furthermore, any fluctuations in our operating results may, in turn, cause the price of our common stock to fluctuate substantially. We believe that comparisons of our financial results from various reporting periods are not necessarily meaningful and should not be relied upon as an indication of our future performance.

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

Based on the beneficial ownership of our common stock at December 31, 2019, our officers and directors, together with holders of 5% or more of our outstanding common stock and their respective affiliates, beneficially own approximately 56% of our common stock. Accordingly, these stockholders will continue to have significant influence over the outcome of corporate actions requiring stockholder approval, including the election of directors, merger, consolidation or sale of all or substantially all of our assets or any other significant corporate transaction. Further, pursuant to one of the Securities Purchase Agreements related to the October 2017 Direct Registered Offering discussed elsewhere in this Report, we agreed to (a) appoint a representative of Fosun International Limited (Fosun) as a non-voting observer to our board of directors and (b) after the date, if ever, that Fosun beneficially owns at least 15% of our then-outstanding shares of common stock, appoint a representative of Fosun as a director upon Fosun's request. On October 24, 2019, we appointed a representative of Fosun, upon its request, to serve on our board of directors. Fosun's rights expire on the first date that Fosun ceases to own at least 90% of the shares it purchased in the October 2017 Direct Registered Offering discussed elsewhere in this Report. The interests of these stockholders may not be the same as or may even conflict with your interests. For example, these stockholders could delay or prevent a change in control of the Company, even if such a change in control would benefit our other stockholders, which could deprive our stockholders of an opportunity to receive a premium for their common stock as part of a sale of the Company or our assets and might affect the prevailing price of our common stock. The significant concentration of stock ownership may negatively impact the price of our common stock due to investors' perception that conflicts of interest may exist or arise.

Provisions of our charter documents or Delaware law could delay or prevent an acquisition of the Company, even if such an acquisition would be beneficial to our stockholders, which could make it more difficult for you to change management.

Provisions in our certificate of incorporation and our bylaws may discourage, delay or prevent a merger, acquisition or other change in control that stockholders may consider favorable, including transactions in which stockholders might otherwise receive a premium for their shares. In addition, these provisions may frustrate or prevent any attempt by our stockholders to replace or remove our current management by making it more difficult to replace or remove our board of directors. These provisions include:

- a classified board of directors so that not all directors are elected at one time;
- a prohibition on stockholder action through written consent;
- no cumulative voting in the election of directors;
- the exclusive right of our board of directors to elect a director to fill a vacancy created by the expansion of the board of directors or the resignation, death or removal of a director;
- a requirement that special meetings of stockholders be called only by the board of directors, the chairman of the board of directors, the chief executive officer or, in the absence of a chief executive officer, the president;
- an advance notice requirement for stockholder proposals and nominations;
- the authority of our board of directors to issue preferred stock with such terms as our board of directors may determine; and
- a requirement of approval of not less than 66 2/3% of all outstanding shares of our capital stock entitled to vote to amend any bylaws by stockholder action, or to amend specific provisions of our certificate of incorporation.

In addition, Delaware law prohibits a publicly held Delaware corporation from engaging in a business combination with an interested stockholder, generally a person who, together with its affiliates, owns, or within the last three years has owned, 15% or more of our voting stock, for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in a prescribed manner. Accordingly, Delaware law may discourage, delay or prevent a change in control of the Company. Furthermore, our certificate of incorporation specifies that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for most legal actions involving actions brought against us by stockholders. We believe this provision benefits us by providing increased consistency in the application of Delaware law by chancellors particularly experienced in resolving corporate disputes, efficient administration of cases on a more expedited schedule relative to other forums and protection against the burdens of multi-forum litigation. However, the provision may have the effect of discouraging lawsuits against our directors and officers. The enforceability of similar choice of forum provisions in other companies' certificates of incorporation has been challenged in legal proceedings, and it is possible that, in connection with any applicable action brought against us, a court could find the choice of forum provisions contained in our certificate of incorporation to be inapplicable or unenforceable in such action.

Provisions in our charter documents and other provisions of Delaware law could limit the price that investors are willing to pay in the future for shares of our common stock.

We do not anticipate paying any cash dividends on our common stock in the foreseeable future; therefore, capital appreciation, if any, of our common stock will be your sole source of gain for the foreseeable future.

We have never declared or paid cash dividends on our common stock. We do not anticipate paying any cash dividends on our common stock in the foreseeable future. We currently intend to retain all available funds and any future earnings to fund the development and growth of our business. In addition, our current loan and security agreement with SVB contains, and our future loan arrangements may contain, terms prohibiting or limiting the amount of dividends that may be declared or paid on our common stock. As a result, capital appreciation, if any, of our common stock will be your sole source of gain for the foreseeable future.

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

The trading market for our common stock will depend, in part, on the research and reports that securities or industry analysts publish about us or our business. If one or more of the analysts who cover us downgrade our common stock or publish inaccurate or unfavorable research about our business, our stock price could decline. In addition, if our operating results fail to meet the forecast of analysts, our stock price could decline. If one or more of these analysts cease coverage of the Company or fail to publish reports on us regularly, demand for our common stock could decrease, which might cause our stock price and trading volume to decline.

* * *

This Annual Report contains forward-looking statements that involve risks, uncertainties and other factors that may cause the actual results, financial condition, performance or achievements of the Company to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Factors that might cause such a difference include, but are not limited to, those set out above.

Item 1B. UNRESOLVED STAFF COMMENTS

None.

Item 2. PROPERTIES

Facilities

Our corporate headquarters are located in Oakwood Village, Ohio, where we lease and occupy approximately 19,800 square feet of office space. The current term of our Oakwood Village lease expires on October 31, 2021. We also maintain two offices in Mountain View, California. For the first office, we lease and occupy approximately 25,500 square feet of office space. The current term of this Mountain View lease expires on July 31, 2025. In connection with this lease, we entered into a standby letter of credit with PNC Bank, National Association for $0.8 million, which is still outstanding at December 31, 2019. In April 2018, we entered into a lease agreement to lease approximately 24,600 square feet of additional office space for our second office in Mountain View, California. The second office lease in Mountain View, California commenced in December 2018 and will expire in December 2025. The Company has the option to extend the term of the lease for a period of up to five years. In May 2019, we entered into a sub-lease agreement to lease approximately 19,800 square feet of office space in Denver, Colorado. The sub-lease commenced in June 2019 and will expire in May 2021.

We have analyzed our current facilities in light of our anticipated requirements and have determined to increase our footprint in other states to meet the needs of our operations; we are currently seeking additional space on commercially reasonable terms.

Item 3. LEGAL PROCEEDINGS

Patent Litigation

On September 10, 2019, a complaint for patent infringement was filed by Varian Medical Systems, Inc., in U.S. District Court for the Northern District of California against the Company. Captioned Varian Medical Systems, Inc., v. ViewRay, Inc., the complaint alleges that the Company infringes two related patents, U.S. Patent Nos. 8,637,841 (the "'841 Patent") and 9,082,520 (the "'520 Patent") and seeks injunctive relief and monetary damages. The Company filed its answer on November 1, 2019. The matter is presently in discovery. We believe the allegations in the complaint are without merit and intend to vigorously defend the litigation.

Class Action Litigation

On September 13, 2019, a class action complaint for violation of federal securities laws was filed in U.S. District Court for the Northern District of Ohio against the Company, our chief executive officer, chief science officer and former chief financial officer. On December 19, 2019, the court appointed Plymouth County Retirement Association as the lead plaintiff and on February 28, 2020, the lead plaintiff filed an amended complaint asserting securities fraud claims against ViewRay, our chief executive officer, chief operating officer, chief science officer, and our former chief executive officer and former chief financial officer. Now captioned Plymouth County Retirement Assoc. v. ViewRay, Inc., et al, the amended complaint, purportedly brought on behalf of all purchasers of our common stock between May 10, 2018 until January 13, 2020, alleged that we violated federal securities laws by issuing materially false and misleading statements that failed to disclose adverse facts concerning the Company's business, operations, and financial results and seeks damages, interest, and other relief. We believe the allegations in the complaint are without merit and intend to vigorously defend the litigation.

Given the early stage of each of the litigation matters described above, at this time we are unable to reasonably estimate possible losses or form a judgment that an unfavorable outcome is either probable or remote. However, litigation is subject to inherent uncertainties, and one or more unfavorable outcomes in any claim or litigation against us could have a material adverse effect for the period in which they are resolved and on our business generally. In addition, regardless of their merits or their ultimate outcomes, lawsuits and legal proceedings are costly, divert management attention and may materially adversely affect our reputation, even if resolved in our favor.

The information under the caption "Commitments and Contingencies" in Note 6 of the consolidated financial statements of this Annual Report on Form 10-K is incorporated herein by reference.

Item 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

Item 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Our common stock is traded on the Nasdaq Global Market under the symbol “VRAY”, which listing was completed on March 30, 2016.

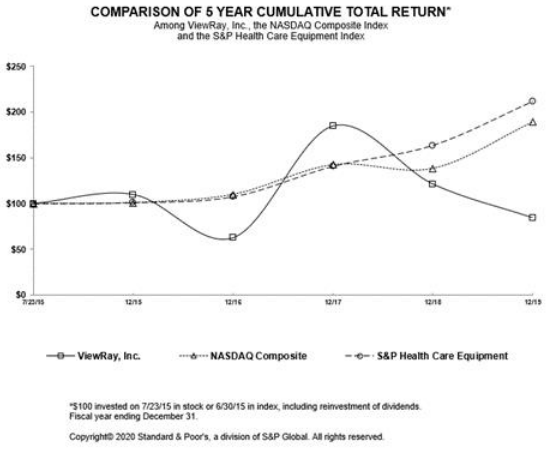
As of March 3, 2020, there were 8,705 stockholders of record of our common stock.

We have never paid cash dividends on our capital stock and do not anticipate paying cash dividends in the foreseeable future. We intend to retain future earnings to fund ongoing operations and future capital requirements. Any future determination to pay cash dividends will be at the discretion of our board of directors and will be dependent upon financial condition, results of operations, capital requirements and such other factors as the board of directors deems relevant.

For equity compensation plan information, please refer to Item 12 in Part III of this Annual Report

Stock Performance Graph

The graph set forth below compares the cumulative total stockholder return on our common stock between July 23, 2015, the date the Company went public, June 30, 2015 in index, and December 31, 2019, with the cumulative total return of (i) the S&P Health Care Equipment Index and (ii) the Nasdaq Composite Index, over the same period.



	7/23/2015	12/31/2015	12/31/2016	12/31/2017	12/31/2018	12/31/2019
ViewRay, Inc.	100.00	110.00	62.60	185.20	121.40	84.40
NASDAQ Composite	100.00	101.01	109.96	142.55	138.50	189.33
S&P Health Care Equipment	100.00	101.05	107.60	140.85	163.72	211.73

The performance graph and related information shall not be deemed to be soliciting material or to be “filed” with the SEC or to be deemed to be incorporated by reference to any filing under the Securities Act or the Exchange Act.

Recent Sales of Unregistered Securities

During the year ended December 31, 2019, there were no sales of unregistered equity securities by the Company

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

The Company does not have a stock repurchase program and did not make any share repurchases during the year ended December 31, 2019.

Item 6. SELECTED FINANCIAL DATA

The following selected financial data are qualified in their entirety by, and should be read in conjunction with, the more detailed information contained in the consolidated financial statements, the notes thereto and the information set forth in "Management's Discussion and Analysis of Financial Condition and Results of Operations" included elsewhere in this Annual Report on Form 10-K.

	Year Ended December 31,				
	2019	2018	2017	2016	2015
	(in thousands, except share and per share amounts)				
Consolidated Statements of Operations Data:					
Revenue:					
Product	$ 79,504	$ 76,626	$ 30,458	$ 20,555	$ 9,620
Service	7,803	3,861	3,109	1,504	530
Distribution rights	475	475	475	178	—
Grant	—	—	—	—	240
Total revenue	87,782	80,962	34,042	22,237	10,390
Cost of revenue:					
Product	80,446	66,522	25,488	23,897	12,673
Service	12,814	7,837	2,222	1,969	1,871
Total cost of revenue	93,260	74,359	27,710	25,866	14,544
Gross margin	(5,478)	6,603	6,332	(3,629)	(4,154)
Operating expenses:					
Research and development(1)	23,794	16,520	14,709	11,442	10,449
Selling and marketing(1)	25,806	15,062	8,412	5,601	5,139
General and administrative(1)	65,717	50,113	31,375	23,503	21,685
Total operating expenses	115,317	81,695	54,496	40,546	37,273
Loss from operations	(120,795)	(75,092)	(48,164)	(44,175)	(41,427)
Interest income	1,721	8	5	2	2
Interest expense	(4,327)	(7,701)	(7,247)	(5,951)	(3,452)
Other income (expense), net	3,202	6,389	(16,770)	(512)	(117)
Loss before provision for income taxes	$ (120,199)	$ (76,396)	$ (72,176)	$ (50,636)	$ (44,994)
Provision for income taxes	—	—	—	—	1
Net loss and comprehensive loss	$ (120,199)	$ (76,396)	$ (72,176)	$ (50,636)	$ (44,995)
Amortization of beneficial conversion feature related to Series A convertible preferred stock	—	(2,728)	—	—	—
Net loss attributable to common stockholders, basic and diluted	$ (120,199)	$ (79,124)	$ (72,176)	$ (50,636)	$ (44,995)
Net loss per share attributable to common stockholders, basic and diluted(2)	$ (1.18)	$ (0.98)	$ (1.23)	$ (1.26)	$ (2.58)
Weighted-average common shares used in computing net loss per share attributable to common stockholders, basic and diluted(2)	102,001,954	81,123,140	58,457,868	40,068,307	17,432,434

(1) Includes stock-based compensation expense as follows:

	Year Ended December 31,				
	2019	2018	2017	2016	2015
	(in thousands)				
Research and development	$ 1,603	$ 1,411	$ 952	$ 593	$ 262
Selling and marketing	1,300	700	303	120	50
General and administrative	16,542	12,058	4,064	2,194	754
Total stock-based compensation expense	$ 19,445	$ 14,169	$ 5,319	$ 2,907	$ 1,066

(2) See Note 17 to our consolidated financial statements for an explanation of the method used to calculate our basic and diluted net loss per share attributable to common stockholders.

	December 31,				
	2019	2018	2017	2016	2015
	(in thousands)				
Consolidated Balance Sheets Data:					
Cash and cash equivalents	$ 226,783	$ 167,432	$ 57,389	$ 14,198	$ 20,667
Total assets	350,019	294,970	135,711	48,764	52,157
Deferred revenue, current and noncurrent portion	14,010	19,475	23,389	10,433	5,961
Long-term debt	53,995	55,364	44,504	44,290	29,016
Total liabilities	133,845	127,661	133,724	92,417	59,114
Total stockholders' equity (deficit)	216,174	167,309	1,987	(43,653)	(6,957)

Item 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following management's discussion and analysis should be read in conjunction with the financial statements and the related notes thereto contained in this Annual Report. In addition to historical information, this discussion and analysis contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. These forward-looking statements are subject to risks and uncertainties, including those under "Risk Factors" in this Annual Report that could cause actual results or events to differ materially from those expressed or implied by the forward-looking statements. See "Cautionary Note Regarding Forward-Looking Statements" in this Annual Report.

Unless otherwise indicated, references in this section to "ViewRay," "we," "us," "our," "the Company" and "our Company" refer to ViewRay, Inc. and its consolidated subsidiary, ViewRay Technologies, Inc.

As a result of the merger of ViewRay, Inc. and ViewRay Technologies, Inc. in July 2015, or the Merger, and the change in business and operations of the Company, a discussion of the past financial results of the Company is not pertinent, and under applicable accounting principles the historical financial results of ViewRay Technologies, Inc., the accounting acquirer, prior to the Merger are considered the historical financial results of the Company.

The following discussion highlights our results of operations and the principal factors that have affected our financial condition as well as our liquidity and capital resources for the periods described, and provides information that management believes is relevant for an assessment and understanding of the statements of financial condition and results of operations presented herein. The following discussion and analysis are based on our consolidated financial statements contained in this Annual Report, which we have prepared in accordance with United States generally accepted accounting principles. You should read this discussion and analysis together with such consolidated financial statements and the related notes thereto.

A comparison of the results for the year ended December 31, 2019 and the results for the year ended December 31, 2018 is provided below. Our Annual Report on Form 10-K for the year ended December 31, 2018 includes a discussion and analysis of our financial condition and results of operations for the year ended December 31, 2017 in Part II, Item 7 "Management's Discussion and Analysis of Financial Condition and Results of Operations.

Company Overview

We design, manufacture and market the ViewRay MRIdian®. The MRIdian is an innovative system that integrates high quality radiation therapy with simultaneous resonance imaging (MRI). There are two generations of the MRIdian: the first generation MRIdian with Cobalt-60 based radiation beams and the second generation MRIdian Linac, with more advanced linear accelerator or 'linac' based radiation beams.

Both generations of the MRIdian have received 510(k) marketing clearance from the FDA and permission to affix the CE mark.

MRIdian is the first radiation therapy system that enables simultaneous radiation treatment delivery and real-time MRI imaging of a patient's internal anatomy. It generates high-quality images that differentiate between the targeted tumor, surrounding soft tissue and nearby critical organs. MRIdian also records the level of radiation dose that the treatment area has received, enabling physicians to adapt the prescription between treatments, as needed. We believe this improved visualization and accurate dose recording will enable better treatment, improve patient outcomes and reduce side effects. Key benefits to users and patients include: improved imaging and patient alignment; the ability to adapt the patient's radiation treatments to changes while the patient is still on the treatment table, or "on-table adaptive treatment planning"; MRI-based motion management; and an accurate recording of the delivered radiation dose. Physicians have already used MRIdian to treat a broad spectrum of radiation therapy patients with more than 45 different types of cancer, as well as patients for whom radiation therapy was previously not an option.

At December 31, 2019, we had five MRIdian with Cobalt-60 systems and 30 MRIdian Linac systems installed at 33 cancer centers worldwide (14 in the United States and 19 outside the United States). In addition, six MRIdian Linacs have been delivered to customers that are in varying stages of installation.

We currently market MRIdian through a direct sales force in North America. In the rest of the world, we market MRIdian through a hybrid model of both a direct sales force and distribution network. We market MRIdian to a broad range of worldwide customers, including university research and teaching hospitals, community hospitals, private practices, government institutions and freestanding cancer centers. As with the traditional linac market, our sales and revenue cycles vary based on the particular customer and can be lengthy, sometimes lasting up to 18 to 24 months (or more) from initial customer contact to order contract execution. Following execution of an order contract, it generally takes nine to 15 months for a customer to customize an existing facility or construct a new vault. Upon the commencement of installation at a customer's facility, it typically takes approximately 50 to 90 days for us to install MRIdian and perform on-site testing of the system, including the completion of acceptance test procedures.

We generated product, service and distribution rights revenues of $87.8 million, $81.0 million and $34.0 million, and had net losses of $120.2 million, $76.4 million and $72.2 million during the years ended December 31, 2019, 2018 and 2017, respectively.

We expect to continue to incur significant expenses and operating losses for the foreseeable future. We expect our expenses will increase substantially in connection with our ongoing activities, as we:

- add personnel to support our product development and commercialization efforts;
- continue our research and development efforts;
- seek regulatory approval for MRIdian in certain foreign countries; and
- operate as a public company.

Accordingly, we may seek to fund our operations through public or private equity, debt financings or other sources. However, we may be unable to raise additional funds or enter into such other arrangements when needed on favorable terms or at all. Our failure to raise capital or enter into such other arrangements as and when needed would have a negative impact on our financial condition and our ability to develop enhancements to and integrate new technologies into MR Image-Guided radiation therapy systems.

December 2019 Public Offering of Common Stock

On December 3, 2019, we entered into an underwriting agreement with Piper Jaffray & Co., as representatives of several underwriters, or the December 2019 Underwriters, in connection with the issuance and sale of 41,550,000 shares of our common stock at a public offering price of $3.13 per share, or the December 2019 Public Offering of Common Stock. In addition, we granted the December 2019 Underwriters a 30-day option to purchase up to 6,232,500 additional shares of common stock on the same terms, which the December 2019 Underwriters exercised in full. We completed the offering on December 6, 2019 and received aggregate net proceeds of approximately $138.4 million, after deducting underwriting discounts and commissions and offering expenses payable by us.

August 2018 Public Offering of Common Stock

On August 14, 2018, we entered into an underwriting agreement with Morgan Stanley & Co. LLC and Jefferies LLC, as representatives of several underwriters, or the August 2018 Underwriters, in connection with the issuance and sale of 16,216,217 shares of our common stock at a public offering price of $9.25 per share, or the August 2018 Public Offering of Common Stock. In addition, we granted the August 2018 Underwriters a 30-day option to purchase up to 2,432,432 additional shares of common stock on the same terms, which the August 2018 Underwriters exercised in full. We completed the offering on August 17, 2018 and received aggregate net proceeds of approximately $161.9 million, after deducting underwriting discounts and commissions and offering expenses payable by us.

March 2018 Direct Registered Offering

In February 2018, we entered into a securities purchase agreement pursuant to which we sold (i) 4,090,000 shares of our common stock; (ii) 3,000,581 shares of our Series A convertible preferred stock and (iii) warrants to purchase 1,418,116 shares of our common stock, or the 2018 Offering Warrants, for total gross proceeds of $59.1 million, or the March 2018 Direct Registered Offering. We completed the March 2018 Direct Registered Offering on March 5, 2018. The 2018 Offering Warrants have an exercise price of $8.31 per share, became exercisable upon issuance and expire in March 2025. All outstanding shares of Series A convertible preferred stock were converted into common stock at a conversion ratio of 1:1 on April 19, 2018.

October 2017 Direct Registered Offering

In October 2017, we entered into Securities Purchase Agreements pursuant to which we sold an aggregate of 8,382,643 shares of common stock for total gross proceeds of $49.9 million, or the October 2017 Direct Registered Offering. We completed the closing of the October 2017 Direct Registered Offering on October 25, 2017.

2017 Private Placement

In January 2017, we entered into a Securities Purchase Agreement pursuant to which we sold an aggregate of 10,323,101 shares of common stock consisting of 8,602,589 shares of common stock and warrants to purchase 1,720,512 shares of common stock, or the 2017 Placement Warrants, for total gross proceeds of $26.1 million, or the 2017 Private Placement. We completed the closing of the 2017 Private Placement on January 18, 2017. The 2017 Placement Warrants have a per share exercise price of $3.17 per share, and became exercisable in July 2017 and expire seven years from the date of issuance.

2016 Private Placement

On August 19, 2016, we entered into a Securities Purchase Agreement pursuant to which we sold an aggregate of 5,983,251 shares of common stock consisting of 4,602,506 shares of common stock and warrants to purchase 1,380,745 shares of common stock, or the 2016 Placement Warrants, for aggregate proceeds of $13.2 million, net of offering cost, or the 2016 Private Placement. We completed the initial closing of the 2016 Private Placement on August 22, 2016 with the final closing on September 9, 2016. The 2016 Placement

Warrants have an exercise price of $2.95 per share, are exercisable at any time at the option of the holder and expire seven years from the date of issuance.

SVB Term Loan

In December 2018, we entered into a term loan agreement, or the SVB Term Loan, with Silicon Valley Bank, for a principal amount of $56.0 million. The SVB Term Loan has a maturity date of December 1, 2023 and bears interest at a rate of 6.30% per annum to be paid monthly over the term of the loan. Beginning on December 1, 2020 (or June 1, 2021, if the Company achieves a trailing twelve-month revenue of at least $215.0 million from January 1, 2019 to December 1, 2020 and elects to apply such later date), the Company will make thirty-six equal monthly payments of principal (or thirty equal payments, if the Company so elects). In addition, upon repayment of the SVB Term Loan in full, the Company will make a final payment equal to 3.15% of the original aggregate principal amount of the SVB Term Loan.

On December 31, 2019, we entered into the First Amendment (the Amendment) to Loan and Security Agreement by and among the Company, ViewRay Technologies, Inc. and SVB dated as of December 28, 2018. The Amendment, among other things, amended the Loan Agreement to (i) suspend testing of the minimum revenue financial covenant for the fiscal quarter ending December 31, 2019, (ii) provide for the minimum trailing twelve-month revenue thresholds under the minimum revenue financial covenant for periods ending on the last day of fiscal quarters in fiscal years subsequent to 2020 to be determined annually at the greater of (a) a 25% cushion to revenue forecasts provided by the Company to SVB and (b) 10% year-over-year annual growth, unless otherwise agreed, (iii) increase the minimum liquidity ratio financial covenant from 1.50:1.00 to 1.75:1.00 and (iv) increase the prepayment premium from 1.00% to 2.00% for amounts prepaid under the SVB Term Loan for prior to the maturity date thereof, subject to certain exceptions.

The SVB Term Loan is secured by substantially all our assets, except that the collateral does not include any intellectual property held by us, provided, however, the collateral does include all accounts and proceeds from the sale or license of such intellectual property.

Additional details regarding the SVB Term Loan are included in the section entitled “Notes to Consolidated Financial Statements – Note 5 – Debt” in the consolidated financial statements included elsewhere in this Form 10-K.

CRG Term Loan

In June 2015, we entered into our long-term debt facility from Capital Royalty II L.P., Capital Royalty Partners II—Parallel Fund “A” L.P., Capital Royalty Partners II (Cayman) L.P. and Parallel Investment Opportunities Partners II L.P., or together with their successors by assignment, CRG, and such loan, the CRG Term Loan, for up to $50.0 million, of which $30.0 million was made available to us upon closing with the remaining $20.0 million to be available on or before June 26, 2016 upon meeting certain milestones. We drew down the first $30.0 million on the closing date in June 2015. In March 2016, the CRG Term Loan was amended with regard to the conditions for borrowing the remaining $20.0 million available under the CRG Term Loan. We achieved one milestone at March 31, 2016 and borrowed an additional $15.0 million in May 2016.

In December 2018, we used the proceeds of the SVB Term Loan and cash on hand to repay in full our obligations under the outstanding CRG Term Loan and no amounts remain outstanding as of December 31, 2019.

At-The-Market Offering of Common Stock

In January 2017, we filed a registration statement with the SEC which covers the offering, issuance and sale of up to a maximum aggregate offering price of $75.0 million of our common stock, preferred stock, debt securities, warrants, purchase contracts and/or units; and we entered into a sales agreement with FBR Capital Markets & Co., or FBR, under which we may sell up to $25.0 million of our common shares pursuant to an at-the-market offering program in accordance with Rule 415(a)(4) under the Securities Act. FBR acted as sales agent on a best efforts basis and used commercially reasonable efforts to sell on our behalf all of the shares of common stock requested to be sold by us, consistent with its normal trading and sales practices, on mutually agreed terms between FBR and us. There is no arrangement for funds to be received in any escrow, trust or similar arrangement. In May 2018, we agreed to sell up to an additional $25.0 million of our common stock in accordance with the terms of a sales agreement with FBR and pursuant to an at-the-market offering program in accordance with Rule 415(a)(4) under the Securities Act. FBR is entitled to compensation of up to 3.0% of the gross sales price per share sold.

During fiscal year 2017, we sold an aggregate of approximately 6.6 million shares of our common stock at an average market price of $6.10 per share under the at-the-market offering program, resulting in aggregate gross proceeds of approximately $40.1 million. During fiscal year 2018, we sold 33,097 shares of our common stock at an average market price of $8.41 under the at-the-market offering program, resulting in aggregate gross proceeds of approximately $0.3 million. As of December 31, 2018, there was approximately $9.5 million left under this program for future stock issuance.

In January 2019, we filed a registration statement with the SEC which covers the offering, issuance and sale of up to a maximum aggregate offering price of $250.0 million of our common stock, preferred stock, debt securities, warrants, purchase contracts and/or units, including up to $100.0 million of our common shares pursuant to our at-the-market offering program with FBR. There were no

sales of our common stock pursuant to our at-the-market offering program with FBR during fiscal year 2019. As of December 31, 2019, there was $100.0 million left of our common shares available under this at-the-market offering program with FBR.

New Orders and Backlog

New orders are defined as the sum of gross product orders, representing MRIdian contract price, recorded in backlog during the period. Backlog is the accumulation of all orders for which revenue has not been recognized and which we consider valid. Backlog includes customer deposits or letters of credit, except when the sale is to a customer where a deposit is not deemed necessary or customary. Deposits received are recorded in a customer deposit liability account on the balance sheet. Orders may be revised or cancelled according to their terms or upon mutual agreement between the parties. Therefore, it is difficult to predict with certainty the amount of backlog that will ultimately result in revenue. The determination of backlog includes objective and subjective judgment about the likelihood of an order contract becoming revenue. We perform a quarterly review of backlog to verify that outstanding orders in backlog remain valid, and based upon this review, orders that are no longer expected to result in revenue are removed from backlog. Among other criteria to consider for a transaction to be in backlog, we must possess both an outstanding and effective written agreement for the delivery of a MRIdian signed by a customer with a minimum customer deposit or a letter of credit requirement except when the sale is to a customer where a deposit is not deemed necessary or customary (i.e. sale to a government entity, a large hospital, group of hospitals or cancer care group that has sufficient credit, sales via tender awards, or indirect channel sales that have signed contracts with end-customers). We decide whether to remove or add back an order from or to our backlog by evaluating the following criteria: changes in customer or distributor plans or financial conditions; the customer's or distributor's continued intent and ability to fulfill the order contract; changes to regulatory requirements; the status of regulatory approval required in the customer's jurisdiction, if any; the length of time the order has been on our backlog; and other reasons for potential cancellation of order contracts.

During the years ended December 31, 2019, 2018 and 2017, our new orders were $118.5 million, $140.7 million and $113.6 million, respectively. Based on our assessment, we removed $21.9 million, $53.5 million and $11.1 million from the backlog for fiscal year 2019, 2018 and 2017, respectively. At December 31, 2019 and 2018, we had backlog with a total value of $227.3 million and $212.3 million, respectively.

Components of Statements of Operations

Revenue

Product Revenue. Product revenue consists of revenue recognized from sales of MRIdian systems, as well as optional components, such as additional planning workstations and body coils.

Following execution of an order contract, it generally takes nine to 15 months for a customer to customize an existing facility or construct a new vault for the purchased system. Upon the commencement of installation at a customer's facility, it typically takes approximately 50 to 90 days to complete the installation and on-site testing of the system, including the completion of customer test procedures. On-site training can take up to multiple weeks and can be conducted concurrently with installation and acceptance testing. Order contracts generally include customer deposits upon execution of the agreement, and in certain cases, additional amounts due at shipment or commencement of installation, and final payment due generally upon customer acceptance.

Beginning in the second quarter of 2019, for new contracts in which control of the system transfers upon delivery and inspection, the Company recognizes revenue for the system at the point in time when delivery and inspection has occurred. For these same contracts, the Company recognizes installation revenue over a period of time as control of the installation services is transferred. For all contracts in which control continues to transfer upon post-installation customer acceptance, revenue for the system and installation will continue to be recognized upon customer acceptance. For sales of MRIdian systems for which we are not responsible for installation, revenue is recognized when the entire system is delivered, which is when the control of the system is transferred to the customer.

Service Revenue. Our contracts typically include service warranty at no additional costs for one year. In addition, we offer multi-year, post-installation maintenance and support contracts that provide various levels of service support, which enables our customers to select the level of on-going support services, including parts and labor, which they require. These post-installation contracts are for a period of one to five years and provide services ranging from on-site parts and labor, and preventative maintenance to labor only with a longer response time. We also offer technology upgrades to our MRIdian systems, when and if available, for an additional fee. Service revenue is recognized ratably over the term during which the contracted services are provided.

Distribution Rights Revenue. In December 2014, we entered into a distribution agreement with Itochu Corporation, or Itochu, pursuant to which we appointed Itochu as our exclusive distributor for the promotion, sale and delivery of MRIdian products within Japan. As consideration for the exclusive distribution rights granted, we received $4.0 million, which was recorded as deferred revenue and since August 2016, distribution rights revenue has been recognized ratably over the remaining term of the distribution agreement, which expires in December 2024. A time-elapsed method is used to measure progress because the control is transferred evenly over the contractual period.

Cost of Revenue

Product Cost of Revenue. Product cost of revenue primarily consists of the cost of materials, installation and services associated with the manufacturing and installation of MRIdian systems, and royalty payments to the University of Florida Research Foundation. Product cost of revenue also includes lower of cost or net realizable value inventory, or LCNRV, adjustments if the carrying value of the inventory is greater than its net realizable value. We did not record LCNRV charges for the year ended December 31, 2019. We recorded LCNRV charges of $0.3 million and $0.9 million for the years ended December 31, 2018 and 2017, respectively.

We expect our materials, installation and service costs to decrease as we continue to scale our operations, improve product designs and work with our third-party suppliers to lower costs. We expect to continue to lower costs and increase sales prices as we transition to MRIdian Linac.

Service Cost of Revenue. Service cost of revenue is comprised primarily of personnel costs, training and travel expenses to service and perform maintenance on installed MRIdian systems. Service cost of revenue also includes the costs of replacement parts under maintenance and support contracts.

Operating Expenses

Research and Development. Research and development expenses consist primarily of compensation and related costs for personnel, including stock-based compensation, employee benefits and travel expenses. Other significant research and development costs arise from third-party consulting services, laboratory supplies, research materials, medical equipment, computer equipment and licensed technology, and related depreciation and amortization. We expense research and development costs as incurred. As we continue to invest in improving MRIdian and developing new technologies, we expect our research and development expenses to increase.

Selling and Marketing. Selling and marketing expenses consist primarily of compensation and related costs for our direct sales force, sales management, and marketing and customer support personnel, and include stock-based compensation, employee benefits and travel expenses. Selling and marketing expenses also include costs related to trade shows and marketing programs. We expense selling and marketing costs as incurred. We expect selling and marketing expenses to increase in future periods as we expand our sales force and our marketing and customer support organizations and increase our participation in trade shows and marketing programs.

General and Administrative. Our general and administrative expenses consist primarily of compensation and related costs for our operations, finance, human resources, regulatory, and other administrative personnel, and include stock-based compensation, employee benefits and travel expenses. In addition, general and administrative expenses include third-party consulting, legal, audit, accounting services, quality and regulatory functions and facilities costs, and gain or loss on the disposal of property and equipment. We expect our general and administrative expenses to increase as our business grows and as we invest in the development of our MRIdian Linac.

Interest Income

Interest income consists primarily of interest income received on our cash and cash equivalents.

Interest Expense

Interest expense consists primarily of interest and amortization related to our SVB Term Loan. In December 2018, we repaid in full the outstanding obligations under the CRG Term Loan, using the proceeds from the SVB Term Loan and cash on hand.

Other Income (Expense), Net

Other income (expense), net consists primarily of changes in the fair value of the 2017 and 2016 Placement Warrants and foreign currency exchange gains and losses.

The outstanding 2017 and 2016 Placement Warrants are re-measured to fair value at each balance sheet date with the corresponding gain or loss from the adjustment recorded as a component of other income (expense), net.

Results of Operations

The following tables set forth our results of operations for the periods presented (in thousands):

	Year Ended December 31,		
	2019	2018	2017
Revenue:			
Product	$ 79,504	$ 76,626	$ 30,458
Service	7,803	3,861	3,109
Distribution rights	475	475	475
Total revenue	87,782	80,962	34,042
Cost of revenue:			
Product	80,446	66,522	25,488
Service	12,814	7,837	2,222
Total cost of revenue	93,260	74,359	27,710
Gross margin	(5,478)	6,603	6,332
Operating expenses:			
Research and development	23,794	16,520	14,709
Selling and marketing	25,806	15,062	8,412
General and administrative	65,717	50,113	31,375
Total operating expenses:	115,317	81,695	54,496
Loss from operations	(120,795)	(75,092)	(48,164)
Interest income	1,721	8	5
Interest expense	(4,327)	(7,701)	(7,247)
Other income (expense), net	3,202	6,389	(16,770)
Loss before provision for income taxes	(120,199)	(76,396)	(72,176)
Provision for income taxes	—	—	—
Net loss	$ (120,199)	$ (76,396)	$ (72,176)

Comparison of the years ended December 31, 2019 and 2018

Revenue

	Year Ended December 31,			
	2019	2018	Change ($)	Change (%)
	(in thousands)			
Product	$ 79,504	$ 76,626	$ 2,878	3.8%
Service	7,803	3,861	3,942	102.1%
Distribution rights	475	475	—	0.0%
Total revenue	$ 87,782	$ 80,962	$ 6,820	8.4%

Total revenue during the year ended December 31, 2019 increased by $6.8 million or 8.4% compared to the year ended December 31, 2018. The increase was primarily due to the increased average selling price from the revenue recognized on MRIdian systems and two system upgrades during the year ended December 31, 2019, compared to revenue recognized on MRIdian systems and two system upgrades during the year ended December 31, 2018, revenue recognized from performance obligations satisfied in the prior year, and growth in our installed base driving the increase in service revenues.

Product Revenue. Product revenue increased by $2.9 million, or 3.8%, in fiscal year 2019 compared to fiscal year 2018. The increase is primarily due to the increased average selling price on MRIdian systems and system upgrades in fiscal year 2019 compared to the revenue recognized from the sale of MRIdian systems and systems upgrades in fiscal year 2018 and $0.9 million of revenue recognized from performance obligations satisfied in the prior year.

Service Revenue. Service revenue increased by $3.9 million, or 102.1%, in fiscal year 2019 compared to fiscal year 2018 due to increased billings to existing customers, as well as the growth in our installed base.

Distribution Rights Revenue. After receipt of Japanese regulatory approval in August 2016, we started recognizing the distribution rights revenue ratably over the remaining term of the distribution agreement with Itochu. Distribution rights revenue remained flat in fiscal year 2019 compared to fiscal year 2018 due to the ratable recognition of revenue over the term of the agreement.

Cost of Revenue

	Year Ended December 31,			
	2019	2018	Change ($)	Change (%)
	(in thousands)			
Product	$ 80,446	$ 66,522	$ 13,924	20.9%
Service	12,814	7,837	4,977	63.5%
Total cost of revenue	$ 93,260	$ 74,359	$ 18,901	25.4%

Product Cost of Revenue. Product cost of revenue increased by $13.9 million, or 20.9%, in fiscal year 2019 compared to fiscal year 2018. The total cost of revenue in fiscal year 2019 was impacted by approximately $9.3 million of charges, primarily driven by higher than anticipated installation costs related to historical upgrade commitments, and a $5.7 million increase in costs of materials, partially offset by a $1.2 million inventory valuation adjustment recognized in fiscal year 2018. The $9.3 million includes $7.9 million of one-time charges and $1.4 million of expenses.

Service Cost of Revenue. Service cost of revenue increased by $5.0 million, or 63.5%, in fiscal year 2019 compared to fiscal year 2018. The increase in service cost of revenue was primarily due to the larger installed base in fiscal year 2019 and service personnel being fully utilized for service purposes during the year.

Operating Expenses

	Year Ended December 31,			
	2019	2018	Change ($)	Change (%)
	(in thousands)			
Research and development	$ 23,794	$ 16,520	$ 7,274	44.0%
Selling and marketing	25,806	15,062	10,744	71.3%
General and administrative	65,717	50,113	15,604	31.1%
Total operating expenses	$ 115,317	$ 81,695	33,622	41.2%

Research and Development. Research and development expenses increased by $7.3 million, or 44.0%, in fiscal year 2019 compared to fiscal year 2018. This increase was primarily attributable to a $5.4 million increase in personnel expense due to higher average headcount, a $1.3 million increase in facilities expenses and a $0.4 million increase in depreciation expense.

Selling and Marketing. Selling and marketing expenses increased by $10.7 million, or 71.3%, in fiscal year 2019 compared to fiscal year 2018. This increase was primarily attributable to a $9.3 million increase in personnel expense due to higher average headcount in fiscal 2019 and a $1.5 million increase in travel expense.

General and Administrative. General and administrative expenses increased by $15.6 million, or 31.1%, in fiscal year 2019 compared to fiscal year 2018. This increase was primarily attributable to a $9.5 million increase in personnel expense due to higher average headcount, which includes a $4.5 million increase in stock-based compensation expense for the increased headcount and executives hired since the second quarter of 2018, a $4.3 million increase in consulting and other professional services and a $1.6 million increase in office expenses, which includes property taxes and software licenses.

Interest Income

	Year Ended December 31,			
	2019	2018	Change ($)	Change (%)
	(in thousands)			
Interest income	$ 1,721	$ 8	$ 1,713	21412.5%

Interest income increased by $1.7 million in fiscal year 2019 compared to fiscal year 2018 primarily due to an increase in invested funds during 2019.

Interest Expense

	Year Ended December 31,			
	2019	2018	Change ($)	Change (%)
	(in thousands)			
Interest expense	$ (4,327)	$ (7,701)	$ 3,374	-43.8%

Interest expense decreased by $3.4 million in fiscal year 2019 compared to fiscal year 2018, mainly due to the lower interest rate of the SVB Term Loan as compared to the CRG Term Loan, which was paid off in December 2018.

Other Income (Expense), Net

	Year Ended December 31,			
	2019	2018	Change ($)	Change (%)
	(in thousands)			
Other income (expense), net	$ 3,202	$ 6,389	$ (3,187)	-49.9%

Other income (expense), net for fiscal year 2019 consisted primarily of a $2.5 million decrease in the fair value of warrant liabilities related to the 2017 and 2016 Placement Warrants as a result in the reduction of the Company's stock price and the warrants exercised during fiscal year 2019, and $0.9 million of income related to insurance proceeds. Other income (expense), net for fiscal year 2018 consisted primarily of a $9.4 million gain attributable to the change in fair value of warrant liability related to the 2017 and 2016 Placement Warrants and a $2.4 million loss on the CRG Term Loan extinguishment.

Liquidity and Capital Resources

Since our inception in 2004, we have incurred significant net losses and negative cash flows from operations. During the years ended December 31, 2019, 2018 and 2017, we had a net loss of $120.2 million, $76.4 million and $72.2 million, respectively. At December 31, 2019 and 2018, we had an accumulated deficit of $519.2 million and $399.0 million, respectively.

At December 31, 2019 and 2018, we had cash and cash equivalents of $226.8 million and $167.4 million, respectively. To date, we have financed our operations principally through offerings of our capital stock, issuances of warrants, use of term loans and receipts of customer deposits for new orders and payments from customers for systems installed and delivered. We may, from time to time, seek to raise capital through a variety of sources, including the public equity market, private equity financing, and public or private debt. In January 2017, we issued common stock and warrants to purchase common stock via the 2017 Private Placement for gross proceeds of $26.1 million. In 2017, we also raised aggregate gross proceeds of $40.1 million through our at-the-market offering program under which we sold approximately 6.6 million shares of our common stock at an average sale price of $6.10 per share. In October 2017, we issued common stock in the October 2017 Direct Registered Offering for gross proceeds of $49.9 million. In March 2018, we issued common stock, Series A convertible preferred stock and warrants to purchase common stock in the March 2018 Direct Registered Offering for gross proceeds of $59.1 million. In May 2018, we raised additional aggregate gross proceeds of $0.3 million through our at-the-market offering program under which we sold 33,097 shares of our common stock at an average sale price of $8.41 per share. In August 2018, we raised aggregate gross proceeds of $172.5 million via a public offering, in which we sold approximately 18.6 million shares of our common stock at a price of $9.25 per share. In December 2018, we entered into SVB Term Loan for a principal amount of $56.0 million. We used the proceeds from SVB Term Loan and cash on hand to repay in full our obligations under the outstanding CRG Term Loan. In December 2019, we raised aggregate gross proceeds of $149.6 million via a public offering, in which we sold approximately 47.8 million shares of our common stock at a price of $3.13 per share. We expect that our existing cash and cash equivalents, together with proceeds from the sales of MRIdian systems, will enable us to conduct our planned operations for at least the next 12 months.

In January 2019, we filed a registration statement with the SEC which covers the offering, issuance and sale of up to a maximum aggregate offering price of $250.0 million of our common stock, preferred stock, debt securities, warrants, purchase contracts and/or units, including up to $100.0 million of our common shares pursuant to our at-the-market offering program with FBR. The shares in the December 2019 Public Offering of Common stock were sold pursuant to the January 2019 registration statement and did not impact the $100.0 million of our common shares pursuant to our at-the-market offering program with FBR.

We could potentially use our available financial resources sooner than we currently expect, and we may incur additional indebtedness to meet future operating needs. Adequate additional funding may not be available to us on acceptable terms or at all. In addition, although we anticipate being able to obtain additional financing, we may be unable to do so. Our failure to raise capital as and when needed could have significant negative consequences for our business, financial condition and results of operations. Our future capital requirements and the adequacy of available funds will depend on many factors, including those set forth in the section titled "Risk Factors."

The following table summarizes our cash flows for the periods presented (in thousands):

	Year Ended December 31,		
	2019	2018	2017
Cash used in operating activities	$ (79,567)	$ (122,194)	$ (70,053)
Cash used in investing activities	(7,817)	(3,685)	(2,163)
Cash provided by financing activities	146,206	236,712	115,407

Operating Activities

We have historically experienced cash outflows as we developed MRIdian with Cobalt-60 and MRIdian Linac and expanded our business. Our primary source of cash flow from operating activities is cash receipts from customers including sales of MRIdian

systems and, to a lesser extent, up-front payments from customers. Our primary uses of cash in operating activities are amounts due to vendors for purchased components and employee-related expenditures.

During fiscal year 2019, cash used in operating activities was $79.6 million, resulting from our net loss of $120.2 million, a $14.5 million net change in our operating assets and liabilities, and the aggregate non-cash charges of $26.1 million.

- Non-cash charges included $19.4 million of stock-based compensation expense, $4.7 million of depreciation and amortization expense, a $2.5 million gain related to the change in fair value of the 2017 and 2016 Placement Warrants, $3.8 million for historical upgrade commitments and $0.7 million of amortization of debt discount and interest accrual related to the SVB Term Loan.
- The net change in our operating assets and liabilities was primarily a result of changes in accounts receivable, accrued expenses and other long-term liabilities, prepaid expenses and other assets, accounts payable, deposits on purchased inventory, which were partially offset by customer deposits and deferred revenue and inventory. Accounts receivable decreased $20.1 million resulting from the timing of collections. Accrued expenses and other long-term liabilities increased $7.0 million mainly due to an increase in payroll and related benefits. Accounts payable increased $2.8 million resulting from the build in inventory and timing of payments. Prepaid expenses and other assets decreased $3.0 million mainly due to timing of prepayments and a reduction in deferred sales commissions. Deferred costs decreased by $1.8 million due to the revenue recognized in fiscal year 2019 and transfer of property and equipment from deferred cost of revenue. The net change in our operating assets and liabilities was partially offset by a decrease in customer deposits and deferred revenue of $15.8 million mainly due to the revenue recognized in fiscal year 2019 and a $6.0 million increase in inventory in anticipation of upcoming shipments and installations of MRIdian systems.

During fiscal year 2018, cash used in operating activities was $122.2 million, resulting from our net loss of $76.4 million, a $60.5 million net change in our operating assets and liabilities and aggregate non-cash charges of $14.7 million.

- Non-cash charges included $14.2 million of stock-based compensation expense, $3.6 million of amortization of debt discount and interest accrual related to the CRG Term Loan, $3.5 million of depreciation and amortization expense, $2.4 million of loss on debt extinguishment triggered by the payoff of the CRG Term Loan, and $0.3 million of inventory lower of cost and net realizable value adjustment, partially offset by a $9.4 million gain related to the change in fair value of the 2017 and 2016 Placement Warrants.
- The net change in our operating assets and liabilities was primarily a result of changes in inventory, accounts receivable, accrued expenses and other long-term liabilities, prepaid expenses and other assets, customer deposits and deferred revenue, accounts payable and deposits on purchased inventory, which was partially offset by changes in deferred cost of revenue. Inventory and deposits on purchased inventory increased by $33.3 million, in anticipation of upcoming shipments and installations of MRIdian systems. Accounts receivable increased by $16.5 million resulting from the timing of collections and increase in sales. The decrease of $9.2 million in accrued expense and other long-term liabilities primarily resulted from the payoff of accrued CRG Term Loan interest. Prepaid expenses and other assets increased $2.3 million mainly due to prepayments made for insurance premiums and deferred sales commissions. Customer deposits and deferred revenue decreased by $1.8 million as a result of the recognition of service revenue deferred for units installed prior to fiscal year 2018. Accounts payable decreased by $0.9 million resulting from the timing of payment. The net change in our operating assets and liabilities was partially offset by a $3.5 million decrease in deferred cost of revenue primarily due to the revenue recognized for MRIdian systems for fiscal year 2018, partially offset by the shipment of additional components for MRIdian systems currently being installed.

Investing Activities

Cash used in investing activities for fiscal year 2019 and 2018 of $7.8 million and $3.7 million, respectively, primarily resulted from capital expenditures to purchase property and equipment.

Financing Activities

During fiscal year 2019, financing activities provided $146.2 million in cash, consisting of $149.6 million gross proceeds from the December 2019 Public Offering of Common Stock, partially offset by offering costs paid out in 2019 of $10.4 million, and $9.6 million from the exercise of stock options, partially offset by cash used to pay taxes related to net share settlement of equity awards of $2.4 million.

During fiscal year 2018, financing activities provided $236.7 million in cash, consisting of $172.5 million gross proceeds from the August 2018 Public Offering of Common Stock, $59.1 million gross proceeds from the March 2018 Direct Registered Offering, $56.0 million gross proceeds from the SVB Term Loan, $0.3 million gross proceeds from our at-the-market offering program and $5.3 million proceeds from the exercise of stock options, partially offset by offering costs of $10.6 million for the August 2018 Public Offering of Common Stock and $0.2 million for the March 2018 Direct Registered Offering, the payoff of the CRG Term Loan of $45.0 million and $0.2 million in related debt extinguishment fee, and issuance costs of $0.5 million related to the SVB Term Loan.

Contractual Obligations

The following summarizes our contractual obligations at December 31, 2019, and the effect such obligations are expected to have on our liquidity and cash flow over the next five years (in thousands):

	Payment due by period				
	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
SVB Term Loan (1)	$ 56,000	$ 1,556	$ 37,333	$ 17,111	$ —
Interest on SVB Term Loan(1)	10,566	3,587	4,669	2,310	—
Operating leases(2)	15,574	3,148	5,327	5,175	1,924
Total	$ 82,140	$ 8,291	$ 47,329	$ 24,596	$ 1,924

(1) Refer to “Note 5. Debt”
(2) Refer to “Note 6. Commitments and Contingencies”

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements as of December 31, 2019. As of December 31, 2018, we did not have any off-balance sheet arrangements except for our operating leases. See the section entitled “Notes to Consolidated Financial Statements – Note 6 – Commitments and Contingencies” in the consolidated financial statements included elsewhere in the Form 10-K.

Critical Accounting Policies and Estimates

Our consolidated financial statements are prepared in conformity with accounting principles generally accepted in the United States, or U.S. GAAP, which requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses. These estimates and assumptions are based on historical experience and on various other factors that we believe are reasonable under the circumstances. We evaluate our estimates and assumptions on an ongoing basis.

In addition to the accounting policies that are more fully described in the Notes to the Consolidated Financial Statements included in this Annual Report on Form 10-K, we consider the critical accounting policies described below to be affected by critical accounting estimates, and those estimates have the greatest potential impact on our consolidated financial statements. Such accounting policies require us to use judgments, often as a result of the need to make estimates and assumptions regarding matters that are inherently uncertain, and actual results could differ from these estimates.

Revenue Recognition

Our revenues are derived primarily from the sale of MRIdian systems and related services as well as support and maintenance services on sold systems. Beginning in the second quarter of 2019, the Company determined that the MRIdian system and installation of the MRIdian system, which had previously been one performance obligation, are now two performance obligations as they are capable of being distinct and are distinct within the context of the system contracts. This change occurred due primarily to changes in facts and circumstances, whereby there are now readily available resources outside the Company that can perform the system installations.

Additionally, certain revenue contracts have terms that result in the control of the system transferring to the customer upon delivery and inspection, as opposed to historically upon customer acceptance. For contracts in which control of the system transfers upon delivery and inspection, the Company recognizes revenue for the systems at the point in time when delivery and inspection by the customer has occurred. For these same contracts, the Company recognizes installation revenue over the period of installation as the installation services are performed and control is transferred to the customer. For all contracts in which control continues to transfer upon post-implementation customer acceptance, revenue for the system and installation will continue to be recognized upon customer acceptance.

Certain customer contracts with distributors do not require ViewRay installation at the ultimate user site, and the distributors may either perform the installation themselves or hire another party to perform the installation. For sales of MRIdian systems for which the Company is not responsible for installation, revenue recognition occurs when the entire system is shipped, which is when the control of the system is transferred to the customer.

For sales of the related support and maintenance services, a time-elapsed method is used to measure progress toward complete satisfaction of performance obligations and service revenue is recognized ratably over the service contract term, which is typically 12 months.

We frequently enter into sales arrangements that contain multiple performance obligations including MRIdian system and product support. Judgments as to the standalone selling price and allocation of consideration from an arrangement to the individual performance obligations, and the appropriate timing of revenue recognition are critical with respect to these arrangements. Changes to the performance obligations can impact the arrangement and amounts allocated to each performance obligation could affect the timing and amount of revenue recognition.

Stock-Based Compensation

Stock-based compensation expense is measured and recognized in the consolidated financial statements based on the fair value of the awards granted. The fair value of each option award is estimated on the grant date using the Black-Scholes option-pricing model. The fair value of restricted stock units, or RSUs, is based on the closing market price of the Company's common stock on the grant date. Stock-based compensation expense is recognized, net of estimated forfeitures, over the requisite service periods of the awards, which are generally four years.

Our use of the Black-Scholes option-pricing model requires the input of highly subjective assumptions, including the options' expected term and price volatility of the underlying stock. The assumptions used in our option-pricing model represent management's best estimates. These estimates involve inherent uncertainties and the application of management's judgment. If factors change and different assumptions are used, our stock-based compensation expense could be materially different in the future.

Common Stock Warrants

We issued the 2017 and 2016 Placement Warrants in connection with the 2017 and 2016 Private Placements. The 2017 and 2016 Placement Warrants were accounted for as a liability with subsequent changes in fair value recorded in other income (expenses), net at each reporting date until the warrants are exercised or expired.

Inventory Valuation

Inventory consists primarily of purchased components for assembling MRIdian systems and other direct costs associated with MRIdian system installation. Inventory is stated at the lower of cost or net realizable value. When the net realizable value of inventory is lower than related costs, we reduce the carrying value of inventory for the difference while recording a corresponding charge to cost of product revenues. The assumptions we used in estimating the net realizable value of the inventory primarily include the total cost to complete the applicable MRIdian system.

Income Taxes

We are subject to income taxes in the United States, and we use estimates in determining our provision for income taxes. We use the asset and liability method of accounting for income taxes. Under this method, we calculate deferred tax asset or liability account balances at the balance sheet date using current tax laws and rates in effect for the year in which the differences are expected to affect our taxable income.

We estimate actual current tax exposure together with assessing temporary differences resulting from differences in accounting for reporting purposes and tax purposes for certain items, such as accruals and allowances not currently deductible for tax purposes. These temporary differences result in deferred tax assets and liabilities, which are included in our consolidated balance sheets. In general, deferred tax assets represent future tax benefits to be received when certain expenses previously recognized in our consolidated statements of operations and comprehensive loss become deductible expenses under applicable income tax laws or when net operating loss or credit carryforwards are utilized. Accordingly, realization of our deferred tax assets is dependent on future taxable income against which these deductions, losses and credit carryforwards can be utilized.

We assess the likelihood that our deferred tax assets will be recovered from future taxable income, and to the extent we believe that recovery is not likely, establish a valuation allowance. At December 31, 2019, 2018 and 2017, we have a full valuation allowance set up for our net deferred tax assets.

Under federal and similar state tax statutes, changes in our ownership, including ownership changes resulting from the Merger, may limit our ability to use our available net operating loss and tax credit carryforwards. The annual limitation, as a result of a change of ownership, may result in the expiration of net operating losses and credits before utilization. We performed a Section 382 analysis in February of 2020 and three ownership changes were identified, which had a corresponding limitation of tax attributes. Future owner or equity shifts could result in additional limitations on net operating loss and credit carryforwards.

Recently Issued and Adopted Accounting Pronouncements

We review new accounting standards to determine the expected financial impact, if any, that the adoption of each such standard will have. For the recently issued accounting standards that we believe may have an impact on our consolidated financial statements, see the section entitled "Notes to Consolidated Financial Statements – Note 2 – Summary of Significant Accounting Policies" in the consolidated financial statements.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

We are a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and are not required to provide the information required under this item.

Item 8. Financial Statements and Supplementary Data

VIEWRAY, INC.
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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of ViewRay, Inc.

Opinion on the Financial Statements

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

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 12, 2020, expressed an unqualified opinion on the Company's internal control over financial reporting.

Basis for Opinion

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

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

/s/ Deloitte & Touche LLP

San Francisco, California
March 12, 2020

We have served as the Company's auditor since 2012.

VIEWRAY, INC.
Consolidated Balance Sheets
(In thousands, except share and per share data)

	December 31,	
	2019	**2018**
ASSETS		
Current assets:		
Cash and cash equivalents	$ 226,783	$ 167,432
Accounts receivable	16,817	36,867
Inventory	55,031	49,462
Deposits on purchased inventory	6,457	8,142
Deferred cost of revenue	3,466	9,736
Prepaid expenses and other current assets	3,310	6,045
Total current assets	311,864	277,684
Property and equipment, net	23,399	13,958
Restricted cash	1,404	1,933
Intangible assets, net	55	—
Right-of-use assets	11,720	—
Other assets	1,577	1,395
TOTAL ASSETS	$ 350,019	$ 294,970
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 13,739	$ 10,207
Accrued liabilities	21,390	9,983
Customer deposits	9,662	19,968
Operating lease liability, current	2,264	—
Current portion of long-term debt	1,556	—
Deferred revenue, current portion	10,457	13,731
Total current liabilities	59,068	53,889
Deferred revenue, net of current portion	3,553	5,744
Long-term debt	53,995	55,364
Warrant liability	5,373	11,844
Operating lease liability, noncurrent	10,479	—
Other long-term liabilities	1,377	820
TOTAL LIABILITIES	133,845	127,661
Commitments and contingencies (Note 6)		
Stockholders' equity:		
Convertible preferred stock, par value $0.01 per share; 10,000,000 shares authorized at December 31, 2019 and 2018; no shares issued and outstanding at December 31, 2019 and 2018	—	—
Common stock, par value of $0.01 per share; 300,000,000 shares authorized at December 31, 2019 and 2018; 147,191,695 and 96,332,023 shares issued and outstanding at December 31, 2019 and 2018	1,462	952
Additional paid-in capital	733,888	565,334
Accumulated deficit	(519,176)	(398,977)
TOTAL STOCKHOLDERS' EQUITY	216,174	167,309
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	$ 350,019	$ 294,970

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

VIEWRAY, INC.
Consolidated Statements of Operations and Comprehensive Loss
(In thousands, except share and per share data)

	Year Ended December 31,		
	2019	**2018**	**2017**
Revenue:			
Product	$ 79,504	$ 76,626	$ 30,458
Service	7,803	3,861	3,109
Distribution rights	475	475	475
Total revenue	87,782	80,962	34,042
Cost of revenue:			
Product	80,446	66,522	25,488
Service	12,814	7,837	2,222
Total cost of revenue	93,260	74,359	27,710
Gross margin	(5,478)	6,603	6,332
Operating expenses:			
Research and development	23,794	16,520	14,709
Selling and marketing	25,806	15,062	8,412
General and administrative	65,717	50,113	31,375
Total operating expenses	115,317	81,695	54,496
Loss from operations	(120,795)	(75,092)	(48,164)
Interest income	1,721	8	5
Interest expense	(4,327)	(7,701)	(7,247)
Other income (expense), net	3,202	6,389	(16,770)
Loss before provision for income taxes	$ (120,199)	$ (76,396)	$ (72,176)
Provision for income taxes	—	—	—
Net loss and comprehensive loss	$ (120,199)	$ (76,396)	$ (72,176)
Amortization of beneficial conversion feature related to Series A convertible preferred stock	—	(2,728)	—
Net loss attributable to common stockholders, basic and diluted	$ (120,199)	$ (79,124)	$ (72,176)
Net loss per share, basic and diluted	$ (1.18)	$ (0.98)	$ (1.23)
Weighted-average common shares used to compute net loss per share attributable to common stockholders, basic and diluted	102,001,954	81,123,140	58,457,868

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

VIEWRAY, INC.
Consolidated Statements of Convertible Preferred Stock and Stockholders' (Deficit) Equity
(In thousands, except share data)

	Convertible Preferred Stock			Common Stock				
	Shares	Amount	Additional Paid-in Capital	Shares	Amount	Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' (Deficit) Equity
Balance at December 31, 2016	—	$ —	$ —	43,581,184	$ 426	$ 203,598	$ (247,677)	$ (43,653)
Issuance of common stock from option exercises				420,377	4	661	—	665
Issuance of common stock from releases of restricted stock units	—	—	—	57,626	—	—	—	—
Stock-based compensation	—	—	—	—	—	5,319	—	5,319
Issuance of common stock upon private placement (net of offering cost of $111)	—	—	—	8,602,589	86	22,530	—	22,616
Issuance of common stock upon direct registered offering (net of offering cost of $81)	—	—	—	8,382,643	84	49,776	—	49,860
Issuance of common stock from at-the-market offering (net of offering cost of 1,147)	—	—	—	6,575,062	66	38,913	—	38,979
Issuance of common stock from warrant exercises	—	—	—	34,493	—	103	—	103
Reclassification of warrant liability to additional paid-in capital upon warrant exercises	—	—	—	—	—	274	—	274
Net loss	—	—	—	—	—	—	(72,176)	(72,176)
Balance at December 31, 2017	—	$ —	$ —	67,653,974	$ 666	$ 321,174	$ (319,853)	$ 1,987
Issuance of common stock from option exercises	—	—	—	2,608,812	26	5,259	—	5,285
Issuance of common stock from releases of restricted stock units	—	—	—	59,437	—	—	—	—
Stock-based compensation	—	—	—	—	—	14,169	—	14,169
Issuance of common stock upon direct registered offering (net of offering cost of $177)	—	—	—	4,090,000	41	30,052	—	30,093
Issuance of preferred Series A stock upon direct registered offering	3,000,581	30	22,177	—	—	2,728	(2,728)	22,207
Issuance of common stock warrants in connection with direct registered offering	—	—	—	—	—	6,623	—	6,623
Conversion of Series A preferred stock into common stock	(3,000,581)	(30)	(22,177)	3,000,581	30	22,177	—	—
Issuance of common stock upon public offering (net of offering cost of $10,631)	—	—	—	18,648,649	187	161,682	—	161,869
Issuance of common stock from at-the-market offering (net of offering cost of $6)	—	—	—	33,097	—	272	—	272
Issuance of common stock from warrant exercises	—	—	—	237,473	2	1	—	3
Reclassification of warrant liability to additional paid-in capital upon warrant exercises	—	—	—	—	—	1,197	—	1,197
Net loss	—	—	—	—	—	—	(76,396)	(76,396)
Balance at December 31, 2018	—	$ —	$ —	96,332,023	$ 952	$ 565,334	$ (398,977)	$ 167,309
Issuance of common stock from option exercises	—	—	—	2,219,251	23	9,618	—	9,641
Issuance of common stock from releases of restricted stock units	—	—	—	393,722	4	(4)	—	—
Tax withholding paid on behalf of employees for stock-based awards	—	—	—	—	—	(2,410)	—	(2,410)
Stock-based compensation	—	—	—	—	—	19,444	—	19,444
Issuance of common stock upon public offering (net of offering cost of $11,146)	—	—	—	47,782,500	478	137,935	—	138,413
Issuance of common stock from warrant exercises	—	—	—	464,199	5	(5)	—	—
Reclassification of warrant liability to additional paid-in capital upon warrant exercises	—	—	—	—	—	3,976	—	3,976
Net loss	—	—	—	—	—	—	(120,199)	(120,199)
Balance at December 31, 2019	—	$ —	$ —	147,191,695	$ 1,462	$ 733,888	$ (519,176)	$ 216,174

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

VIEWRAY, INC.
Consolidated Statements of Cash Flows
(In thousands)

	Year Ended December 31,		
	2019	**2018**	**2017**
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net loss	$ (120,199)	$ (76,396)	$ (72,176)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	4,655	3,499	2,197
Stock-based compensation	19,445	14,169	5,319
Accretion on asset retirement obligation	43	33	40
Change in fair value of warrant liability	(2,496)	(9,379)	16,598
Loss on disposal of property and equipment	3	3	9
Inventory lower of cost and net realizable value adjustment	—	340	911
Amortization of debt discount and interest accrual	703	3,628	3,321
Loss on debt extinguishment	—	2,416	—
Product upgrade reserve	3,794	—	—
Changes in operating assets and liabilities:			
Accounts receivable	20,050	(16,541)	(16,126)
Inventory	(5,951)	(32,214)	(12,329)
Deposits on purchased inventory	1,685	(1,099)	(4,521)
Deferred cost of revenue	1,755	3,500	(9,787)
Prepaid expenses and other assets	2,963	(2,343)	(2,044)
Accounts payable	2,759	(870)	6,309
Accrued expenses and other long-term liabilities	6,995	(9,174)	850
Customer deposits and deferred revenue	(15,771)	(1,766)	11,376
Net cash used in operating activities	(79,567)	(122,194)	(70,053)
CASH FLOWS FROM INVESTING ACTIVITIES:			
Purchase of property and equipment	(7,760)	(3,685)	(2,163)
Purchase of intangible and other assets	(57)	—	—
Net cash used in investing activities	(7,817)	(3,685)	(2,163)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Proceeds from draw down of long-term debt, gross	—	56,000	—
Payment of debt issuance costs	(168)	(468)	—
Payment of long-term debt	—	(45,000)	—
Payment on debt extinguishment fee	—	(172)	—
Proceeds from common stock public offering, gross	149,559	172,500	—
Payment of offering costs related to common stock public offering	(10,416)	(10,631)	—
Proceeds from direct registered offering, gross	—	59,100	49,941
Payment of offering costs related to direct registered offering	—	(177)	(81)
Proceeds from common stock private placement, gross	—	—	26,100
Payment of offering costs related to common stock private placement	—	—	(300)
Proceeds from at-the-market offering of common stock, gross	—	278	40,126
Payment of offering costs related to at-the-market offering of common stock	—	(6)	(1,147)
Proceeds from the exercise of stock options	9,641	5,285	665
Proceeds from the exercise of warrants	—	3	103
Payments for taxes related to net share settlement of equity awards	(2,410)	—	—
Net cash provided by financing activities	146,206	236,712	115,407
NET INCREASE IN CASH, CASH EQUIVALENTS AND RESTRICTED CASH	58,822	110,833	43,191
CASH, CASH EQUIVALENTS AND RESTRICTED CASH — BEGINNING OF PERIOD	169,365	58,532	15,341
CASH, CASH EQUIVALENTS AND RESTRICTED CASH — END OF PERIOD	$ 228,187	$ 169,365	$ 58,532
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:			
Cash paid for interest	$ 3,954	$ 11,161	$ 3,925
Cash paid for taxes	$ 19	$ —	$ 1
SUPPLEMENTAL NON-CASH INVESTING AND FINANCING ACTIVITIES:			
Fair value of common stock warrants reclassed from liability to additional paid-in capital upon exercise	$ 3,975	$ 1,197	$ 274
Right-of-use assets obtained in exchange for new operating lease liabilities	$ 1,647	$ —	$ —
Transfer of property and equipment from inventory	$ 4,897	$ 2,247	$ 125
Purchase of property and equipment in accounts payable and accrued expenses	$ 657	$ 157	$ 96
Offering costs included in accounts payable and accrued expenses	$ 730	$ 168	$ —

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

1. Background and Organization

ViewRay, Inc., or ViewRay or the Company, and its wholly-owned subsidiary ViewRay Technologies, Inc., designs, manufactures and markets MRIdian, an MR Image-Guided radiation therapy system to simultaneously image and treat cancer patients.

Since inception, ViewRay Technologies, Inc. has devoted substantially all of its efforts towards research and development, initial selling and marketing activities, raising capital and the manufacturing, shipment and installation of MRIdian systems. In May 2012, ViewRay Technologies, Inc. was granted clearance from the FDA, to sell MRIdian with Cobalt-60. In November 2013, ViewRay Technologies, Inc. received its first clinical acceptance of a MRIdian with Cobalt-60 at a customer site, and the first patient was treated with that system in January 2014. ViewRay Technologies, Inc. has had the right to affix the CE mark to MRIdian with Cobalt-60 in the European Economic Area since November 2014. In September 2016, the Company received the rights to affix the CE mark to MRIdian Linac, and in February 2017, the Company received 510(k) clearance from the FDA to market MRIdian Linac.

The Company's consolidated financial statements have been prepared on the basis of the Company continuing as a going concern for a reasonable period of time. The Company's principal sources of liquidity are cash flows from public and private share offerings and available borrowings under its term loan agreement, as well as cash receipts from its sales of MRIdian systems. These have historically been sufficient to meet working capital needs, capital expenditures, and debt service obligations. During the year ended December 31, 2019, the Company incurred a net loss from operations of $120.2 million and used cash in operations of $79.6 million. The Company believes that its existing cash balance of $226.8 million as of December 31, 2019, together with anticipated cash proceeds from sales of MRIdian systems will be sufficient to provide liquidity to fund its operations for at least the next 12 months.

2. Summary of Significant Accounting Policies

Basis of Presentation

The consolidated financial statements have been prepared in conformity with U.S. GAAP, and pursuant to the rules and regulations of the Securities and Exchanges Commission, or SEC. The consolidated financial statements include the accounts of ViewRay, Inc. and its wholly-owned subsidiary, ViewRay Technologies, Inc. All inter-company accounts and transactions have been eliminated in consolidation.

Effective January 1, 2019, the Company adopted the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) Topic 842, or Topic 842, *Leases*, by using the modified retrospective method. The adoption of Topic 842 has no impact on the Company's prior period financial statements. For more information on the impact of adoption and the disclosures required by the new standard, refer to Note 6, Commitments and Contingencies.

Use of Estimates

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported and disclosed in the consolidated financial statements and accompanying notes. Such estimates include, but are not limited to, allocation of revenue to multiple performance obligations within an arrangement, inventory write-downs to reflect net realizable value, assumptions used in the valuation of stock-based awards and warrant liability, and valuation allowances against deferred tax assets. Actual results could differ from these estimates.

Cash and Cash Equivalents

The Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents. The Company deposits its cash primarily in checking and money market accounts.

Restricted Cash

At December 31, 2019 and 2018, the Company had an aggregate of $0.9 million of outstanding letters of credit related to its operating leases and its contractual obligations with distributors and customers. The letters of credit are collateralized by a restricted cash deposit account, which is presented as part of noncurrent assets on the balance sheets because the Company is not certain when the restriction will be lifted on the collateralized letters of credit. At December 31, 2019 and 2018, no amounts were drawn on the letters of credit.

The restricted cash balance as of December 31, 2019 and 2018 also includes collateral of $0.5 million and $1.0 million, respectively, for credit card accounts.

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 accounts receivable. Cash and cash equivalents are deposited in checking and money market accounts with various financial institutions. At times, cash balances may be in excess of the amounts insured by the Federal Deposit Insurance Corporation. Management believes the financial risk associated with these balances is minimal and has not experienced any losses to date. The Company performs periodic credit evaluations of its customers' financial condition and generally requires deposits from its customers. The Company's accounts receivable were derived from billings to customers. The Company's customers representing greater than 10% of accounts receivable or revenue for the periods presented were as follows:

	Revenue			Accounts Receivables	
	Year Ended December 31,			December 31,	
Customers	2019	2018	2017	2019	2018
Customer A			16%	34%	
Customer B			17%	25%	
Customer C				15%	
Customer D					23%
Customer E					22%
Customer F					19%
Customer G					16%
Customer H	14%				15%
Customer I			17%		
Customer J			16%		
Customer K			14%		
Customer L			10%		

The Company's future results of operations involve a number of risks and uncertainties. Factors that could affect the Company's future operating results and cause actual results to vary materially from expectations include, but are not limited to, rapid technological change, continued acceptance of MRIdian, competition from substitute products and larger companies, protection of proprietary technology, ability to maintain distributor relationships and dependence on key individuals. Furthermore, new products to be developed by the Company require approval from the FDA or other international regulatory agencies prior to commercial sales. There can be no assurance that the Company's future products will receive the necessary clearances.

The Company relies on a concentrated number of suppliers to manufacture essentially all of the components used in MRIdian. The Company's suppliers may encounter problems during manufacturing due to a variety of reasons, including failure to comply with applicable regulations, including the FDA's Quality System Regulation, equipment malfunction and environmental factors, any of which could delay or impede our ability to meet demand.

Accounts Receivables and Allowance for Doubtful Accounts

Accounts receivable are recorded at the invoiced amount, net of any allowance for doubtful accounts, and do not bear interest. The allowance for doubtful accounts, if any, is based on the assessment of the collectability of customer accounts.

There was no allowance for doubtful accounts recorded at December 31, 2019 and 2018.

Fair Value of Financial Instruments

Financial instruments consist of cash and cash equivalents, accounts receivable, restricted cash, prepaid expenses and other current assets, accounts payable, accrued liabilities, warrant liability and long-term debt. Cash equivalents are stated at amortized cost, which approximates fair value at the balance sheet dates, due to the short period of time to maturity. Accounts receivable, prepaid expenses and other current assets, accounts payable, accrued liabilities current portion of long-term debt are stated at their carrying value, which approximates fair value due to the short time to the expected receipt or payment date. The warrant liability is carried at fair value. The carrying amount of the Company's long-term debt approximates its fair value as the stated interest rate approximates market rates currently available to the Company.

Inventory and Deposits on Purchased Inventory

Inventory consists of purchased components for assembling MRIdian systems and other direct and indirect costs associated with MRIdian system installation. Inventory is stated at the lower of cost or net realizable value. All inventories expected to be placed in service during the normal operating cycle of the Company for the delivery and assembly of MRIdian systems, including items expected to be on hand for more than one year, are classified as current assets.

The Company reduces the carrying value of its inventory for the difference between cost and net realizable value and records a charge to cost of product revenues. There was no lower of cost and net realizable value adjustment during the year ended December 31, 2019. The Company recorded an inventory lower of cost and net realizable value adjustment of $0.3 million and $0.9 million during the years ended December 31, 2018 and 2017, respectively.

The Company records inventory items which have been paid for but not yet received and for which title has not yet transferred to the Company as deposits on purchased inventory. Deposits on purchased inventory are included within current assets as the related inventory items are expected to be received and used in MRIdian systems within the Company's normal operating cycle. The Company assesses the recoverability of deposits on purchased inventory based on credit assessments of the vendors and their history supplying these assets. At December 31, 2019, the Company did not have any instances whereby deposits for purchased inventory were written off or the purchased inventory was not delivered.

Shipping and Handling Costs

Shipping and handling costs for product shipments to customers are included in cost of product revenue. Shipping and handling costs incurred for inventory purchases are capitalized in inventory and expensed in cost of product revenue.

Property and Equipment

Property and equipment are recorded at cost. Depreciation is computed over the estimated useful lives, ranging from two to 15 years, of the related assets using the straight-line method. Acquired software is recorded at cost. Amortization of acquired software generally occurs over three years using the straight-line method. Leasehold improvements are amortized on a straight-line basis over the shorter of the useful life or term of the lease. Demonstration units, which are the Company products used for demonstration purpose for customers and/or potential customers, and generally not intended to be sold, are amortized using the straight-line method.

Depreciation and amortization periods for property and equipment are as follows:

Property and Equipment	Estimated Useful Life
Prototype	2 – 10 years
Machinery and equipment	3 – 15 years
Furniture and fixture	5 – 10 years
Software	3 years
Leasehold improvements	Lesser of estimated useful life or remaining lease term

Leases

We determine if an arrangement is a lease at inception. Operating leases are included in operating lease right-of-use ("ROU") assets, and operating lease liabilities, current and noncurrent, on our consolidated balance sheets. We currently do not have any finance lease arrangements.

Operating lease ROU assets and operating lease liabilities are recognized based on the present value of the future minimum lease payments over the lease term at commencement date. As our leases do not provide an implicit rate, we use our incremental borrowing rate based on the information available at commencement date of the lease in determining the present value of future payments. The operating lease ROU asset also includes any lease payments made and excludes lease incentives and initial direct costs incurred. Our lease terms may include an option to extend or terminate the lease when it is reasonably certain that we will exercise that option. Lease expense for minimum lease payments is recognized on a straight-line basis over the lease term. Leases with an initial term of 12 months or less are not recorded on the balance sheet; we recognize lease expense for these leases on a straight-line basis over the lease term.

Asset Retirement Obligations

In connection with two lease agreements and subsequent amendments, the Company has a legal obligation to remove long-lived assets constructed on the leased properties and to restore the leased properties to their original condition. The Company records the fair value of the asset retirement obligation in the period in which it is incurred. The fair value is measured based upon the present value of the expected future payments at inception and remeasured upon the extension of the respective lease agreement. The liability is accreted to its present value each period and the capitalized cost is depreciated over the remaining lease term. Accretion expense is calculated by applying the effective interest rate to the carrying amount of the liability at the beginning of each period. The effective interest rate is the credit-adjusted risk-free rate applied when the liability was initially measured at inception and remeasured upon the lease extension, when applicable.

At December 31, 2019, the Company had outstanding asset retirement obligations of $0.9 million, which was included in other long-term liabilities in the accompanying consolidated balance sheets. For the years ended December 31, 2019, 2018 and 2017, the Company recognized accretion expenses of $43 thousand, $33 thousand and $40 thousand in the accompanying statements of operations and comprehensive loss.

Impairment of Long-Lived Assets

The Company reviews the recoverability of long-lived assets, including equipment, leasehold improvements, software and intangible assets when events or changes in circumstances occur that indicate that the carrying value of the asset may not be recoverable. The assessment of possible impairment is based on the ability to recover the carrying value of the assets from the expected future cash flows (undiscounted and without interest charge) of the related operations. If these cash flows are less than the carrying value of such assets, an impairment loss for the difference between the estimated fair value and carrying value is recorded. There was no impairment loss recognized during the years ended December 31, 2019, 2018 and 2017.

Revenue Recognition

The Company derives revenues primarily from the sale of MRIdian systems and related services as well as support and maintenance services on sold systems. The Company accounts for revenue contracts with customers by applying the requirements of ASC 606, *Revenues from Contracts with Customers*, which includes the following steps:

- Identification of the contract, or contracts, with a customer;
- Identification of the performance obligations in the contract
- Determination of the transaction price;
- Allocation of the transaction price to the performance obligations in the contract; and
- Recognition of revenue when, or as, the Company satisfies a performance obligation.

In all sales arrangements, revenues are recognized when control of the promised goods or services are transferred to customers, in an amount that reflects the consideration the Company expects to be entitled to receive in exchange for those goods or services. For sales of MRIdian systems, beginning in the second quarter of 2019, the Company determined that the MRIdian system and installation of the MRIdian system, which had previously been one performance obligation, are now two performance obligations as they are capable of being distinct and are distinct within the context of the system contracts. This change occurred due primarily to changes in facts and circumstances, whereby there are now readily available resources outside the Company that can perform the system installations. For sales of the related support and maintenance services, a time-elapsed method is used to measure progress toward complete satisfaction of performance obligations and service revenue is recognized ratably over the service contract term, which is typically 12 months. Additional details regarding revenue recognition are included in the section entitled “Notes to Consolidated Financial Statements – Note 7 – Revenue” in the consolidated financial statements included elsewhere in this Form 10-K.

Research and Development Costs

Expenditures, including payroll, contractor expenses and supplies, for research and development of products and manufacturing processes are expensed as incurred.

Software development costs incurred subsequent to establishing technological feasibility are capitalized through the general release of MRIdian systems that contain the embedded software elements. Technological feasibility is demonstrated by the completion of a working model. The Company has not capitalized any software development costs at December 31, 2019 or 2018, since the costs incurred subsequent to achieving technological feasibility and completing the research and development for the software components were immaterial.

Stock-Based Compensation

The Company uses the Black-Scholes option-pricing model to estimate the fair value of stock options. The Black-Scholes option-pricing model requires the use of highly subjective assumptions, including the options’ expected term and the price volatility of the underlying stock. The fair value of restricted stock units, or RSUs, is based on the closing market price of the Company’s common stock on the grant date. The fair value of the portion of the award that is ultimately expected to vest is recognized as compensation expense over the awards’ requisite service periods in the consolidated statements of operations and comprehensive loss. The Company records the value of stock-based compensation to expense straight-line over the vesting period.

Deferred Commissions

Deferred commissions are the direct and incremental costs directly associated with the MRIdian system contracts with customers, which primarily consist of sales commissions to our direct sales force. The commissions are deferred and expensed in proportion to the revenue recognized upon the acceptance of the MRIdian system. At December 31, 2019 and 2018, the Company had $2.1 million and $3.9 million, respectively, in deferred commissions recorded as part of prepaid expenses and other current assets on the consolidated balance sheets.

Income Taxes

The Company uses the asset and liability method of accounting for income taxes. Deferred tax assets and liabilities are recognized for the estimated future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. Deferred tax expense or benefit is the result of changes in the deferred tax assets and liabilities. Valuation allowances are established when necessary to reduce deferred tax assets where, based upon the available evidence, management concludes that it is more-likely-than not that the deferred tax assets will not be realized. Because of the uncertainty of the realization of the deferred tax assets, the Company has recorded a full valuation allowance against its net deferred tax assets.

In evaluating the ability to recover its deferred income tax assets, the Company considers all available positive and negative evidence, including its operating results, ongoing tax planning and forecasts of future taxable income on a jurisdiction-by-jurisdiction basis. In the event the Company was to determine that it would be able to realize its deferred income tax assets in the future in excess of their net recorded amount, it would make an adjustment to the valuation allowance which would reduce the provision for income taxes.

Reserves are provided for tax benefits for which realization is uncertain. Such benefits are only recognized when the underlying tax position is considered more likely than not to be sustained on examination by a taxing authority, assuming they possess full knowledge of the position and facts. It is the Company's policy to include any penalties and interest related to income taxes in its income tax provision; however, the Company currently has no penalties or interest related to income taxes. The earliest year that the Company is subject to examination is the year ended December 31, 2004.

Warrant Liability

Certain warrants to purchase common stock provide for cash settlement in the event of a change in control, and are recorded as liabilities on the balance sheets at fair value upon issuance (see Note 13). These warrants are subject to re-measurement to fair value at each balance sheet date. Any changes in fair value are recognized in the consolidated statements of operations and comprehensive loss as other income (expense), net. Upon exercise or expiration of the warrants, the related warrant liability will be reclassified to additional paid-in capital.

Net Loss per Share

The Company's basic net loss attributable to common stockholders per share is calculated by dividing net loss by the weighted-average number of shares of common stock outstanding for the period. Contingently issuable shares are included in the computation of basic net loss per share as of the date that all necessary conditions have been satisfied and issuance of the shares is no longer contingent. The diluted net loss per share is computed by giving effect to all potential common stock equivalents outstanding for the period determined using the treasury stock method. For purposes of this calculation, stock options, restricted stock units and warrants to purchase common stock are considered to be common stock equivalents but have been excluded from the calculation of diluted net loss per share as their effect is anti-dilutive.

Recent Accounting Pronouncements

In August 2018, the FASB issued Accounting Standard Update (ASU) No. 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework - Changes to the Disclosure Requirements for Fair Value Measurement*, to modify the disclosure requirements on fair value measurements in Topic 820. ASU 2018-13 is effective for fiscal years beginning after December 15, 2019, and interim periods therein. The Company concluded that Topic 820 will have no significant effect on our consolidated financial statements.

In December 2019, the FASB issued ASU No. 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes*, which is intended to simplify various aspects related to accounting for income taxes. ASU 2019-12 removes certain exceptions to the general principles in Topic 740 and also clarifies and amends existing guidance to improve consistent application. ASU 2019-12 will be effective for annual periods beginning after December 15, 2020, and interim periods therein. The Company is allowed to early adopt the standard. The Company is currently evaluating the impact of this update on its consolidated financial statements.

Recently Adopted Accounting Pronouncements

In February 2016, the FASB issued ASU No. 2016-02, *Leases*, and issued subsequent amendments to the initial guidance in September 2017 within ASU 2017-13, in January 2018 within ASU 2018-01, in July 2018 within ASU 2018-10 and ASU 2018-11, and in March 2019 within ASU 2019-01 (collectively, Topic 842). Topic 842 supersedes Topic 840, Leases, and requires lessees to recognize on their balance sheets all leases, with the exception of short-term leases, as a right-of-use asset and a corresponding lease liability measured at the present value of the lease payments. Leases will be classified as finance or operating, with classification affecting the pattern and classification of expense recognition in the income statement. The new standard requires expanded disclosures regarding leasing arrangements. Effective January 1, 2019, the Company adopted Topic 842 using a modified retrospective transition approach by applying the new standard to all leases existing at the date of initial application and not restating comparative periods. There was no cumulative-effect adjustment recorded to retained deficit upon adoption.

Topic 842 provides several optional practical expedients in transition. The Company elected to use the package of practical expedients permitted under the transition guidance, which allows the Company not to reassess its prior conclusions about lease identification, lease classification and initial direct costs for any leases that existed prior to January 1, 2019. The Company did not elect to use the other practical expedients provided.

Upon adoption, the Company recognized the right-of-use assets and operating lease liabilities totaling approximately $11.9 million and $12.6 million, respectively, to reflect the present value of remaining lease payments under existing lease arrangements with no impact to the opening balance of retained deficit as a result of adoption. The difference between the leased assets and lease liabilities represents the existing deferred rent liabilities balance, resulting from historical straight-lining of operating leases, which was effectively reclassified upon adoption to reduce the measurement of the leased assets.

In determining the present value of lease payments, the Company uses the rate implicit in the lease or when such rate is not readily available, we utilize our incremental borrowing rate based on the information available at the lease commencement date. Lease expense is recognized on a straight-line basis over the expected lease term. In determining the expected lease term, the Company may include options to extend or terminate the lease when it is reasonably certain that it will exercise any such option. For more information on the impact of adoption and the disclosures required by the new standard, refer to Note 6, Commitments and Contingencies.

In June 2018, the FASB issued ASU No. 2018-07, *Compensation—Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting*, which expands the scope of Topic 718 to include share-based payment transactions for acquiring goods and services from nonemployees. The Company adopted ASU 2018-07 on January 1, 2019, and the adoption did not have a material impact on its consolidated financial statements and related disclosures.

3. Balance Sheet Components

Property and Equipment, Net

Property and equipment consisted of the following (in thousands):

	December 31,	
	2019	2018
Prototype	$ 16,419	$ 12,425
Machine and equipment	15,816	12,654
Leasehold improvements	6,718	4,600
Furniture and fixtures	1,284	636
Software	1,389	1,250
Construction in progress	4,176	148
Property and equipment, gross	45,802	31,713
Less: accumulated depreciation and amortization	(22,403)	(17,755)
Property and equipment, net	$ 23,399	$ 13,958

Depreciation and amortization expense related to property and equipment was $4.7 million, $3.4 million and $2.2 million during the years ended December 31, 2019, 2018 and 2017, respectively.

Accrued Liabilities

Accrued liabilities consisted of the following (in thousands):

	December 31,	
	2019	2018
Accrued payroll and related benefits	$ 9,577	$ 5,047
Accrued accounts payable	4,764	3,626
Payroll withholding tax, sales and other tax payable	1,066	782
Accrued legal and accounting	1,175	360
Product upgrade reserve	3,794	—
Other	1,014	168
Total accrued liabilities	$ 21,390	$ 9,983

Deferred Revenue

Deferred revenue consisted of the following (in thousands):

	December 31,	
	2019	2018
Deferred revenue:		
Product	$ 3,141	$ 9,623
Services	8,473	6,981
Distribution rights	2,396	2,871
Total deferred revenue	14,010	19,475
Less: current portion of deferred revenue	(10,457)	(13,731)
Noncurrent portion of deferred revenue	$ 3,553	$ 5,744

Other Long-Term Liabilities

Other long-term liabilities consisted of the following (in thousands):

	December 31,	
	2019	2018
Accrued interest, noncurrent portion	$ 516	$ —
Deferred rent, noncurrent portion	—	628
Other	861	192
Total other-long term liabilities	$ 1,377	$ 820

4. Fair Value of Financial Instruments

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

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

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

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

The assets' or liabilities' fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement.

The Company's financial instruments that are carried at fair value mainly consist of Level 1 assets and Level 3 liabilities. Level 1 assets include highly liquid bank deposits and money market funds, which were not material at December 31, 2019 and 2018. Level 3 liabilities that are measured on a recurring basis relate to the 2017 and 2016 Placement Warrants, as described in Note 13. Placement warrant liabilities are valued using the Black-Scholes option-pricing model. Generally, increases (decreases) in the fair value of the underlying stock, estimated term and volatility would result in a directionally similar impact to the fair value of the warrant (see Note 13). During the year ended December 31, 2019 and 2018, warrants to purchase 683,994 shares and 385,627 shares of common stock, respectively, were exercised and the aggregate fair value upon exercise of $4.0 million and $1.2 million, respectively, was reclassified from liabilities to additional paid-in-capital.

The gains and losses from re-measurement of Level 3 financial liabilities are recorded as part of other income (expense), net in the consolidated statements of operations and comprehensive loss. During the year ended December 31, 2019, 2018 and 2017, the Company recorded a gain of $2.5 million, $9.4 million, and a loss of $16.6 million, respectively, related to the change in fair value of the 2017 and 2016 Placement Warrants. There have been no transfers between Level 1, Level 2 and Level 3 in any periods presented.

The following table sets forth the fair value of the Company's financial liabilities by level within the fair value hierarchy (in thousands):

	At December 31, 2019			
	Level 1	Level 2	Level 3	Total
2017 Placement Warrants Liability	$ —	$ —	$ 1,330	$ 1,330
2016 Placement Warrants Liability	—	—	4,043	4,043
Total Warrant Liability	$ —	$ —	$ 5,373	$ 5,373

	At December 31, 2018			
	Level 1	Level 2	Level 3	Total
2017 Placement Warrants Liability	$ —	$ —	$ 7,115	$ 7,115
2016 Placement Warrants Liability	—	—	4,729	4,729
Total Warrant Liability	$ —	$ —	$ 11,844	$ 11,844

The following table summarizes the changes in the fair value of the Company's Level 3 financial liabilities (in thousands):

	Year Ended December 31,		
	2019	2018	2017
Fair value, beginning of period	$ 11,844	$ 22,420	$ 2,723
Issuance of 2016 Placement Warrants	—	—	—
Issuance of 2017 Placement Warrants	—	—	3,373
Change in fair value of Level 3 financial liabilities	(2,496)	(9,379)	16,598
Fair value of 2016 Placement Warrants at exercise	(3,457)	(1,187)	(200)
Fair value of 2017 Placement Warrants at exercise	(518)	(10)	(74)
Fair value, end of period	$ 5,373	$ 11,844	$ 22,420

5. Debt

CRG Term Loan

In June 2015, ViewRay Technologies, Inc. entered into a term loan agreement, or the CRG Term Loan, with Capital Royalty Partners II L.P., Capital Royalty Partners II – Parallel Fund "A" L.P., Capital Royalty Partners II (Cayman) L.P. and Parallel Investment Opportunities Partners II L.P. or together with their successors by assignment, CRG, for up to $50.0 million of which $30.0 million was made available to the Company upon closing with the remaining $20.0 million to be available on or before June 30, 2016 upon the achievement of certain milestones. The Company drew down the first $30.0 million on the closing date. The CRG Term Loan had a maturity date of June 30, 2020 and bore cash interest at a rate of 12.5% per annum, payable quarterly during an interest-payment-only period of three years. In April 2017, the CRG Term Loan was amended to allow for interest-payment-only until March 31, 2020. During the interest-payment-only period, the Company had the option to elect to pay only 8% of the 12.5% per annum interest in cash, and the remaining 4.5% of the 12.5% per annum interest as compounded interest, or deferred payment in-kind interest, added to the aggregate principal amount of the CRG Term Loan. Principal payment and any deferred payment in-kind interest would be paid on maturity date.

The CRG Term Loan was subject to a prepayment penalty of: 3% on the outstanding balance during the first 12 months following the funding of the Term Loan; 2% on the outstanding balance after year 1 but on or before year 2; 1% on the outstanding balance after year 2 but on or before year 3; and 0% on the outstanding loan if prepaid after year 3 thereafter until maturity. The CRG Term Loan was also subject to a facility fee of 7% based on the total outstanding principal and payment in-kind interest, which was payable on the maturity date. All direct financing costs were accounted for as a discount on the CRG Term Loan and were amortized to interest expense during the term of the loan using the effective interest method. The CRG Term Loan was subject to financial covenants and was collateralized by essentially all assets of the Company and limits the Company's ability with respect to additional indebtedness, investments or dividends, among other things, subject to customary exceptions.

In March 2016, the Company amended the agreement with regard to the conditions for borrowing the remaining $20.0 million under the CRG Term Loan if certain product and service revenue amounts were achieved. In May 2016, the Company drew down an additional $15.0 million under the CRG Term Loan.

In April and October 2017, and in February 2018, the Company executed three amendments, which allowed the Company to borrow the remaining $5.0 million through June 30, 2017, included an additional $15.0 million borrowing capacity available through December 31, 2017, extended the interest only and payment in-kind period, decreased the combined 2016 and 2017 revenue covenant,

and increased the facility fee by 1.75%. The Company did not draw down any amounts under these amendments and they have since expired.

In December 2018, the Company paid off its outstanding obligations under the CRG Term Loan using the proceeds from the SVB Term Loan.

SVB Term Loan

In December 2018, the Company entered into a term loan agreement, or the SVB Term Loan, with Silicon Valley Bank, for a principal amount of $56.0 million. The SVB Term Loan has a maturity date of December 1, 2023 and bears interest at a rate of 6.30% per annum to be paid monthly over the term of the loan. Beginning on December 1, 2020 (or June 1, 2021, if the Company achieves a trailing twelve-month revenue of at least a specified amount and elects to apply such later date), the Company will make thirty-six equal monthly payments of principal (or thirty equal payments, if the Company so elects). In addition, upon repayment of the SVB Term Loan in full, the Company will make a final payment equal to 3.15% of the original aggregate principal amount of the SVB Term Loan.

The Company used the proceeds of the SVB Term Loan and cash on hand to repay in full its outstanding obligations under the then outstanding CRG Term Loan and to pay fees and expenses related thereto. The Company accounted for the termination of the CRG Term Loan as a debt extinguishment and recorded a debt extinguishment loss of $2.4 million from the difference between the net carrying amount of debt and the amount paid. The debt extinguishment loss includes $0.3 million in write-off of unamortized debt discount and debt issuance costs associated with the CRG Term Loan.

The Company received net proceeds of $55.4 million after related legal and consulting fees totaling $0.6 million. Such fees are accounted for as debt discount and issuance costs and presented as a direct deduction from the carrying amount of debt on the Company’s consolidated balance sheets. Debt discount, issuance costs and the final payment are amortized or accreted as interest expense over the term of the loan using the effective interest method.

On December 31, 2019, we entered into the First Amendment (the Amendment) to the SVB Term Loan by and among the Company, ViewRay Technologies, Inc. and SVB dated as of December 28, 2018. The Amendment, among other things, amended the SVB Term Loan to (i) suspend testing of the minimum revenue financial covenant for the fiscal quarter ending December 31, 2019, (ii) provide for the minimum trailing twelve-month revenue thresholds under the minimum revenue financial covenant for periods ending on the last day of fiscal quarters in fiscal years subsequent to 2020 to be determined annually at the greater of (a) a 25% cushion to revenue forecasts provided by the Company to SVB and (b) 10% year-over-year annual growth, unless otherwise agreed, (iii) increase the minimum liquidity ratio financial covenant from 1.50:1.00 to 1.75:1.00 and (iv) increase the prepayment premium from 1.00% to 2.00% for amounts prepaid under the SVB Term Loan for prior to the maturity date thereof, subject to certain exceptions.

The SVB Term Loan is secured by substantially all assets of the Company, except that the collateral does not include any intellectual property held by the Company, provided, however, the collateral does include all accounts and proceeds of such intellectual property.

The SVB Term Loan contains customary representations and warranties and customary affirmative and negative covenants applicable to the Company and its subsidiaries, including, among other things, restrictions on indebtedness, liens, investments, mergers, dispositions, prepayment of other indebtedness, dividends and other distributions and transactions with affiliates. The SVB Term Loan also contains financial covenants that require the Company to maintain a minimum cash balance in accounts maintained at Silicon Valley Bank or one of its affiliates or else comply with a liquidity ratio and/or a minimum revenue target.

The SVB Term Loan includes standard events of default, including, among other things, subject in certain cases to customary grace periods, thresholds and notice requirements, the Company’s failure to fulfill its obligations under the SVB Term Loan or the occurrence of a material adverse change in the Company's business, operations, or condition (financial or otherwise). In the event of default by the Company under the SVB Term Loan, Silicon Valley Bank would be entitled to exercise its remedies thereunder, including the right to accelerate the debt, upon which the Company may be required to repay all amounts then outstanding under the SVB Loan, which could harm the Company's financial condition.

The Company's scheduled future payments on the SVB Term Loan at December 31, 2019 are as follows (in thousands):

Year Ended December 31,	
2020	$ 1,555
2021	18,667
2022	18,667
2023	17,111
2024	—
Total future principal payments	56,000
Less: unamortized debt discount	(449)
Carrying value of long-term debt	55,551
Less: current portion	(1,556)
Long-term portion	$ 53,995

6. Commitments and Contingencies

Leases

The Company leases office space in Oakwood Village, Ohio, Mountain View, California, and Denver, Colorado under noncancelable operating lease agreements. The Company leases and occupies approximately 19,800 square feet of office space in Oakwood Village, Ohio, which expires in October 2021.

In June 2014, the Company entered into an office lease agreement to lease approximately 25,500 square feet of office space located in Mountain View, California, with an original expiration date of November 2019. In June 2018, the Company entered into an amendment to extend the term of the lease agreement through July 2025.

In April 2018, the Company entered into a lease agreement to lease approximately 24,600 square feet of additional office space located in Mountain View, California. The lease commenced in December 2018 and will expire in December 2025. The Company has the option to extend the term of the lease for a period of up to five years.

In May 2019, the Company entered into a sub-lease agreement to lease approximately 19,800 square feet of office space located in Denver, Colorado. The sub-lease commenced in June 2019 and will expire in May 2021.

In recognition of the right-of-use assets and the related lease liabilities, the option to extend the lease term have not been included as the Company is not reasonably certain that it will exercise any such option. At December 31, 2019, the weighted-average remaining lease term in years is 5.4 years and the weighted-average discount rate used is 7.7%.

During the year ended December 31, 2019, the Company recognized $2.9 million of lease costs arising from lease transactions.

During the year ended December 31, 2019, the Company recognized the following cash flow transactions arising from lease transactions (in thousands):

	For the Year Ended December 31, 2019
Cash paid for amounts included in the measurement of lease liabilities	$ 2,451
Right-of-use assets obtained in exchange for new operating lease liabilities	1,647

At December 31, 2019, the future payments and interest expense for the operating leases are as follows (in thousands):

Year Ended December 31,	Future Payments
2020	$ 3,148
2021	2,831
2022	2,496
2023	2,571
2024	2,604
Thereafter	1,924
Total undiscounted cash flows	$ 15,574
Less: imputed interest	(2,831)
Present value of lease liabilities	$ 12,743

Rent expense for operating leases for the year ended December 31, 2018 and 2017 using the accounting guidance in effect at that time was $1.4 million and $1.3 million, respectively.

At December 31, 2018, future minimum payments for the operating leases were as follows (in thousands):

Year Ended December 31,	Future Minimum Payments
2019	$ 2,070
2020	2,353
2021	2,424
2022	2,496
2023	2,571
Thereafter	4,532
Total future minimum payments	$ 16,446

Legal Proceedings

In the normal course of business, the Company may become involved in legal proceedings. The Company will accrue a liability for legal proceedings when it is probable that a liability has been incurred and the amount can be reasonably estimated. Significant judgment is required to determine both probability and the estimated amount. When only a range of possible loss can be established, the most probable amount in the range is accrued. If no amount within this range is a better estimate than any other amount within the range, the minimum amount in the range is accrued.

Patent Litigation

On September 10, 2019, a complaint for patent infringement was filed by Varian Medical Systems, Inc., in U.S. District Court for the Northern District of California against the Company. Captioned Varian Medical Systems, Inc., v. ViewRay, Inc., the complaint alleges that the Company infringes two related patents, U.S. Patent Nos. 8,637,841 (the "'841 Patent") and 9,082,520 (the "'520 Patent") and seeks injunctive relief and monetary damages. The Company filed its answer on November 1, 2019. The matter is presently in discovery. The Company believes the allegations in the complaint are without merit and intends to vigorously defend the litigation.

Class Action Litigation

On September 13, 2019, a class action complaint for violation of federal securities laws was filed in U.S. District Court for the Northern District of Ohio against the Company, its chief executive officer, chief science officer and former chief financial officer. On December 19, 2019, the court appointed Plymouth County Retirement Association as the lead plaintiff and on February 28, 2020, the lead plaintiff filed an amended complaint asserting securities fraud claims against ViewRay, our chief executive officer, chief operating officer, chief science officer, and our former chief executive officer and former chief financial officer. Now captioned Plymouth County Retirement Assoc. v. ViewRay, Inc., et al, the amended complaint, purportedly brought on behalf of all purchasers of our common stock between May 10, 2018 until January 13, 2020, alleged that the Company violated federal securities laws by issuing materially false and misleading statements that failed to disclose adverse facts concerning the Company's business, operations, and financial results and seeks damages, interest, and other relief. The Company believes the allegations in the complaint are without merit and intend to vigorously defend the litigation.

Given the early stage of each of the litigation matters described above, at this time the Company is unable to reasonably estimate possible losses or form a judgment that an unfavorable outcome is either probable or remote. However, litigation is subject to inherent uncertainties, and one or more unfavorable outcomes in any claim or litigation against the Company could have a material adverse effect for the period in which they are resolved and on our business generally. In addition, regardless of their merits or their ultimate outcomes, lawsuits and legal proceedings are costly, divert management attention and may materially adversely affect our reputation, even if resolved in our favor.

Purchase Commitments

At December 31, 2019, the Company had $3.2 million in outstanding firm purchase commitments.

7. Revenue

The Company derives revenue primarily from the sale of MRIdian systems and related services as well as support and maintenance services on sold systems. Revenue is categorized as product revenue, service revenue and distribution rights revenue.

The following table presents revenue disaggregated by type and geography (in thousands):

	Years Ended December 31,		
U.S.	**2019**	**2018**	**2017**
Product	$ 41,985	$ 32,265	$ 9,529
Service	4,251	1,966	1,977
Total U.S. revenue	$ 46,236	$ 34,231	$ 11,506
Outside of U.S. ("OUS")			
Product	$ 37,519	$ 44,361	$ 20,929
Service	3,552	1,895	1,132
Distribution rights	475	475	475
Total OUS revenue	$ 41,546	$ 46,731	$ 22,536
Total			
Product	$ 79,504	$ 76,626	$ 30,458
Service	7,803	3,861	3,109
Distribution rights	475	475	475
Total revenue	$ 87,782	$ 80,962	$ 34,042

Arrangements with Multiple Performance Obligations

The Company frequently enters into sales arrangements that include multiple performance obligations. Such performance obligations mainly consist of (i) sale of MRIdian systems, which generally includes installation and embedded software, and (ii) product support, which includes extended service and maintenance. For such arrangements, the Company allocates revenue to each performance obligation based on its relative standalone selling price. The standalone selling price, or SSP, is determined based on observable prices at which the Company separately sells the products and services. If a SSP is not directly observable, the Company will estimate the SSP considering market conditions or internally approved pricing guidelines related to the performance obligations.

Product Revenue

Product revenue is derived primarily from the sales of MRIdian system. The system contains both software and non-software components that together deliver essential functionality.

Certain revenue contracts have terms that result in the control of the system transferring to the customer upon delivery and inspection, as opposed to historically upon customer acceptance. For contracts in which control of the system transfers upon delivery and inspection, the Company recognizes revenue for the systems at the point in time when delivery and inspection by the customer has occurred. For these same contracts, the Company recognizes installation revenue over the period of installation as the installation services are performed and control is transferred to the customer. For all contracts in which control continues to transfer upon post-implementation customer acceptance, revenue for the system and installation will continue to be recognized upon customer acceptance.

Certain customer contracts with distributors do not require ViewRay installation at the ultimate user site, and the distributors may either perform the installation themselves or hire another party to perform the installation. For sales of MRIdian systems for which the Company is not responsible for installation, revenue recognition occurs when the entire system is shipped, which is when the control of the system is transferred to the customer.

Service Revenue

Service revenue is derived primarily from maintenance services. The maintenance and support service is a stand-ready obligation which is performed over the term of the arrangement and, as a result, service revenue is recognized ratably over the service period as the customers benefit from the service throughout the service period.

Distribution Rights Revenue

In December 2014, the Company entered into a distribution agreement with Itochu Corporation pursuant to which it appointed Itochu as its exclusive distributor for the promotion, sale and delivery of MRIdian products within Japan. In consideration of the exclusive distribution rights granted, the Company received $4.0 million, which was recorded as deferred revenue. Starting in August 2016,

distribution rights revenue is recognized ratably over the remaining term of the distribution agreement of approximately 8.5 years. A time-elapsed method is used to measure progress because the control is transferred evenly over the remaining contractual period.

Contract Balances

The timing of revenue recognition, billings and cash collections results in short-term and long-term trade receivables, customer deposits, deferred revenues and deferred cost of revenue on the consolidated balance sheets.

Trade receivables are recorded at the original invoiced amount, net of an estimated allowance for doubtful accounts. Trade credit is generally extended on a short-term basis. The Company occasionally provides for long-term trade credit for its maintenance services so that the period between when the services are rendered to its customers and when the customers pay for that service is within one year. Thus, the Company's trade receivables do not bear interest or contain a significant financing component. Long-term trade receivables of $0.2 million and $0.4 million were reported within other assets in the consolidated balance sheets at December 31, 2019 and 2018, respectively. These amounts are billed in accordance with the terms of the customer contracts to which they relate and are expected to be collected three to four years from the date of invoice as the underlying maintenance services are rendered. At times, billing occurs subsequent to revenue recognition, resulting in an unbilled receivable which represents a contract asset. This contract asset is recorded as an unbilled receivable and reported as part of accounts receivable on the consolidated balance sheets.

Trade receivables are periodically evaluated for collectability based on past credit history of the respective customers and their current financial condition. Changes in the estimated collectability of trade receivables are included in the results of operations for the period in which the estimate is revised. Trade receivables that are deemed uncollectible are offset against the allowance for doubtful accounts. The Company generally does not require collateral for trade receivables. There were no allowances for doubtful accounts recorded at December 31, 2019 or 2018.

Customer deposits represent payments received in advance of system installation. For domestic and international sales, advance payments received prior to inventory shipments are recorded as customer deposits. Advance payments are subsequently reclassified to deferred revenue upon inventory shipment. All customer deposits, including those that are expected to be a deposit for more than one year, are classified as current liabilities based on consideration of the Company's normal operating cycle (the time between acquisition of the inventory components and the final cash collection from customers on these inventory components) which is in excess of one year.

Deferred revenue consists of deferred product revenue and deferred service revenue. Deferred product revenue arises from timing differences between the fulfillment of contract obligations and satisfaction of all revenue recognition criteria consistent with the Company's revenue recognition policy. Deferred service revenue results from the advance billing for services to be delivered over a period of time. Deferred revenues expected to be realized within one year or normal operating cycle are classified as current liabilities.

Deferred cost of revenue consists of cost for inventory items that have been shipped, but revenue recognition has not yet occurred. Deferred cost of revenue is included as part of current assets as the corresponding deferred product revenue is expected to be realized within one year or the Company's normal operating cycle.

During the years ended December 31, 2019, 2018 and 2017, the Company recognized $10.9 million, $19.9 million and $6.6 million, respectively, of revenues that were included in the deferred revenue balance at the beginning of each reporting period.

Variable Consideration

The Company records revenue from customers in an amount that reflects the transaction price it expects to be entitled to after transferring control of those goods or services. The Company estimates the transaction price at contract inception, including any variable consideration, and updates the estimate each reporting period for any changes. For the year ended December 31, 2019, the Company recognized $0.9 million in revenue from performance obligations satisfied in a prior period. The cumulative catch-up adjustment resulted from a change in transaction price related to variable consideration that was constrained in prior periods.

8. Licensing Agreement

In December 2004, ViewRay Technologies, Inc. entered into a licensing agreement with the University of Florida Research Foundation, Inc., or UFRF, whereby UFRF granted the Company a worldwide exclusive license to certain of UFRF's patents in exchange for 33,652 shares of common stock and a royalty from sales of products developed and sold by the Company utilizing the licensed patents. ViewRay Technologies, Inc. met all of the product development and commercialization milestones at December 31, 2013, and started to make quarterly royalty payments in 2014. Royalty payments are based on 1% of net sales, defined as the amount collected on sales of licensed products and/or licensed processes after deducting trade and/or quantity discounts, credits on returns and allowances, outbound transportation costs paid and sales tax. Minimum quarterly royalty payments of $50 thousand commenced with the quarter ended March 31, 2014, and are payable in advance. Minimum royalties paid in any calendar year are credited against earned royalties for such calendar year. The royalty payments continue until the earlier of (i) the date that no licensed patents remain enforceable or (ii) once the payment of earned royalties cease for more than four consecutive calendar quarters. Royalty expenses based on 1% of net sales were $1.0 million, $0.6 million and $0.3 million during the years ended December 31, 2019, 2018 and 2017, respectively, and were recorded as product cost of revenue in the consolidated statements of operations and comprehensive loss. There

were no minimum royalty payments in excess of 1% of net sales during the year ended December 31, 2019. The minimum royalty payments in excess of 1% of net sales were $30 thousand and $25 thousand during the years ended December 31, 2018 and 2017, respectively, and were recorded as general and administrative expenses in the consolidated statements of operations and comprehensive loss.

9. Distribution Agreement

In December 2014, the Company entered into a distribution agreement with Itochu Corporation, or Itochu, a Japanese entity, pursuant to which the Company appointed Itochu as its exclusive distributor for the sale and delivery of its MRIdian products within Japan. The exclusive distribution agreement has an initial term of 10 years from December 2014, and contains features customary in such distribution agreements. Under this distribution agreement, the Company will supply its products and services to Itochu based upon the Company's then-current pricing. In consideration of the exclusive distribution rights granted, Itochu agreed to pay a distribution fee of $4.0 million in three installments: (i) the first installment of $1.0 million was due upon execution of the distribution agreement; (ii) the second installment of $1.0 million was due within 10 business days following submission of the application for regulatory approval of the Company's product to the Japan regulatory authority; and (iii) the final installment of $2.0 million was due within 10 business days following receipt of approval for the Company's product from the Japanese Ministry of Health, Labor and Welfare. The first and second installments of $2.0 million in aggregate were received in December 2014 and December 2015, respectively. In August 2016, the Company received the third and final $2.0 million installment upon the receipt of regulatory approval to market MRIdian in Japan. The entire $4.0 million distribution fee received was reclassified to deferred revenue as it was no longer refundable. In August 2016, the Company started recognizing distribution rights revenue ratably over the remaining term of the exclusive distribution agreement of approximately 8.5 years. The distribution rights revenue was $0.5 million, $0.5 million and $0.5 million during the years ended December 31, 2019, 2018 and 2017, respectively.

10. Equity Financing

Public Offering of Common Stock

On August 14, 2018, the Company entered into an underwriting agreement with Morgan Stanley & Co. LLC and Jefferies LLC, as representatives of several underwriters, or the August 2018 Underwriters, in connection with the issuance and sale of 16,216,217 shares of the Company's common stock at a public offering price of $9.25 per share. In addition, the Company granted the August 2018 Underwriters a 30-day option to purchase up to 2,432,432 additional shares of common stock on the same terms, which the August 2018 Underwriters exercised in full. The Company completed the offering on August 17, 2018 and received aggregate net proceeds of approximately $161.9 million, after deducting underwriting discounts and commissions and offering expenses payable by the Company.

On December 3, 2019, the Company entered into an underwriting agreement with Piper Jaffray & Co., as representatives of several underwriters, or the December 2019 Underwriters, in connection with the issuance and sale of 41,550,000 shares of our common stock at a public offering price of $3.13 per share. In addition, the Company granted the December 2019 Underwriters a 30-day option to purchase up to 6,232,500 additional shares of common stock on the same terms, which the December 2019 Underwriters exercised in full. The Company completed the offering on December 6, 2019 and received aggregate net proceeds of approximately $138.4 million, after deducting underwriting discounts and commissions and offering expenses payable by the Company.

Direct Registered Offerings

In October 2017, the Company entered into securities purchase agreements pursuant to which it sold 8,382,643 shares of its common stock for total gross proceeds of $49.9 million, or the October 2017 Direct Registered Offering. The October 2017 Direct Registered Offering was closed on October 25, 2017.

In February 2018, the Company entered into a securities purchase agreement pursuant to which it sold (i) 4,090,000 shares of its common stock; (ii) 3,000,581 shares of its Series A convertible preferred stock and (iii) warrants to purchase 1,418,116 shares of its common stock, or the 2018 Offering Warrants, for total gross proceeds of $59.1 million, or the March 2018 Direct Registered Offering. The March 2018 Direct Registered Offering was closed on March 5, 2018. The 2018 Offering Warrants have an exercise price of $8.31 per share, became exercisable upon issuance and expire in March 2025. All outstanding shares of Series A convertible preferred stock were converted into common stock at a conversion ratio of 1:1 on April 19, 2018.

Private Placements

In September 2016, the Company completed the final closing of a private placement offering, or the 2016 Private Placement, through which it sold (i) 4,602,506 shares of its common stock and (ii) warrants that provide the warrant holders the right to purchase 1,380,745 shares of common stock, or the 2016 Placement Warrants, and raised total gross proceeds of $13.8 million. The 2016 Placement Warrants have an exercise price of $2.95 per share, are exercisable at any time at the option of the holder and expire seven years from the date of issuance.

In January 2017, the Company completed the final closing of a private placement offering, or the 2017 Private Placement, through which it sold (i) 8,602,589 shares of its common stock and (ii) warrants that provide the warrant holders the right to purchase 1,720,512 shares of common stock, or the 2017 Placement Warrants, and raised total gross proceeds of $26.1 million. The 2017 Placement Warrants have an exercise price of $3.17 per share, became exercisable in July 2017 and expire in January 2024.

At-The-Market Offering of Common Stock

In January 2017, the Company filed a shelf registration statement on Form S-3 with the SEC, which included a base prospectus covering the offering, issuance and sale of up to a maximum aggregate offering of $75.0 million of the Company's common stock, preferred stock, debt securities, warrants, purchase contracts and/or units. In January and April 2017, the Company agreed to sell up to a cumulative $50.0 million of its common stock in accordance with the terms of a sales agreement with FBR Capital Markets & Co., or FBR, pursuant to an at-the-market offering program in accordance with Rule 415(a)(4) under the Securities Act.

Under this at-the-market offering program, the Company did not sell any shares of its common stock during the year ended December 31, 2019; sold an aggregate of 33,097 shares of its common stock at an average market price of $8.41 per share, resulting in aggregate gross proceeds of approximately $0.3 million, for the year ended December 31, 2018; and sold an aggregate of 6,575,062 shares of its common stock at an average market price of $6.10 per share, resulting in aggregate gross proceeds of approximately $40.1 million, for the year ended December 31, 2017.

In January 2019, the Company filed a registration statement with the SEC which covers the offering, issuance and sale of up to a maximum aggregate offering price of $250.0 million of our common stock, preferred stock, debt securities, warrants, purchase contracts and/or units, including up to $100.0 million of the Company's common shares pursuant to the Company's at-the-market offering program with FBR. Under this at-the-market offering program, the Company did not sell any shares of its common stock during the year ended December 31, 2019.

11. Common Stock Reserved for Issuance

The common stock reserved for future issuance at December 31, 2019 and 2018 was as follows:

	December 31,	
	2019	2018
Shares underlying outstanding stock options	11,165,846	11,603,708
Shares available for future stock option grants	948,415	1,908,626
Shares issuable upon settlement of restricted stock units outstanding	4,496,121	1,857,741
ESPP shares available for issuance	2,743,340	1,780,020
Warrants to purchase common stock	3,614,019	4,426,244
Total shares of common stock reserved	22,967,741	21,576,339

12. Convertible Preferred Stock

In March 2018, the Company issued 3,000,581 shares of Series A convertible preferred stock to an existing investor through the March 2018 Direct Registered Offering at a price of $8.31 per share. At the date of the financing, because the effective conversion rate of the preferred stock was less than the market value of the Company's common stock, a beneficial conversion feature of $2.7 million was recorded as a discount to the convertible preferred stock and an increase to additional paid in capital. Because the preferred stock was perpetual and convertible at the option of the holder at any time, the Company fully amortized the discount related to the beneficial conversion feature as a deemed dividend which was recognized as an increase to accumulated deficit and net loss attributable to common stockholders. Effective on April 19, 2018, all outstanding shares of Series A convertible preferred stock were converted into shares of common stock at a conversion ratio of 1:1. Further, in May 2018, the Company filed a Certificate of Elimination of the Series A Convertible Preferred Stock de-authorizing the 3,000,581 shares of Series A convertible preferred stock. The Company had no outstanding preferred stock as of December 31, 2019 and 2018.

13. Warrants

Equity Classified Common Stock Warrants

In connection with a debt financing in December 2013, the Company issued warrants to purchase 128,231 shares of its common stock with an exercise price of $5.84 per share. These warrants are exercisable any time at the option of the holder until December 16, 2023. During the year ended December 31, 2019, the Company issued 36,457 shares of its common stock upon the net exercise of 2013 Placement Warrants to purchase 128,231 shares. All of the December 2013 Placement Warrants have been exercised and none of the warrants are outstanding at December 31, 2019.

In connection with the merger of ViewRay, Inc. and ViewRay Technologies, Inc. in July 2015, or the Merger, in July and August 2015, the Company conducted a private placement offering as part of which the Company issued warrants, or the 2015 Placement Warrants, that provide the warrant holder the right to purchase 198,760 shares of common stock at an exercise price of $5.00 per share. The 2015 Placement Warrants are exercisable at any time at the option of the holder until the five-year anniversary of their date of issuance. During the year ended December 31, 2018, the Company issued 92,487 shares of its common stock upon the net exercise of 2015 Placement Warrants to purchase 159,010 shares. The remaining 2015 Placement Warrants to purchase 39,750 shares have not been exercised and remained outstanding at December 31, 2019.

In connection with the March 2018 Direct Registered Offering, the Company issued warrants to purchase 1,418,116 shares of common stock at an exercise price of $8.31 per share. The 2018 Offering Warrants became exercisable upon issuance and expire in March 2025. None of the 2018 Offering Warrants have been exercised to date and they all remained outstanding at December 31, 2019.

As separate classes of securities were issued in a bundled transaction, the gross proceeds from the March 2018 Direct Registered Offering of $59.1 million were allocated to common stock, Series A convertible preferred stock and the 2018 Offering Warrants based on their respective relative fair value upon issuance. The aggregate fair value of the 2018 Offering Warrants of $7.4 million was estimated using the Black-Scholes option-pricing model with the following assumptions:

	Upon Issuance
Common Stock Warrants:	
Expected term (in years)	7.0
Expected volatility (%)	62.5%
Risk-free interest rate (%)	2.8%
Expected dividend yield (%)	0%

The allocated proceeds from the 2018 Offering Warrants of $6.6 million was recorded in additional paid-in-capital.

Liability Classified Common Stock Warrants

In connection with the 2017 and 2016 Private Placements, the Company issued the 2017 and 2016 Placement Warrants, that provide the warrant holder the right to purchase 1,720,512 and 1,380,745 shares of common stock. The 2017 and 2016 Placement Warrants contain protection whereby the warrant holders will have the right to receive cash in the amount equal to the Black-Scholes value of the warrants upon the occurrence of a change in control, as defined in the agreement. The 2017 and 2016 Placement Warrants were accounted for as a liability at the date of issuance and are adjusted to fair value at each balance sheet date, with the change in fair value recorded as a component of other income (expense), net in the consolidated statements of operations and comprehensive loss. The key terms and activity of the 2017 and 2016 Placement Warrants are summarized as follows:

	Issuance Date	Term	Exercise Price Per Share	Warrants Exercised during the Year Ended December 31, 2018	Warrants Outstanding at December 31, 2018	Warrants Exercised during the Year Ended December 31, 2019	Warrants Outstanding at December 31, 2019
2017 Placement Warrants	January 2017	7 years	$ 3.17	1,591	1,709,532	90,642	1,618,890
2016 Placement Warrants	August and September 2016	7 years	$ 2.95	225,026	1,130,615	593,352	537,263
Total				226,617	2,840,147	683,994	2,156,153

As separate classes of securities were issued in a bundled transaction, the gross proceeds of $26.1 million and $13.8 million from the 2017 and 2016 Private Placement were allocated first to the 2017 and 2016 Placement Warrants based on their fair value upon

issuance, and the residuals were allocated to common stock. The fair value upon issuance of $3.4 million and $2.7 million were estimated using the Black-Scholes option-pricing model using the following assumptions:

	Upon Issuance	
	2017 Placement Warrants	2016 Placement Warrants
Expected term (in years)	7.0	7.0
Expected volatility (%)	62.9%	61.6%
Risk-free interest rate (%)	2.2%	1.4%
Expected dividend yield (%)	0%	0%

During the year ended December 31, 2019, the Company recorded a gain of $2.6 million and loss of $0.1 million, respectively, related to the change in fair value of the 2017 and 2016 Placement Warrants. During the year ended December 31, 2018, the Company recorded a gain of $5.4 million and $4.0 million, respectively, related to the change in fair value of the 2017 and 2016 Placement Warrants. During the year ended December 31, 2017, the Company recorded a loss of $9.2 million and $7.4 million, respectively, related to the change in fair value of the 2017 and 2016 Placement Warrants. The fair value of the 2017 and 2016 Placement Warrants at December 31, 2019 and 2018 was estimated using the Black-Scholes option-pricing model and the following weighted-average assumptions:

	2017 Placement Warrants		2016 Placement Warrants	
	December 31, 2019	December 31, 2018	December 31, 2019	December 31, 2018
Expected term (in years)	4.0	5.1	3.6	4.7
Expected volatility	68.0%	60.8%	67.5%	60.9%
Risk-free interest rate	1.7%	2.5%	1.6%	2.5%
Expected dividend yield	0%	0%	0%	0%

14. Stock-Based Compensation

The Company adopted the 2008 Stock Option and Incentive Plan, or the 2008 Plan, and the 2015 Equity Incentive Award Plan, or the 2015 Plan, providing for the issuance of stock-based compensation awards to its employees, officers, directors, advisors and consultants. With the establishment of the 2015 Plan, the Company no longer grants stock options under the 2008 Plan, and the shares available for future grants under the 2008 Plan were transferred to the 2015 Plan. In July 2018, the Company adopted the 2018 Equity Inducement Award Program, or the 2018 Plan. The operative terms of the 2018 Plan adhere to the terms and conditions of the 2015 Plan.

Only stock options were granted under the 2008 Plan. The 2015 Plan and the 2018 Plan provide for the grant of stock and stock-based awards including stock options, restricted stock awards, restricted stock units and stock appreciation rights.

Options granted pursuant to the 2008 Plan and the 2015 Plan may be either incentive stock options or non-statutory stock options. Options granted pursuant to the 2018 Plan are non-statutory stock options. Under the 2008 Plan, incentive stock options could only be granted to employees at an exercise price of no less than the fair value of the common stock on the grant date and non-statutory options may be granted to employees or consultants at an exercise price of no less than 85% of the fair value of the common stock on the grant date, as determined by the board of directors. Under the 2015 Plan and the 2018 Plan, for both incentive stock options and non-statutory options, the exercise price should not be less than the fair value of the common stock on the date of grant. Under the 2008 Plan, the 2015 Plan and the 2018 Plan, if, at the time of grant, the optionee is a 10% shareholder, owning stock representing more than 10% of the voting power of all classes of stock of the Company, the exercise price must be at least 110% of the fair value of the common stock on the grant date as determined by the board of directors. Options generally vest ratably over four years, and expire in 10 years from the date of grant, or five years from the date of grant for 10% shareholders.

In July 2015, the Company adopted the 2015 Employee Stock Purchase Plan, or the 2015 ESPP. At December 31, 2019 and 2018, 2,743,340 shares and 1,780,020 shares were reserved for issuance and no shares have been issued under the 2015 ESPP.

A summary of the Company's stock option activity and related information is as follows:

		Options Outstanding			
	Shares Available for Grant	Number of Stock Options Outstanding	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value
					(In thousands)
Balance at December 31, 2018	1,908,626	11,603,708	$ 6.64	7.6	$ 10,151
Additional options authorized	3,853,280				
Options granted	(2,652,505)	2,652,505	8.13		
Options exercised	—	(2,219,251)	4.34		
Options cancelled	871,116	(871,116)	7.15		
Withheld shares to pay for taxes on vested RSUs	253,986				
RSUs granted	(3,356,820)				
RSUs forfeited	70,732				
Balance at December 31, 2019	948,415	11,165,846	$ 7.44	7.6	$ 1,907
Vested and exercisable at December 31, 2019		5,120,484	$ 6.32	6.2	$ 1,824
Vested and expected to vest at December 31, 2019		10,561,531	$ 7.38	7.5	$ 1,899

The weighted-average grant date fair value of options granted to employees was $4.67, $4.89 and $3.38 per share for the years ended December 31, 2019, 2018 and 2017. The grant date fair value of options vested was $14.4 million, $6.3 million and $4.8 million, respectively, for the years ended December 31, 2019, 2018 and 2017, respectively.

Aggregate intrinsic value represents the difference between the estimated fair value of the underlying common stock and the exercise price of outstanding, in-the-money options. The aggregate intrinsic value of options exercised was $7.8 million, $17.7 million and $2.6 million for the years ended December 31, 2019, 2018 and 2017, respectively.

At December 31, 2019, total unrecognized compensation cost related to stock-based awards granted to employees, net of estimated forfeitures, was $25.2 million which is expected to be recognized over a weighted-average period of 2.7 years.

Determination of Fair Value

The determination of the fair value of stock options on the date of grant using an option-pricing model is affected by the estimated fair value of the Company's common stock, as well as assumptions regarding a number of complex and subjective variables. The variables used to calculate the fair value of stock options using the Black-Scholes option-pricing model include actual and projected employee stock option exercise behaviors, expected price volatility of the Company's common stock, the risk-free interest rate and expected dividends. Each of these inputs is subjective and generally requires significant judgment to determine.

Fair Value of Common Stock

Beginning March 31, 2016, the Company's common stock shares were listed on The Nasdaq Global Market. Fair value of the common stock is the adjusted closing price of the Company's common stock on the trading date.

Expected Term

The expected term represents the period that the Company's option awards are expected to be outstanding. The Company considers several factors in estimating the expected term of options granted, including the expected lives used by a peer group of companies within the Company's industry that the Company considers to be comparable to its business and the historical option exercise behavior of its employees, which the Company believes is representative of future behavior.

Expected Volatility

As the Company does not have a sufficient trading history for its common stock, the expected stock price volatility for the Company's common stock was estimated by taking the average historic price volatility of industry peers based on daily price observations over a period equivalent to the expected term of the stock option grants. The Company intends to continue to consistently apply this process using the same or similar public companies until a sufficient amount of historical information regarding the volatility of its own stock price becomes available.

Risk-Free Interest Rate

The risk-free interest rate is based on the zero-coupon U.S. Treasury notes, with maturities similar to the expected term of the options.

Expected Dividend Yield

The Company does not anticipate paying any dividends in the foreseeable future and, therefore, uses an expected dividend yield of zero in the Black-Scholes option-pricing model.

In addition to the Black-Scholes assumptions discussed above, the estimated forfeiture rate also has a significant impact on stock-based compensation. The forfeiture rate of stock options is estimated at the time of grant and revised in subsequent periods if actual forfeitures differ from those estimates. The Company uses historical data to estimate pre-vesting option forfeitures and records stock-based compensation expense only for those awards that are expected to vest.

The fair value of employee stock options was estimated at the date of grant using a Black-Scholes option-pricing model with the following weighted-average assumptions:

	Year Ended December 31,		
	2019	2018	2017
Expected term (in years)	6.0	6.0	5.9
Expected volatility (%)	60.7%	60.4%	66.0%
Risk-free interest rate (%)	2.4%	2.8%	2.1%
Expected dividend yield (%)	0%	0%	0%

Restricted Stock Units

From time to time, the Company grants Restricted Stock Units, or RSUs, to its board of directors and certain employees for their services. The RSUs granted to board members are either fully vested upon issuance or vest over a period of time from the grant date and will be released and settled upon termination of the board member's services or the occurrence of a change in control event. In January 2019, the Company granted RSUs to its Board of Directors as part of the director compensation program. In March 2019, the Company began granting RSUs to certain employees. The RSUs were granted to employees in March, May and October 2019. These RSUs vest in equal annual installments over either two or three years from the grant date and are subject to the participants continuing service to the Company over that period. The weighted-average grant date fair value of RSUs granted in fiscal year 2018 and 2017 was $9.65 per share and $8.02 per share, respectively.

A summary of the Company's RSU activity and related information is as follows:

	RSUs	
	Number of Shares	Weighted Average Grant Date Fair Value
Unvested at December 31, 2018	1,736,234	$ 9.65
RSUs granted	3,356,820	$ 3.63
RSUs vested	(642,545)	$ 9.45
RSUs forfeited	(70,732)	$ 6.16
Unvested at December 31, 2019	4,379,777	$ 5.14
Vested and unreleased	116,344	
Outstanding at December 31 2019	4,496,121	

The total grant date fair value of RSUs awarded was $12.2 million, $17.0 million and $0.4 million for the years ended December 31, 2019, 2018 and 2017, respectively. The total fair value of RSUs vested was $6.0 million, $0.3 million and $0.4 million for the years ended December 31, 2019, 2018 and 2017, respectively.

As of December 31, 2019, total unrecognized stock-based compensation cost related to RSUs was $16.8 million, which is expected to be recognized over a weighted-average period of 2.1 years. As of December 31, 2019, 4,145,163 shares of RSUs are expected to vest.

Stock-Based Compensation Expense

Total stock-based compensation expense recognized in the Company's consolidated statements of operations and comprehensive loss is classified as follows (in thousands):

	Year Ended December 31,		
	2019	2018	2017
Research and development	$ 1,603	$ 1,411	$ 952
Selling and marketing	1,300	700	303
General and administrative	16,542	12,058	4,064
Total stock-based compensation expense	$ 19,445	$ 14,169	$ 5,319

During the years ended December 31, 2019, 2018 and 2017, there were no stock-based compensation expenses capitalized as a component of inventory or recognized in cost of revenue. Stock-based compensation relating to stock-based awards granted to consultants was insignificant for the years ended December 31, 2019, 2018 and 2017.

15. Income Taxes

On December 22, 2017, the U.S. government enacted comprehensive tax legislation commonly referred to as the Tax Cuts and Jobs Act ("TCJA"). The TCJA reduced the U.S. statutory corporate tax rate to 21%, effective January 1, 2018. Consequently, we recorded a decrease to the Company's federal deferred tax assets of $38.7 million, which was fully offset by a reduction in the Company's valuation allowance for the year ended December 31, 2017. The other provisions of the TCJA did not have an impact on the Company's financial statements for the years ended December 31, 2018 or December 31, 2019.

Income Tax Expense

The following reconciles the differences between income taxes computed at the federal income tax rate and the provision for income taxes:

	Year Ended December 31,					
	2019		2018		2017	
Expected income tax benefit at the federal statutory rate	21.0	%	21.0	%	34.0	%
State taxes, net of federal benefit	0.0		0.0		0.0	
Change in federal statutory rate	0.0		0.0		(54.1)	
Non-deductible items and other	(2.8)		(0.2)		0.5	
Federal and state credits	0.6		0.7		0.5	
Change in valuation allowance	(18.8)		(21.5)		19.1	
Total	0.0	%	0.0	%	0.0	%

Deferred income taxes reflect the net effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. The principal components of the Company's net deferred tax assets consisted of the following at December 31, 2019 and 2018 (in thousands):

	Year Ended December 31,	
	2019	2018
Deferred tax assets		
Net operating loss carryforwards	$ 101,967	$ 76,753
Research and development tax credits	5,872	4,699
Reserves and accruals	5,720	1,444
Operating lease liability	3,088	—
Other	3,422	9,109
Total deferred tax assets	120,069	92,005
Less: Valuation allowance	(117,229)	(92,005)
Net deferred tax assets	2,840	—
Deferred tax liabilities		
Right-of-use assets	(2,840)	—
Total deferred tax liabilities	(2,840)	—
Net deferred tax assets	$ —	$ —

The Company maintains a valuation allowance related to its deferred tax asset position when management believes it is more likely than not that the net deferred tax assets will not be realized in the future. The Company's valuation allowance increased by $25.2 million and $19.4 million during the year ended December 31, 2019 and 2018, respectively.

At December 31, 2019, the Company had federal net operating loss carryforwards of $440.7 million, which begin to expire in the year ending December 31, 2024, and $260.5 million related to state net operating loss carryforwards, which begin to expire in the year ending December 31, 2020. The Company had federal research and development tax credit carryforwards of $5.5 million, and state carryforwards of $3.0 million at the year ended December 31, 2019. These credits begin to expire in the year ending December 31, 2027.

Under the provisions of the Internal Revenue Code, or IRC, net operating loss and credit carryforwards and other tax attributes may be subject to limitation if there has been a significant change in ownership of the Company, as defined by the IRC. The Company

performed a Section 382 analysis in February of 2020 and three ownership changes were identified, which had a corresponding limitation of tax attributes. Future owner or equity shifts could result in additional limitations on net operating loss and credit carryforwards.

Because of the net operating loss and credit carryforwards, all of the Company's federal tax returns and state returns since the year ended December 31, 2004 remain subject to federal and California examination.

The Company accounts for uncertain tax positions using a "more-likely-than-not" threshold. The evaluation of uncertain tax positions is based on factors including, but not limited to, changes in tax law, the measurement of tax positions taken or expected to be taken in tax returns, the effective settlement of matters subject to audit, new audit activity and changes in facts or circumstances related to a tax position. The Company evaluates these tax positions on an annual basis. In addition, the Company also accrues for potential interest and penalties related to unrecognized tax benefits in income tax expense.

At December 31, 2019 and 2018, the Company's unrecognized tax benefits consist of the following (in thousands):

	Year Ended December 31,	
	2019	2018
Unrecognized tax benefit, beginning of period	$ 1,595	$ 1,135
Gross increases — current year tax positions	595	422
Gross increases — prior year tax positions	—	38
Gross decreases — prior year tax positions	(32)	—
Unrecognized tax benefit, end of period	$ 2,158	$ 1,595

16. Employee Benefits

The Company has a 401(k) Plan which covers its eligible employees. The 401(k) Plan permits the participants to defer a portion of their compensation in accordance with the provisions of Section 401(k) of the IRC. Participant contributions are limited to a maximum annual amount as set periodically by the IRC. The Company started to match 50% of eligible participant contributions up to 6% annual contribution during the year ended December 31, 2018. The Company's matching contribution to the 401(k) Plan was $0.9 million and $0.5 million for the years ended December 31, 2019 and 2018, respectively. There were no matching or profit-sharing contributions during the year ended December 31, 2017.

17. Net Loss per Share

The following table sets forth the computation of the Company's basic and diluted net loss per share for the periods presented (in thousands, except share and per share data):

	Year Ended December 31,		
	2019	2018	2017
Net loss attributable to common stockholders, basic and diluted	$ (120,199)	$ (79,124)	$ (72,176)
Weighted-average common shares used in computing net loss per share, basic and diluted	102,001,954	81,123,140	58,457,868
Net loss per share, basic and diluted	$ (1.18)	$ (0.98)	$ (1.23)

Since the Company was in a loss position for all periods presented, diluted net loss per common share is the same as basic net loss per common share, because the inclusion of any potential common shares outstanding would have an anti-dilutive effect. The following weighted-average common stock equivalents were excluded from the calculation of diluted net loss per share for the periods presented, because including them would have had an anti-dilutive effect:

	Year Ended December 31,		
	2019	2018	2017
Convertible preferred stock (if converted)	—	369,934	—
Options to purchase common stock	10,352,702	10,486,468	7,914,067
Common stock warrant	4,052,705	4,464,965	3,345,674
Restricted stock units	2,126,017	903,163	108,107

18. Segment and Geographic Information

The Company has one business activity, which is radiation therapy technology combined with magnetic resonance imaging, and operates in one reportable segment. The Company's chief operating decision-maker, its chief executive officer, reviews its operating results on an aggregate basis for purposes of allocating resources and evaluating financial performance. Also, the Company does not have segment managers as the Company manages its operations as a single operating segment.

The following table sets forth revenue by geographic area based on the customers' location (in thousands):

	Year Ended December 31,		
	2019	2018	2017
United States	$ 46,236	$ 34,231	$ 11,506
France	12,235	5,812	—
Germany	7,393	13,727	—
Rest of world	21,918	27,192	22,536
Total revenue	$ 87,782	$ 80,962	$ 34,042

At December 31, 2019 and 2018, nearly all long-lived assets are located in the United States.

19. Related Party Transactions

As discussed in Note 8, the Company pays a royalty to UFRF, a stockholder in the Company, related to a licensing agreement.

In November 2019, the Company entered into a distribution agreement with Chindex Shanghai International Trading Company Limited, or Chindex, which became effective in February 2020. Chindex is a subsidiary of Fosun International Limited, or Fosun. Kevin Xie, Ph.D., a member of the Company's board of directors, was previously designated by Fosun for election to the board pursuant to a Securities Purchase Agreement related to the Company's 2017 direct registered offering of common stock.

Under the distribution agreement, Chindex will act as the Company's distributor and regulatory agent for the sale and delivery of its MRIdian products within the People's Republic of China, excluding Hong Kong, Macau and Taiwan. The distribution agreement has an initial term of five years with an option to renew for an additional five years. Under the distribution agreement, the Company will supply its products and services to Chindex based on an agreed upon price between the Company and Chindex. In accordance with the agreement, Chindex agreed to pay ViewRay an upfront fee, portions of which may be refundable under certain conditions, of $3.5 million, payable in three installments: (i) the first installment of $1.5 million due approximately 60 days after the effectiveness of the distribution agreement; (ii) the second installment of $1.0 million due on the first anniversary from the effective date of the agreement; and (iii) the third installment of $1.0 million due on the second anniversary from the effective date of the agreement. No amounts have been received as the date of this Annual Report on Form 10-K.

Item 9. Changes in and Disagreements with Accountants and Financial Disclosure and Supplementary Data

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the timelines specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and interim Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

As required by Rule 13a-15(b) under the Exchange Act, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and interim Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures, as of the end of the period covered by this report. Based on the foregoing, our Chief Executive Officer and interim Chief Financial Officer concluded that our disclosure controls and procedures were effective at December 31, 2019 at the reasonable assurance level.

Changes in Internal Control

There were no changes in our internal control over financial reporting identified in management's evaluation pursuant to Rules 13a-15(f) or 15d-15(f) of the Exchange Act during the fourth quarter of 2019 that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Limitations on Effectiveness of Controls and Procedures

In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of controls and procedures must reflect the fact that there are resource constraints and that management is required to apply judgment in evaluating the benefits of possible controls and procedures relative to their costs.

Management's Annual Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) and 15d-15(f) of the Exchange Act. Because of its inherent limitations, internal control over financial reporting is not intended to provide absolute assurance that a material misstatement of our consolidated financial statements would be prevented or detected. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Under the supervision and with the participation of our management, including our Chief Executive Officer and interim Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2019 based on the framework established in "Internal Control – Integrated Framework (2013)" issued by the Committee of Sponsoring Organizations of the Treadway Commission. Our management concluded that our internal control over financial reporting was effective as of that date.

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

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of ViewRay, Inc.

Opinion on Internal Control over Financial Reporting

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

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2019 of the Company and our report dated March 12, 2020, expressed an unqualified opinion on those financial statements.

Basis for Opinion

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

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control over Financial Reporting

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

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

/s/ Deloitte & Touche LLP

San Francisco, California
March 12, 2020

Item 9B. Other Information.

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

Directors, Executive Officers and Corporate Governance

The information in our Proxy Statement for the 2020 Annual Meeting of stockholders regarding directors and executive officers appearing under the headings "Proposal No. 1—Election of Directors," "Executive Officers" and "Information About Stock Ownership—Delinquent Section 16(a) Reports" is incorporated herein by reference.

In addition, the information in our Proxy Statement for the 2020 Annual Meeting of stockholders regarding the director nomination process, the Audit Committee financial expert and the identification of the Audit Committee members appearing under the heading "Corporate Governance and Board of Directors Matters" is incorporated herein by reference.

Code of Conduct and Ethics

The Company has adopted a Code of Conduct and Ethics that applies to all employees, including our principal executive officer and principal financial officer. The full text of our Code of Business Conduct and Ethics is posted on our website at http://investors.viewray.com/corporate-governance/highlights. The Company intends to disclose future amendments to certain provisions of our code, or waivers of such provisions granted to executive officers and directors, on our website within four business days following the date of such amendment or waiver. Any information on ViewRay's website or which can be accessed through it is not a part of this Annual Report on Form 10-K.

Item 11. Executive Compensation

The Company maintains employee compensation programs and benefit plans in which our executive officers are participants. Copies of these plans and programs are set forth or incorporated by reference as Exhibits to this Annual Report. The information in our Proxy Statement for the 2020 Annual Meeting of stockholders appearing under the heading "Executive Compensation" is incorporated herein by reference.

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

The information in our Proxy Statement for the 2020 Annual Meeting of stockholders appearing under the heading "Information About Stock Ownership—Security Ownership of Certain Beneficial Owners and Management" and "Executive Compensation—Equity Compensation Plan Information" is incorporated herein by reference.

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

The information in our Proxy Statement for the 2020 Annual Meeting of stockholders appearing under the headings Certain Relationships and Related Party Transactions" and "Corporate Governance and Board of Directors Matters—Director Independence" is incorporated herein by reference.

Item 14. Principal Accountant Fees and Services

The information in our Proxy Statement for the 2020 Annual Meeting of stockholders appearing under the headings "Proposal No. 2—Ratification of Appointment of Independent Registered Public Accounting Firm—Audit and Non-Audit Services" and "Proposal No. 2—Ratification of Appointment of Independent Registered Public Accounting Firm—Audit Committee Pre-Approval Policies and Procedures" is incorporated herein by reference.

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) (1) The financial statements required by Item 15(a) are filed in Item 8 of this Report.

(2) The financial statement schedules required by Item 15(a) are omitted because they are not applicable, not required or the required information is included in the financial statements or notes thereto as filed in Item 8 of this Report.

(3) We have filed, or incorporated into this report by reference, the exhibits listed below.

Exhibit Number	Description	Incorporated by Reference			Filed Herewith
		Form	Exhibit	Date Filed	
2.1	Agreement and Plan of Merger and Reorganization, dated as of July 23, 2015, by and among ViewRay Inc., Acquisition Sub and ViewRay Technologies, Inc.	S-1/A	2.1	12/16/15	
3.1	Amended and Restated Certificate of Incorporation.	S-1/A	3.1	12/16/15	
3.2	Amended and Restated Bylaws of ViewRay, Inc.	8-K	3.2	5/10/18	
3.3	Certificate of Merger of Acquisition Sub with and into ViewRay Technologies, Inc.	S-1/A	3.3	12/16/15	
3.4	Certificate of Designations, Preferences and Rights of Series A Convertible Preferred Stock of ViewRay, Inc.	10-K	3.4	3/12/18	
3.5	Form of Series A Convertible Preferred Stock Certificate.	8-K/A	3.2	3/7/18	
3.6	Certificate of Elimination of the Series A Convertible Preferred Stock of ViewRay, Inc.	8-K	3.1	5/10/18	
4.1	Form of Common Stock Certificate.	S-1/A	4.1	12/16/15	
4.2	Form of Placement Agent Warrant for Common Stock of ViewRay, Inc.	S-1/A	10.6	12/16/15	
4.3	Form of Warrants issued pursuant to that certain Securities Purchase Agreement, dated as of August 19, 2016, by and among ViewRay, Inc. and the Purchasers named therein.	S-1	10.3	9/26/16	
4.4	Form of Warrants issued pursuant to that certain Securities Purchase Agreement, dated as of January 13, 2017, by and among ViewRay, Inc. and the Purchasers named therein.	10-K	4.4	3/17/17	
4.5	Description of Securities.				X
10.1	Split-Off Agreement, dated as of July 23, 2015, by and among ViewRay, Inc., Mirax Enterprise Corp. and Dinara Akzhigitova.	S-1/A	10.1	12/16/15	
10.2	General Release Agreement, dated as of July 23, 2015, by and among ViewRay, Inc., Mirax Enterprise Corp. and Dinara Akzhigitova.	S-1/A	10.2	12/16/15	
10.3	Form of Lock-Up and No Short Selling Agreement between ViewRay, Inc., and the officers, directors and shareholders party thereto.	S-1/A	10.3	12/16/15	
10.4	Form of Securities Purchase Agreement between ViewRay, Inc., and the investors party thereto.	S-1/A	10.4	12/16/15	
10.5	Engagement Letter, dated June 9, 2015, among ViewRay, Inc. and the Placement Agents as defined therein.	S-1/A	10.5	12/16/15	

Exhibit Number	Description	Incorporated by Reference			Filed Herewith
		Form	Exhibit	Date Filed	
10.6	Form of Registration Rights Agreement, by and among ViewRay, Inc. and certain investors named therein.	S-1/A	4.2	12/16/15	
10.7(a)	Office Lease, effective April 17, 2008, by and between Cleveland Industrial Portfolio, LLC and ViewRay Incorporated.	S-1/A	10.7(a)	12/16/15	
10.7(b)	First Amendment to the Office Lease, effective April 16, 2013 by and between Cleveland Industrial Portfolio, LLC and ViewRay Incorporated.	S-1/A	10.7(b)	12/16/15	
10.7(c)	Second Amendment to the Office Lease, effective August 15, 2014 by and between Cleveland Industrial Portfolio, LLC and ViewRay Incorporated.	S-1/A	10.7(c)	12/16/15	
10.8	Office Lease, effective June 19, 2014, by and between BXP Research Park LP and ViewRay Incorporated.	S-1/A	10.8	12/16/15	
10.9†	First Amended and Restated Offer Letter, dated October 6, 2010, by and between ViewRay Incorporated and James F. Dempsey, Ph.D.	S-1/A	10.11	12/16/15	
10.10#	Manufacturing and Supply Agreement, effective September 18, 2013, by and between ViewRay Incorporated and Japan Superconductor Technology, Inc.	S-1/A	10.13	12/16/15	
10.11(a)#	Development and Supply Agreement, effective May 29, 2008, by and between ViewRay Incorporated and Siemens Aktiengesellschaft, Healthcare Sector.	S-1/A	10.14(a)	12/16/15	
10.11(b)#	Amendment No. 1 to the Development and Supply Agreement, effective December 1, 2009, by and between ViewRay Incorporated and Siemens Aktiengesellschaft, Healthcare Sector.	S-1/A	10.14(b)	12/16/15	
10.11(c)#	Amendment No. 2 to the Development and Supply Agreement, effective May 4, 2010, by and between ViewRay Incorporated and Siemens Aktiengesellschaft, Healthcare Sector.	S-1/A	10.14(c)	12/16/15	
10.11(d)#	Amendment No. 3 to the Development and Supply Agreement, effective February 9, 2011, by and between ViewRay Incorporated and Siemens Aktiengesellschaft, Healthcare Sector.	S-1/A	10.14(d)	12/16/15	
10.11(e)#	Amendment No. 4 to the Development and Supply Agreement, effective May 11, 2012, by and between ViewRay Incorporated and Siemens Aktiengesellschaft, Healthcare Sector.	S-1/A	10.14(e)	12/16/15	
10.11(f)#	Amendment No. 5 to the Development and Supply Agreement, effective May 30, 2012, by and between ViewRay Incorporated and Siemens Aktiengesellschaft, Healthcare Sector.	S-1/A	10.14(f)	12/16/15	
10.11(g)#	Amendment No. 6 to the Development and Supply Agreement, effective February 21, 2014, by and between ViewRay Incorporated and Siemens Aktiengesellschaft, Healthcare Sector.	S-1/A	10.14(g)	12/16/15	
10.11(h)	Amendment No. 7 to the Development and Supply Agreement, effective November 15, 2015, by and between ViewRay Incorporated and Siemens Aktiengesellschaft, Healthcare Sector.				X
10.11(i)+	Amendment No. 8 to the Development and Supply Agreement, effective September 19, 2019, by and between ViewRay Incorporated and Siemens Aktiengesellschaft, Healthcare Sector.				X

Exhibit Number	Description	Incorporated by Reference			Filed Herewith
		Form	Exhibit	Date Filed	
10.12#	Cobalt-60 Source Supply and Removal Agreement, effective December 19, 2013, by and between ViewRay Incorporated and Best Theratronics, Ltd.	S-1/A	10.15#	12/16/15	
10.13#	Development and Supply Agreement, effective June 24, 2009, by and between ViewRay Incorporated and Manufacturing Sciences Corporation.	S-1/A	10.16#	12/16/15	
10.14(a)#	Development and Supply Agreement, effective July 9, 2009, by and between ViewRay Incorporated and Tesla Engineering Limited.	S-1/A	10.17(a)	12/16/15	
10.14(b)#	Amendment No. 1 to the Development and Supply Agreement, effective January 20, 2015, by and between ViewRay Incorporated and Tesla Engineering Limited.	S-1/A	10.17(b)	12/16/15	
10.15#	Development and Supply Agreement, effective July 2, 2010, by and between ViewRay Incorporated and PEKO Precision Products, Inc.	S-1/A	10.18	12/16/15	
10.16(a)#	Amended and Restated Joint Development and Supply Agreement, effective May 15, 2008, by and between ViewRay Incorporated and 3D Line GmbH.	S-1/A	10.19(a)	12/16/15	
10.16(b)#	Amendment No. 1 to the Amended and Restated Joint Development and Supply Agreement, effective August 13, 2008, by and between ViewRay Incorporated and Euromechanics Medical GmbH.	S-1/A	10.19(b)	12/16/15	
10.16(c)#	Amendment No. 2 to the Amended and Restated Joint Development and Supply Agreement, effective November 27, 2009, by and between ViewRay Incorporated and Euromechanics Medical GmbH.	S-1/A	10.19(c)	12/16/15	
10.17#	Development and Supply Agreement, effective June 1, 2010, by and between ViewRay Incorporated and Quality Electrodynamics, LLC.	S-1/A	10.20	12/16/15	
10.18(a)#	Standard Exclusive License Agreement with Sublicensing Terms, effective December 15, 2004, by and between ViewRay Incorporated and the University of Florida Research Foundation, Inc.	S-1/A	10.21(a)	12/16/15	
10.18(b)#	Amendment No. 1 to the Standard Exclusive License Agreement with Sublicensing Terms, effective December 6, 2007, by and between ViewRay Incorporated and the University of Florida Research Foundation, Inc.	S-1/A	10.21(b)	12/16/15	
10.19	Warrant Agreement, effective December 16, 2013, by and between ViewRay Incorporated and Hercules Technology III, L.P.	S-1/A	10.23	12/16/15	
10.20(a)#	Term Loan Agreement, effective June 26, 2015, by and among ViewRay Incorporated, the Subsidiary Guarantors (as defined therein), Capital Royalty Partners II L.P., Capital Royalty Partners II—Parallel Fund "A" L.P., Capital Royalty Partners II (Cayman) L.P. and Parallel Investment Opportunities Partners II L.P.	S-1/A	10.22	12/16/15	

Exhibit Number	Description	Incorporated by Reference			Filed Herewith
		Form	Exhibit	Date Filed	
10.20(b)	Amendment No. 1 to Term Loan Agreement effective March 24, 2016, by and among ViewRay Technologies, Inc. (formerly known as ViewRay Incorporated), the Subsidiary Guarantors (as defined therein), Capital Royalty Partners II L.P., Capital Royalty Partners II—Parallel Fund "A" L.P., Capital Royalty Partners II (Cayman) L.P. and Parallel Investment Opportunities Partners II L.P.	10-K	10.23(b)	3/28/16	
10.20(c)	Amendment No. 2 to Term Loan Agreement dated April 12, 2017, by and among ViewRay Technologies, Inc. (formerly known as ViewRay Incorporated), the Subsidiary Guarantors (as defined therein), Capital Royalty Partners II L.P., Capital Royalty Partners II—Parallel Fund "A" L.P., Capital Royalty Partners II (Cayman) L.P. and Parallel Investment Opportunities Partners II L.P.	10-Q	10.1	8/7/17	
10.20(d)	Amendment No. 3 to Term Loan Agreement effective September 30, 2017, by and among ViewRay Technologies, Inc. (formerly known as ViewRay Incorporated), the Subsidiary Guarantors (as defined therein), Capital Royalty Partners II L.P., Capital Royalty Partners II—Parallel Fund "A" L.P., Capital Royalty Partners II (Cayman) L.P. and Parallel Investment Opportunities Partners II L.P.	10-Q	10.1	11/13/17	
10.20(e)	Amendment No. 4 to Term Loan Agreement effective December 31, 2017, by and among ViewRay Technologies, Inc. (formerly known as ViewRay Incorporated), the Subsidiary Guarantors (as defined therein), Capital Royalty Partners II L.P., Capital Royalty Partners II—Parallel Fund "A" L.P., Capital Royalty Partners II (Cayman) L.P. and Parallel Investment Opportunities Partners II L.P	10-K	10.23(e)	3/12/18	
10.21(a)†	ViewRay Incorporated 2008 Stock Incentive Plan.	S-1/A	10.24(a)	12/16/15	
10.21(b)†	Form of Incentive Stock Option and Reverse Vesting Agreement (Change of Control) under the 2008 Plan.	S-1/A	10.24(b)	12/16/15	
10.21(c)†	Form of Incentive Stock Option and Reverse Vesting Agreement under the 2008 Plan.	S-1/A	10.24(c)	12/16/15	
10.21(d)†	Form of Nonstatutory Stock Option and Reverse Vesting Agreement under the 2008 Plan.	S-1/A	10.24(d)	12/16/15	
10.22†	Contingent Equity Agreement, effective January 8, 2008, by and among ViewRay Incorporated, James F. Dempsey, Ph.D., Russell S. Donda, Jim Carnall and William Wells.	S-1/A	10.25	12/16/15	
10.23(a)†	ViewRay, Inc. 2015 Equity Incentive Award Plan.	S-1/A	10.26(a)	12/16/15	
10.23(b)†	Form of Option Agreement under the 2015 Plan.	S-1/A	10.26(b)	12/16/15	
10.23(c)†	Form of Restricted Stock Agreement under the 2015 Plan.	S-1/A	10.26(c)	12/16/15	
10.23(d)†	Form of Restricted Stock Unit Agreement under the 2015 Plan.	S-1/A	10.26(d)	12/16/15	
10.24†	Form of Indemnification Agreement for directors and executive officers.	S-1/A	10.27	12/16/15	
10.25†	Agreement, effective June 11, 2008, by and among ViewRay Incorporated, James F. Dempsey, Ph.D., William W. Wells, James D. Carnall and Russell S. Donda.	S-1/A	10.28	12/16/15	
10.26(a)†	ViewRay, Inc. 2015 Employee Stock Purchase Plan.	S-1/A	10.29	12/16/15	

Exhibit Number	Description	Incorporated by Reference			Filed Herewith
		Form	Exhibit	Date Filed	
10.26(b)†	ViewRay, Inc. 2015 Employee Stock Purchase Plan, as amended February 27, 2020.				X
10.27	Securities Purchase Agreement, dated as of August 19, 2016, by and among ViewRay, Inc. and the Purchasers named therein.	S-1	10.1	9/26/16	
10.28	Registration Rights Agreement, dated as of August 22, 2016, by and among ViewRay, Inc. and the Purchasers named therein.	S-1	4.3	9/29/16	
10.29	Securities Purchase Agreement, dated as of January 13, 2017, by and among ViewRay, Inc. and the Purchasers named therein.	10-K	10.33	3/17/17	
10.30	Stockholders' Agreement, dated as of January 13, 2017, by and among ViewRay, Inc. and the Purchasers named therein.	10-K	10.34	3/17/17	
10.31	Agreement for Consulting Services by and among ViewRay, Inc. and Puissance Capital Management dated January 13, 2017.	10-Q	10.3	5/15/17	
10.32	Securities Purchase Agreement, dated as of October 23, 2017, by and among ViewRay, Inc. and Fosun International Limited named therein.	8-K	10.1	10/25/17	
10.33	Securities Purchase Agreement, dated as of October 23, 2017, by and among ViewRay, Inc. and the Purchasers named therein.	8-K	10.2	10/25/17	
10.34	Registration Rights Agreement, dated as of October 23, 2017, by and among ViewRay, Inc. and Strong Influence Limited.	8-K	10.3	10/25/17	
10.35	Registration Rights Agreement, dated as of October 23, 2017, by and among ViewRay, Inc. and KVP Capital, LP.	8-K	10.4	10/25/17	
10.36	Amended and Restated Securities Purchase Agreement, dated as of March 5, 2018, by and among ViewRay, Inc. and Fosun International Limited named therein	10-K	10.40	3/12/18	
10.37	Amended and Restated Registration Rights Agreement, dated as of March 5, 2018, by and among ViewRay, Inc. and Strong Influence Limited.	10-K	10.41	3/12/18	
10.38	Warrant Agreement, effective February 25, 2018, by and between ViewRay Inc. and Strong Influence Limited.	10-K	10.42	3/12/18	
10.39	Vanni Business Park Industrial Lease by and between Vanni Business Park, LLC and ViewRay, Inc. dated April 11, 2018.	10-Q	10.1	8/7/18	
10.40	Second Amendment to Office Lease by and between BXP Research Park LP and ViewRay, Inc. dated September 1, 2018.	10-Q	10.2	8/7/18	
10.41†	Offer Letter, dated September 10, 2018, between ViewRay, Inc. and James M. Alecxih.	10-Q	10.1	5/3/19	
10.42†	Separation Agreement, dated January 14, 2020, by and between ViewRay Inc. and James M. Alecxih.				X
10.43†	Separation Agreement, dated September 30, 2019, by and between ViewRay Inc. and Ajay Bansal.	10-Q	10.1	11/12/19	
10.44†	Employment Agreement, dated July 22, 2018, by and between ViewRay Inc. and Scott Drake.	10-Q	10.5	8/7/18	
10.45†	Employment Agreement, dated July 22, 2018, by and between ViewRay Inc. and Shahriar Matin.	10-Q	10.6	8/7/18	
10.46†	ViewRay, Inc. 2018 Equity Inducement Award Program.	S-8	99.1	8/10/18	

Exhibit Number	Description	Incorporated by Reference			Filed Herewith
		Form	Exhibit	Date Filed	
10.47(a)	Loan and Security Agreement by and between Silicon Valley Bank, ViewRay, Inc. and ViewRay Technologies, Inc. dated December 28, 2018.	8-K	10.1	12/31/18	
10.47(b)	First Amendment dated as of December 31, 2019 to Loan and Security Agreement by and among Silicon Valley Bank, ViewRay, Inc. and ViewRay Technologies, Inc.	8-K	10.1	12/31/19	
10.48†	Amendment to Employment Agreement, dated December 20, 2018 by and between ViewRay Inc. and Scott Drake.	10-K	10.51	3/15/19	
10.49†	Amendment to Employment Agreement, dated December 20, 2018 by and between ViewRay Inc. and Shar Matin.	10-K	10.52	3/15/19	
10.50	At Market Issuance Sales Agreement, dated as of May 10, 2018, by and between ViewRay, Inc. and B. Riley FBR, Inc.	S-3	1.2	5/10/18	
10.51+	Distribution Agreement by and between Chindex Shanghai International Trading Company Limited and ViewRay Technologies, Inc. dated November 29, 2019.				X
21	List of Subsidiaries.				X
23.1	Consent of Deloitte & Touche LLP.				X
31.1	Certification of Principal Executive Officer Required under Securities Exchange Act Rule 13a-14(a) and 15d-14(a).				X
31.2	Certification of Principal Financial Officer under Securities Exchange Act Rule 13a-14(a) and 15d-14(a).				X
32.1	Certification of Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. 1350 and Securities Exchange Act Rule 13a-14(b).				X
101	Interactive Data Files of Financial Statements and Notes.				X
101.INS	Instant Document.				X
101.SCH	XBRL Taxonomy Schema Document.				X
101.CAL	XBRL Taxonomy Calculation Linkbase Document.				X
101.DEF	XBRL Taxonomy Definition Linkbase Document.				X
101.LAB	XBRL Taxonomy Label Linkbase Document.				X
101.PRE	XBRL Taxonomy Presentation Linkbase Document.				X

Portions of this exhibit (indicated by asterisks) have been omitted pursuant to a request for confidential treatment and this exhibit has been filed separately with the SEC.

† Indicates management contract or compensatory plan.

+ Certain confidential information contained in this exhibit has been omitted because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed.

Item 16. Form 10-K Summary

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on March 12, 2020.

VIEWRAY, INC.

By: /s/ Scott Drake
Scott Drake
Chief Executive Officer

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

Signature	Title	Date
/s/ Scott Drake Scott Drake	Director, President and Chief Executive Officer (Principal Executive Officer)	March 12, 2020
/s/ Brian Knaley Brian Knaley	Senior Vice President and Interim Chief Financial Officer (Principal Financial and Accounting Officer)	March 12, 2020
/s/ Daniel Moore Daniel Moore	Chairman of the Board	March 12, 2020
/s/ Caley Castelein, M.D. Caley Castelein, M.D.	Director	March 12, 2020
/s/ James F. Dempsey, Ph.D. James F. Dempsey, Ph.D.	Director and Chief Scientific Officer	March 12, 2020
/s/ Keith Grossman Keith Grossman	Director	March 12, 2020
/s/ Scott Huennekens Scott Huennekens	Director	March 12, 2020
/s/ Brian K. Roberts Brian K. Roberts	Director	March 12, 2020
/s/ Gail Wilensky, Ph.D. Gail Wilensky, Ph.D.	Director	March 12, 2020
/s/ Kevin Xie, Ph.D. Kevin Xie, Ph.D.	Director	March 12, 2020

VIEWRAY, INC.
DESCRIPTION OF SECURITIES

DESCRIPTION OF COMMON STOCK

The common stock of ViewRay, Inc. is listed on the Nasdaq Global Select Market under the symbol “VRAY.” All outstanding shares of common stock are validly issued, fully paid, and nonassessable.

The following description of the terms of our common stock is not complete and is qualified in its entirety by reference to our Restated Certificate of Incorporation, as amended (the “Certificate of Incorporation”), and our Amended and Restated Bylaws (the “Bylaws”), both of which are exhibits to our Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q.

Voting Rights

The holders of our common stock are entitled to one vote per share held on all matters submitted for to a vote of stockholders. There is no provision for cumulative voting with regard to the election of directors. There is no cumulative voting of the election of directors then standing for election.

Dividend and Liquidation Rights

The holders of outstanding shares of common stock are entitled to receive dividends out of assets or funds legally available for the payment of dividends at such times and in such amounts as the board from time to time may determine. Upon liquidation, dissolution or winding up of our company, the assets legally available for distribution to stockholders are distributable ratably among the holders of the common stock after payment of liquidation preferences, if any, on any outstanding payment of other claims of creditors.

Other Rights

The holders of our common stock have no pre-emptive rights and no rights to convert their common stock into any other securities, and our common stock is not subject to any redemption or sinking fund provisions.

Anti-Takeover Effects of Delaware Law

We are subject to the provisions of Section 203 of the Delaware General Corporation Law. Under Section 203, we would generally be prohibited from engaging in any business combination with any interested stockholder for a period of three years following the time that this stockholder became an interested stockholder unless:

- prior to this time, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;
- upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding shares owned by persons who are directors and also officers, and by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

- at or subsequent to such time, the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

Under Section 203, a "business combination" includes:

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

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

Anti-Takeover Effects of Provisions of our Certificate of Incorporation and our Bylaws

Some provisions of our Certificate of Incorporation and our Bylaws could make the following transactions more difficult: acquisition of us by means of a tender offer; acquisition of us by means of a proxy contest or otherwise; or removal of our incumbent officers and directors. It is possible that these provisions could make it more difficult to accomplish or could deter transactions that stockholders may otherwise consider to be in their best interest or in our best interests, including transactions that might result in a premium over the price of our common stock.

These provisions, summarized below, are expected to discourage coercive takeover practices and inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors. We believe that the benefits of increased protection of our potential ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure us outweigh the disadvantages of discouraging these proposals because negotiation of these proposals could result in an improvement of their terms.

Undesignated Preferred Stock. The ability to authorize undesignated preferred stock makes it possible for our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to change control of the company. These and other provisions may have the effect of deterring hostile takeovers or delaying changes in control or management of the company.

Board of Directors Vacancies. Our Certificate of Incorporation and Bylaws provide that except as otherwise provided by law or as determined by resolution of our board of directors, any vacancies or newly created directorships shall be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum of the board of directors, and not by the stockholders.

Classified Board. Our Certificate of Incorporation and Bylaws provide that our board of directors is classified into three classes of directors. Only one class of directors will be elected at each annual meeting

of our stockholders, with the other classes continuing for the remainder of their respective three-year terms. Because our stockholders do not have cumulative voting rights, our stockholders holding a majority of the shares of our common stock outstanding will be able to elect all of our directors. In addition, our directors may not be removed without cause, and removal of our directors for cause will require a majority stockholder vote. This system of electing and removing directors may tend to discourage a third party from making a tender offer or otherwise attempting to obtain control of us, because it generally makes it more difficult for stockholders to replace a majority of the directors.

Stockholder Action; Special Meeting of Stockholders. Our Certificate of Incorporation and Bylaws provide that our stockholders may not take action by written consent, but may only take action at annual or special meetings of our stockholders. Special meetings of the stockholders of the company may be called, for any purpose or purposes, by the Secretary of the Corporation at the direction of the board of directors, pursuant to a resolution adopted by a majority of the entire board of directors, but such special meetings may not be called by any other person or persons.

Requirements for Advanced Notification of Stockholder Nominations and Proposals. Our Bylaws establish advance notice procedures with respect to stockholder proposals and the nomination of candidates for election as directors, other than nominations made by or at the direction of the board of directors or a committee of the board of directors.

Choice of Forum. Our Certificate of Incorporation provides that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the exclusive forum for any derivative action or proceeding brought on our behalf; any action asserting a breach of fiduciary duty; any action asserting a claim against us arising pursuant to the Delaware General Corporation Law, our Certificate of Incorporation or our Bylaws; or any action asserting a claim against us that is governed by the internal affairs doctrine.

Amendment of Provisions. The amendment of any of the above provisions of our Certificate of Incorporation, except for the provision making it possible for our board of directors to authorize undesignated preferred stock, would require approval by holders of at least 66 2/3% of the voting power of our then outstanding voting stock. A vote of the holders of at least 66 2/3% of the voting power of our then-outstanding voting stock is also required for stockholders to amend our Bylaws.

Exhibit 10.11(h)

Contract Amendment No. 7
to the
Development and Supply Agreement

by and between

ViewRay Incorporated
with its registered seat in Oakwood Village, OH, USA
-hereinafter referred to as "ViewRay"-

and

Siemens Healthcare GmbH
with its registered seat in Munich
-hereinafter referred to as "Siemens"-

-ViewRay and Siemens hereinafter referred to individually as "Party" or collectively as "Parties"-

Preamble

Whereas, Siemens AG and ViewRay Incorporated have signed a Development and Supply Agreement on May 29, 2008 as amended by 6 Amendments (the "Development and Supply Agreement") according to which they have collaborated in the development of combining MR imaging and Gamma Radio Therapy.

Whereas, Siemens AG has transferred all its assets related to Healthcare to Siemens Healthcare GmbH and thus the Development and Supply Agreement has been transferred from Siemens AG to Siemens Healthcare GmbH as well. ViewRay has given its consent to such transfer.

Whereas, according to Annex 3 of the Appendix 2 (Supply Agreement) to the Development and Supply Agreements the Parties agreed to agree on the consent of the service agreement at a later point in time.

Whereas, the Parties are now interested in concluding the service agreement. The Parties are also interested in further describing the process for warranty returns according to Section 7.1 of Appendix 2 to the Development and Supply Agreement and the rights regarding the product software embedded in the COMPONENTS.

Now therefore, the Parties agree as follows:

1. Annex 3 of Appendix 2 shall be replaced by the Annex attached to this Amendment.

2. A reference to the OEM Supply Agreement in Annex 3 of Appendix 2 shall be a reference to Appendix 2 (Supply Agreement) of the Development and Supply Agreement.

3. The warranty returns process according Section 7.1 of Appendix 2 to the Development and Supply Agreement shall be as follows and thus Section 7.1 of Appendix 2 to the Development and Supply Agreement shall be replaced with the following:

   7.1 SELLER assumes liability for defects of the COMPONENTS including the lack of assured characteristics as follows:

   If BUYER detects a defect, BUYER shall notify SELLER in writing without unreasonable delay, send back the defective COMPONENT to SELLER at his own costs and order a new COMPONENT. Upon receipt of the COMPONENT, SELLER will analyze the COMPONENT without unreasonable delay of receipt to determine whether or not the COMPONENT has a defect for which SELLER is liable according to this SUPPLY AGREEMENT, and in case of a defect for which SELLER is liable, SELLER will provide BUYER with a respective credit notice, which credit notice will include the shipping costs incurred by BUYER in sending back the defective COMPONENT to SELLER. If the SELLER determines in good faith that the defect in the COMPONENT is not one that SELLER is liable for, the BUYER and SELLER will come to a mutual satisfactory agreement regarding the supply of a replacement COMPONENT by the SELLER.

4. For ordering of spare parts Annex 3 of Appendix 2 shall apply. In case of conflicts between Annex 3 of Appendix 2 and Appendix 2, Annex 3 of Appendix 2 shall prevail.

5. For the product software embedded in the COMPONENTS the following shall apply:
   With respect to the product software, including any relating documentation, BUYER shall have the right to (a) transfer the software and relating documentation to third parties only in connection with the respective COMPONENTS and (b) grant to them a non-exclusive right to use such software in machine-readable object code form and the relating documentation only in connection with the COMPONENTS and as specified in the operation documentation.

For the avoidance of doubt, for service software embedded in the COMPONENTS Exhibit 1 (General Terms and Conditions for use of Service Software) of Annex 3 of Appendix 3 (Supply Agreement) shall apply.

6. Unless otherwise agreed herein all other terms of the Development and Supply Agreement shall remain unaffected.

[SIGNATURE PAGE FOLLOWS]

ViewRay Incorporated
Place: Mountain View, California USA
Date: November 19, 2015

Name: Name:

Title: Chief Operating Officer Title: Sr. Dir. - Service

Siemens Healthcare GmbH
Place: Erlangen, DE
Date: October 16, 2015

Name: Name:

Title: VP Customer Services Title: Director of Finance, Magnetic Resonance

Annex 3 - Service
to the SUPPLY AGREEMENT dated May 29, 2008
between ViewRay Inc. and Siemens Healthcare GmbH

General

"**Affiliate**" shall mean a corporation, company or other entity, now or hereafter, directly or indirectly, owned or controlled by, or owning or controlling, or under common control with Siemens Healthcare GmbH, but such corporation, company or other entity shall be deemed to be an Affiliate only so long as such ownership or control exists. For purposes of this definition "**control**" of a corporation, company or other entity shall mean to have, directly or indirectly, the power to direct or cause the direction of the management and policies of a corporation, company or other entity, whether (i) through the ownership of voting securities providing for the right to elect or appoint, directly or indirectly, the majority of the board of directors, or a similar managing authority, (ii) by contract or (iii) otherwise.

Service concept

1.1 ***Service implementation***
ViewRay shall be responsible for the service and performance of the service on the COMPONENTS purchased within the scope of this contract. For this purpose, SIEMENS Healthcare (Siemens Healthcare GmbH and/or its Affiliates as further specified in this Annex 3) shall provide ViewRay with reasonably required documentation, information, training and hotline support, etc., and shall supply the spare parts and auxiliary tools until end of support of the COMPONENTS as announced by
SIEMENS Healthcare, which announcement of end of support shall be in accordance with the term of the Supply Agreement.

This Annex 3 is intended to be basis for individual agreements between ViewRay or its Certified
Service Organizations and local SIEMENS Healthcare service organizations. Thus ViewRay or its Certified Service Organizations and the respective local Siemens Affiliate may use this Annex 3 as basis for purchasing of services by ViewRay or its Certified Service Organizations from the respective local Siemens Affiliate. Where necessary, ViewRay or its Certified Service Organizations and the respective Siemens Affiliate may conclude adoption agreements to further specify local requirements. For the avoidance of doubt, any agreement concluded between ViewRay or its Certified Service Organizations and a Siemens Affiliate shall only obligate the respective parties to that agreement and shall not be applicable to any other ViewRay entity or Siemens entity. The use of Service Software is always subject to the terms described herein.

1.2 ***Communication channels***
Exchanges of information relating to this Annex 3 shall take place only between ViewRay and SIEMENS Healthcare central service departments based on the list of contact persons provided in section 8.

2 Service documentation

2.1 ***Existing documentation***
SIEMENS Healthcare shall provide ViewRay with the service documentation (i.e. Troubleshooting guide, Replacement of Parts, Installation, Maintenance and Disposal Instructions), available and released by SIEMENS Healthcare at the time when ViewRay requests such documentation. The documentation shall be supplied in electronic form and, if available only in paper form, as a single paper copy. The documentation shall be treated confidential as further described in Section 3.5 below.

2.2 Rights to the documentation

SIEMENS Healthcare shall have and retain all rights to the documentation and all modifications, adaptations and extensions. SIEMENS Healthcare grants ViewRay the non-exclusive, nontransferable, non-sublicensable right to use the documentation and all modifications, adaptations and extensions to the extent necessary to ensure the implementation of the OEM Supply Agreement.

3 Service training

The Siemens Healthcare Training Center offers ViewRay's or ViewRay's Certified Service Organizations' employees and/or consultants service training for products, which utilize the COMPONENTS delivered to ViewRay. ViewRay or its Certified Service Organizations can book the training courses via the local Siemens Affiliate (at the respective Healthcare service organization).
The training prices current at SIEMENS Healthcare at the time the course is booked shall apply unless otherwise agreed in writing between the local Siemens Healthcare service organization and ViewRay or its Certified Service Organization.

3.1 *Standard courses*

Standard courses are courses from the Training Center course catalogue. Either individual employees or consultants of ViewRay or ViewRay's Certified Service Organizations' employees or consultants can participate in the dates offered.

3.2 Training conditions

The version of "Terms and Conditions of Training" applicable on the date of registration can be downloaded from https://training.healthcare.siemens.com/static.jsp?load=about%2Fagb&L=EN.

3.3 *Requirements for participation*

Courses are offered in modular form and build on each other. If requirements are defined for specific courses in the course catalog, ViewRay must ensure that these are fulfilled by its participants. The training courses are conducted in English. ViewRay is responsible for ensuring that its participants have an adequate knowledge of the language.
If specific safety training is required by laws or regulations at the place where the service engineers are subsequently deployed, ViewRay is responsible for ensuring that its employees attend these courses run by suitably qualified training providers. The Siemens Healthcare Training Center monitors only the safety-related qualifications necessary for participation in its own courses.

3.4 *Certification*

The Training Center offers a certification program. For standard courses, ViewRay undertakes to ensure that at least one certified service engineer is trained at its own cost for each COMPONENT type. Courses with content individually agreed at the request of ViewRay may not participate in the certification program.

3.5 *Obligation to secrecy*

All information about which knowledge is acquired due to participation in the training courses (even if this is through notice boards or orally from other course participants), which a third party can reasonably believe to be confidential or which is marked or described as confidential, as well as any information and documentation provided according to this Annex 3, shall be treated by ViewRay and its Certified Service Organizations as confidential and may not be handed over or made available to any other third party.
The information contained in the training courses and the information and documentation provided according to this Annex 3 may only be used for servicing the COMPONENTS purchased from Siemens Healthcare under the OEM Supply Agreement. ViewRay agrees that only its or its Certified Service Organizations' employees and/or consultants, as the case may be, who need to know that

information servicing the COMPONENTS may use that information and that these employees and/or consultants, as the case may be, are bound to confidentiality either by their employment contract, consulting agreement or otherwise in writing.

4 Service software

The annual license fee for the use of Service Software (level 7) is 2000 € per system per year (nondiscountable). The license generation is handled for each installed ViewRay product via the local SIEMENS Healthcare service organization. ViewRay or its Certified Service Organizations may order a license key for a specific system at the respective local Siemens Affiliate; the license key will be valid for a period of one year. Such license key shall be treated strictly confidential. Subject to the payment of the above-mentioned license fee and subject to compliance with this Agreement and the license terms agreed in Exhibit 1 to this Annex 3, ViewRay or its Certified Service Organizations shall be entitled to use the Service Software for servicing the COMPONENTS. The Service Software is proprietary software of SIEMENS Healthcare and except for the limited licenses granted herein, no further rights are granted to ViewRay and/or its Certified Service Organizations; SIEMENS Healthcare owns all copyrights to such software.

For ViewRay products installations outside of USA:
As a prerequisite for the generation of the license key, ViewRay has to provide delivery information to the Data Clearing group of SIEMENS Healthcare (see chap. 8 Contacts):

- system material number (7107696)
- serial number (18001- 18199)
- country and product location

5 Service support

5.1 *Hotline support*

Hotline support is provided by Siemens Healthcare Headquarter support center for the COMPONENTS delivered under the OEM Supply Agreement only.

5.2 *On-site service*

On-site service by the regional Siemens Affiliate (local SIEMENS Healthcare service organization) is not supported.

6 Service parts and auxiliary tools

6.1 *Definition*

Service parts and auxiliary tools are parts and tools required for repair, for installation, adjustments, preventive maintenance or troubleshooting. Auxiliary tools are not considered to be part of the COMPONENT delivery according to the OEM Supply Agreement and shall be supplied in accordance with Section 6.2 of this agreement.

6.2 *Terms and conditions of ordering and supply*

Service parts and auxiliary tools should be procured via the local SIEMENS Healthcare service organization. The price for service parts and auxiliary tools is based on the actual Customer List Price (CLP) or Repair CLP with 35% discount.
Auxiliary tools can also be provided to ViewRay or its Certified Service Organizations via the local Siemens Healthcare service organization for a limited period of time, based on an individual rental agreement.

Also warranty returns shall be handled via the local Siemens Affiliate (local SIEMENS Healthcare service organization).

7 Processing of field updates

Due to product responsibility/ liability reasons, ViewRay products are not addressed via the SIEMENS Healthcare update process. Therefore ViewRay remains responsible for the performance of updates or upgrades of its products.

8 Contacts

8.1 *SIEMENS Healthcare addresses:*

Postal address
Siemens Healthcare GmbH
Customer Services HC CX CS MR
P. O. Box 3260
D-91050 Erlangen

Business address:
Allee am Röthelheimpark 6
D-91052 Erlangen

8.2 *SIEMENS Healthcare contacts for general service-related issues:*

Siemens Healthcare GmbH Customer Services HC CX CS MR
Christiane Bernhardt
Tel.: +49 (9131) 84-6243
Christiane.Bernhardt@siemens.com

8.3 *Data Clearing Group:*

Data Clearing Group HC CX CS PS
E-mail: ivk-clearinq.healthcare@siemens.com

8.4 *SIEMENS Healthcare Training Center:*

Siemens Healthcare GmbH
Training Center HC CX CS TCI
Allee am Roethelheimpark 3
91052 Erlangen
Tel.: +49 (9131) 84-6410
E-mail: Admin.TC@med.siemens.de

8.5 *SIEMENS Healthcare support department:*

Siemens Healthcare GmbH
Headquarter Support Center MR
Tel.: +49 (9191) 84-8080 (HSC phone codes: 14 for MR and 1 for Technical Support) wscshscmr.healthcare@siemens.com

8.6 ***ViewRay addresses***

ViewRay Incorporated Headquarters
2 Thermo Fisher Way
Oakwood Village, Ohio 44146, USA
Phone: +1 (440) 703-3210
Fax: +1 (800) 417-3459

ViewRay Incorporated West Coast Office
815 E Middlefield Rd
Mountain View, CA 94043, USA
Phone: +1 (650) 252-0920

8.7 ***ViewRay contact for general service-related topics:***

ViewRay Incorporated
Customer Services
Akikazu Hirota
Phone: +1 (650) 252-0946
ahirota@viewray.com

Exhibit 1: General Terms and Conditions for use of Service Software

These General Terms and Conditions apply to the use of the Service Software which will be activated by the license key provided by Siemens Healthcare GmbH or its Affiliates to ViewRay or its Certified Service Organizations. ViewRay and its local entities represent and warrant that ViewRay's or ViewRay's Certified Service Organizations' employees and/or contractors shall be the sole users of the Service Software and shall use the Service Software only for the purposes of performing services on the COMPONENTS and according to the license set forth in Section 3 below.

1. Definition

The term "**Siemens Service Software**" shall mean any software programs, documentation, the medium on which such software programs or documentation is recorded and any other maintenance or diagnostic tools which are used or are useful for assembling, installing, adjusting or calibrating the COMPONENTS.

2. Term of License

The license granted herein for a set of Siemens Service Software shall be for a period of one year from receipt by ViewRay or the Certified Service Organization of the license key from Siemens (the "Term") and will terminate automatically upon the earlier of (i) ViewRay or its Certified Service Organization ceasing to service the COMPONENTS or (ii) termination or expiration of the license key in accordance with the terms of this agreement. Siemens may terminate a license for a set of Siemens Service Software upon written notice to ViewRay or its Certified Service Organization, effective immediately, if (i) the Siemens Service Software or any portion thereof becomes the subject of a claim of patent, copyright or other intellectual property right infringement; or (iii) ViewRay or its Certified Service Organization attempts to assign a license, this Agreement or any rights or obligations hereunder without Siemens' prior written consent; or (iv) publishes any Siemens service keys or passwords or buys service keys or passwords from resources not authorized by Siemens. Notwithstanding the foregoing, Siemens may also terminate the license in the event ViewRay or its Certified Service Organization (x) fails to make any payment due to Siemens hereunder or (y) fails to comply with any of the other terms and conditions of this Agreement, in each case, within 30 days after receipt of written notice from Siemens describing the breach (e.g., failure to pay or failure to comply with the terms of this agreement).

Notice of termination of any license for a set of Siemens Service Software will be notice of termination of the license to use the set of Siemens Service Software on the related COMPONENT.

No portion of the license fee will be refunded to ViewRay or its Certified Service Organization in the event of termination of the license.

The provisions of Sections 3 paragraph 4, 5, 6 and 10 shall survive any termination or expiration of the license.

3. License

(1) Subject to the terms set forth herein, Siemens grants to ViewRay or its Certified Service Organization, solely for ViewRay's or its Certified Service Organizations' own use, a fully paid up, non-exclusive, non-transferable license limited to the Term set forth herein to use in the country where the COMPONENTS is located the ordered set of Siemens Service Software associated with the related unit of COMPONENTS for the purpose of assembling, installing, adjusting and calibrating the COMPONENTS. The license shall only include the right to use the Siemens Service Software for the purpose of performing maintenance services described herein; the Siemens Service Software may not be used for any other purpose.

(2) A separate license is required for each unit of COMPONENT on which a set of Siemens Service Software will be used. A set of Siemens Service Software may only be used on the related COMPONENT and cannot be transferred by any means to or used with any other equipment. ViewRay and its Certified Service Organization is responsible for determining the appropriate use and establishing the limitations of the Siemens Service Software as well as the results obtained by the use thereof.

(3) ViewRay and its local entity may not make any copies of the software programs contained in the Siemens Service Software, unless this is permitted explicitly by the applicable law. ViewRay and its Certified Service Organizations shall not use Siemens Service Software, in whole or in part, except as expressly authorized in this Agreement.

(4) In any case of unauthorized use of any Siemens Service Software by ViewRay or its Certified Service Organization, especially by means of using a service key not supplied by Siemens, ViewRay and its Certified Service Organization shall incur a penalty of € 17600 to be paid to Siemens for each case of unauthorized use. Service keys not provided by Siemens are illegally created software service keys without Siemens authorization.

(5) Siemens may use all suggestions, modifications and improvements, whether written or oral, machine-readable or otherwise, furnished to Siemens by ViewRay or its Certified Service Organization in reports or otherwise in connection with the license granted herein, and ViewRay and its Certified Service Organization grant to Siemens an unrestricted, worldwide, irrevocable, royalty-free license, and the right to sublicense to others and to authorize others to grant sublicenses, to include such suggestions, modifications and improvements in any program, document or other product or service of Siemens.

(6) This Agreement and the licenses herein only grant to ViewRay or its Certified Service Organization the right to use the Siemens Service Software on the related COMPONENT. Siemens shall have no obligation under this Agreement to provide an updated, improved or otherwise modified version of any software documentation unless Siemens makes material changes to the Siemens Service Software.

4. Independent Contractor

It is understood and agreed that the ViewRay and its Certified Service Organization is an independent contractor and not an agent of Siemens, and is fully responsible for its own actions, including, without limitation, those in connection with the assembly, installation, adjustment and calibration of the COMPONENT. Siemens shall in no event be responsible for any of actions or ViewRay or its local entity, and ViewRay and its Certified Service Organization agrees not to represent or imply to any third party that it is an authorized service representative of Siemens. ViewRay and its local entity shall be fully responsible for all legal and regulatory compliance related to maintenance and service of the COMPONENT.

5. Indemnification

It is understood that ViewRay and its Certified Service Organization shall be utilizing the Siemens Service Software solely for the purposes described above in Section 3. It is also understood that Siemens has a substantial investment in its products, its proprietary information, the Siemens trade name and trademarks, and the quality reputation of such trade name and trademarks. Therefore, both Siemens and its suppliers are substantially at risk in the event that Siemens' equipment is subjected to improper or negligent assembly, installation, adjustment, calibration, maintenance or service.

ViewRay and its Certified Service Organization agrees to indemnify and hold Siemens (and its officers, directors, employees and agents) harmless from any claims, losses, liabilities, damages, costs, penalties, fines and expenses, including, without limitation, reasonable attorneys' fees, finally

awarded for personal injuries or property damage arising directly or indirectly as a result of the use of the Siemens Service Software or failure to properly maintain or service the related equipment, except to the extent such injuries or damage arise from the negligent or willful act or omission of
Siemens herein, its officers, directors, employees or agents.

6. Payment; Communication

Any license fee applicable to each set of Service Software licensed hereunder is specified Annex 3 to the OEM Supply Agreement (subject to changes as provided below) and shall be paid by ViewRay and its Certified Service Organization in Euro. The license right as set forth in article 3 of this Exhibit 1 is subject to the licensee fee payment being fully received by Siemens.

ViewRay and its Certified Service Organization shall pay to Siemens the license fees when invoiced. License fees may be invoiced in advance of the applicable term. Payment is due thirty
(30) days from date of invoice.

All notices under this Agreement and all communications between ViewRay and its Certified
Service Organization and Siemens will be made or given by mailing same to ViewRay and its Certified Service Organization or Siemens, as the case may be, at the addresses indicated in Annex 3 to the OEM Supply Agreement or to such other address as the receiving party may designate by written notice to the transmitting party.

7. Taxes

ViewRay and its Certified Service Organization agrees to pay Siemens an amount equal to all taxes, charges or assessments incident to the ownership, use, operation, or licensing of the Siemens Service Software, exclusive of franchise taxes or taxes based on Siemens' net income. Tax payments shall be due at the same time as the payment set forth under Section 6.

8. Title

For the avoidance of doubt: Title to the Siemens Service Software and all copies, in any form, is and will remain in Siemens at all times. ViewRay and its Certified Service Organization has no right, title or interest in the Siemens Service Software beyond the license to ViewRay or its Certified Service Organization stated in this Agreement. ViewRay and its Certified Service Organization has the obligation of securing and safekeeping the Siemens Service Software for Siemens. Siemens may affix and require ViewRay and its Certified Service Organization to affix labels, notices, or other markings to the Siemens Service Software stating that same is owned by Siemens, and ViewRay and its Certified Service Organization agrees not to remove or alter same, nor to permit others to do so.

ViewRay and its Certified Service Organization agrees that, subject to equipment owner's reasonable security procedures, Siemens shall have access to the Siemens Service Software at reasonable times and that Siemens may take immediate possession thereof upon termination or expiration of the associated license.

9. Delivery of Service Key

The Service Key to the Siemens Service Software shall be delivered to ViewRay or its Certified Service Organization by email to the email address upon receipt of the full license fee as set forth above in Section 6 and any applicable taxes to be paid by ViewRay and its Certified Service
Organization as set forth under Section 7 by Siemens.

10. Protection and Security of Siemens Service Software

ViewRay and its Certified Service Organization shall not distribute or otherwise transfer any Siemens Service Software to any other party, including other licensees of the Siemens Service Software, without Siemens' prior written consent.

ViewRay and its Certified Service Organization shall not provide or otherwise make available any Siemens Service Software, in any form, without Siemens' prior written consent except to their employees and Siemens' employees.

ViewRay and its Certified Service Organization shall ensure, prior to transferring or disposing of any program medium, computer memory or data storage apparatus that Siemens Service Software contained thereon have been erased or otherwise destroyed.

ViewRay and its Certified Service Organization shall hold in strict confidence all Siemens Service Software and related Service Software Keys. ViewRay and its Certified Service Organization shall make no disclosure thereof to anyone, except to their respective employees and Siemens employees who have a need to know such information for purposes specifically related to ViewRay and its Certified Service Organization authorized use of the Siemens Service Software, without Siemens' prior written consent.

ViewRay and its Certified Service Organization shall ensure that all persons having access to any Siemens Service Software comply with the terms and conditions of this Agreement.

ViewRay and its Certified Service Organization shall take appropriate action, by instruction, agreement or otherwise, with any persons permitted access to Siemens Service Software so as to enable them to satisfy their obligations under this Agreement.

ViewRay and its Certified Service Organization will reasonably cooperate with Siemens, at Siemens' cost, so as to enable Siemens to enforce its proprietary and property rights in the Siemens Service Software.

11. Return or Disposition of Siemens Service Software

On the effective date of termination of any license granted hereunder, the License Key as furnished by Siemens to ViewRay or its Certified Service Organization shall expire.

12. Patents and Copyrights

Siemens shall defend ViewRay or its Certified Service Organization against any third-party claim that a set of Siemens Service Software infringes the third party's patent or copyright, including mask works, and Siemens shall pay resulting costs, damages and reasonable attorneys' fees finally awarded, provided that: (i) ViewRay and its Certified Service Organization promptly notify Siemens in writing of the claim, and (ii) ViewRay and its Certified Service Organization fully cooperate with Siemens, at Siemens' expense, and Siemens has sole control of the defense and all related settlement negotiations.
Siemens' obligation under this section is conditioned on ViewRay's and its Certified Service Organization's agreement that if a set of Siemens Service Software, or the use thereof, becomes, or in Siemens' opinion is likely to become, the subject of such a claim, ViewRay and its Certified Service Organization shall permit Siemens, at Siemens' option and expense, either to: (i) procure the right for ViewRay or its Certified Service Organization to continue using the Siemens Service Software; or (ii) replace or modify the same so that it becomes non-infringing; and if neither of the foregoing alternatives is available on terms which are reasonable in Siemens' judgment, (iii) Siemens may remove such Siemens Service Software and refund the license fees paid by ViewRay and/or its Certified Service Organization for such Siemens Service Software. ViewRay and its Certified Service Organization shall discontinue use of or return the Siemens Service Software upon written request by Siemens Except as otherwise provided herein, Siemens shall have no liability for any claim based

upon or any damages attributable to the: (i) use of other than an unaltered current release of the Siemens Service Software, if such claim or damage would have been avoided by use of an unaltered current release of the Siemens Service Software; (ji) use of the Siemens Service Software in other than the specified operation environment, if such claim or damage would have been avoided by use of the Siemens Service Software in the specified operating environment; or (iii) combination, operation or use of the Siemens Service Software supplied hereunder with programs or data not supplied by Siemens, if such claim or damage would have been avoided by the absence of such programs or data, unless ViewRay or its Certified Service Organization informed Siemens of such combination, operation or use and Siemens agreed to such use.

The forgoing states the entire obligation and liability of Siemens with respect to infringement of patents, copyrights or other proprietary rights.

13. Warranties

ViewRay and its Certified Service Organization acknowledge that the Siemens Service Software is of such complexity that it may have inherent or latent defects. Siemens does not warrant that the functions contained in any Siemens Service Software will meet ViewRay's or its Certified Service Organization's requirements or that the operation or use of the Siemens Service Software will be uninterrupted or error-free or that any defects therein will be corrected.

In the event any warranty service which is requested by ViewRay or its Certified Service Organization is determined by Siemens to have been solely due to the negligent use of the Siemens Service Software, then ViewRay and its Certified Service Organization must pay Siemens for the warranty service on a time and materials basis.

ALL SIEMENS SERVICE SOFTWARE ARE PROVIDED ON AN "AS IS" BASIS. SIEMENS DOES NOT GUARANTEE SIEMENS SERVICE SOFTWARE RESULTS OR REPRESENT OR WARRANT THAT ALL PROBLEMS IN THE EQUIPMENT WILL BE DETECTED OR CORRECTED THROUGH THE USE OF THE SIEMENS SERVICE SOFTWARE. THERE ARE NO WARRANTIES OF ANY KIND FROM SIEMENS OR ITS SUPPLIERS, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, FOR ANY PRODUCTS OR SERVICES PROVIDED UNDER THIS AGREEMENT.

14. Limitation of Remedies

Siemens' entire liability and the exclusive remedy for any claim concerning performance or nonperformance by Siemens under this Agreement will be for ViewRay or its Certified Service Organization to recover its actual damages up to the limits set forth below in this section.

Siemens' liability for damages for any cause whatsoever regardless of the form of action, whether in contract or in tort, including negligence, concerning performance or nonperformance by Siemens under this Agreement, will be limited to the aggregate license fees received by Siemens from ViewRay and its Certified Service Organization during the Term of this Agreement. This limitation of liability will not apply to claims for personal injury caused by Siemens' negligence.

SUBJECT TO THE ABOVE, VIE-WRAY AND ITS CERTIFIED SERVICE ORGANIZATION
UNDERSTAND AND AGREE THAT SIEMENS AND ITS SUPPLIERS SHALL NOT BE LIABLE FOR ANY DAMAGE WHICH MAY RESULT FROM USE OF THE SIEMENS SERVICE SOFTWARE. IN NO EVENT WILL SIEMENS OR ITS SUPPLIERS BE LIABLE FOR ANY DAMAGES CAUSED BY VIE-WRAY'S AND ITS CERTIFIED SERVICE ORGANIZATIONS NEGLIGENCE, WILLFUL MISCONDUCT, MALFEASANCE OR FAILURE TO PERFORM VIE-WRAY'S OR ITS CERTIFIED SERVICE ORGANIZATION'S RESPONSIBILITIES, OR FOR ANY LOSS OF PROGRAMS, DATA, REVENUE, PROFITS OR SAVINGS, OR FOR ANY

SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, EVEN IF SIEMENS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM AGAINST VIE-WRAY'S AND ITS CERTIFIED SERVICE ORGANIZATION'S BY ANY OTHER PARTY, EXCEPT AS PROVIDED IN SECTION 12 (ENTITLED "PATENTS AND COPYRIGHTS").

15. Force Majeure

Siemens will not be liable to ViewRay's and its Certified Service Organization's for any failure to fulfill Siemens obligations under this Agreement due to strikes, riots, war and natural disasters or other causes beyond its reasonable control.

16. Territorial Limitation and Export Control

Siemens' obligations under this Agreement are limited to the country where the COMPONENT is located, and the Service Software provided under this Agreement is to be used only in that country.

ViewRay's and its Certified Service Organization's shall not export, directly or indirectly, any program, documentation, technical data, information or materials acquired under this Agreement in contravention of any of the export control laws of the United States, the EU or other country or regulations of any government agency in the territory as just described. ViewRay's and its Certified Service Organization's shall obtain Siemens' prior written consent before any such export.

Certain confidential information contained in this document, marked by brackets as [***], has been omitted because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed.

Amendment Nr. 8

to the
Development and Supply Agreement between ViewRay Incorporated and Siemens Aktiengesellschaft, Healthcare Sector dated 17th June 2008

by and between

ViewRay Technologies, Inc.
with its registered seat in Oakwood Village, OH, USA
-hereinafter referred to as "ViewRay"-

and

Siemens Healthcare GmbH
-hereinafter referred to as "SIEMENS"-

-ViewRay and Siemens hereinafter referred to individually as "Party" or collectively as "Parties"-

Preamble

Whereas, Siemens Aktiengesellschaft and ViewRay have signed a Development and Supply Agreement on June 17, 2008 as amended by eight amendments (Amendment 1 signed on June 26th, 2009; Amendment 2 signed on April 14th, 2010; Amendment 3 signed on February 2nd, 2009; Amendment 4 signed on May 11th, 2012, Amendment 5 signed on May 30th, 2012, Amendment 6 signed on February 21st, 2014, Amendment 7 signed on November 19th, 2015 (Development and Supply Agreement and all amendments together the "**2008 Agreement**") according to which they have collaborated in the development of combining MR imaging and Radiation Therapy.

Whereas, Siemens Aktiengesellschaft has transferred its Healthcare business, including the assignment to and assumption of the Development and Supply Agreement in its amended version, to a separate legal entity, Siemens Healthcare GmbH in May 1st, 2015. ViewRay has agreed to the assignment.

Whereas, pursuant to Appendix 2 of the 2008 Agreement (the "**Supply Agreement**") Siemens currently supplies ViewRay with Siemens' Avanto MRI components ("**Avanto**") for integration into ViewRay's MRIdian Linac. Siemens has plans to sunset the Avanto platform, and has developed the Avanto Dot MRI system ("**Avanto Dot**") as an upgrade to the Avanto and as part of its lifecycle management for Siemens' MRI systems. Each of the Avanto and Avanto Dot are COMPONENTS as such term is used in the Supply Agreement.

Whereas, Siemens and ViewRay desire to include Avanto Dot Components under the Supply Agreement in addition to the existing Avanto Components and extend the Supply Agreement to support their ongoing operations.

Now therefore, the Parties agree as follows:

Article 1 -Definitions

1.1 "***Avanto***" shall have the meaning given that term in the Preamble.

1.2 "***Avanto Dot***" shall have the meaning given that term in the Preamble.

1.3 "***Deliverable***" shall mean all deliverables provided by Siemens as specified in the SOW.

1.4 "***Development Phase***" shall mean the validation of the integration and interaction of the Avanto Dot with ViewRay's MRIdian Linac, as provided in Article 2. The Development Phase shall include the design, development and integration of the Software Patch (as defined in Section 2.4, together with the validation and verification of such integration.

1.5 "***NRE***" shall mean a non-recurring engineering fee that ViewRay shall pay to Siemens for its services during the Development Phase in line with the milestones of Section 2.1.

1.6 "**Specifications**" shall mean the design, functional, technical and other requirements for a Deliverable set forth in Annex 1 and the SOW. The Parties expect to rely on Siemens' existing Specifications for Components wherever possible, with certain software and related Specifications created or modified as necessary for integration.

1.7 "**Statement of Work**" or "**SOW**"" shall mean the project plan, describing the organization, technical and other details of the work to be completed as part of the Development Phase. The scope of work included in the SOW is described in Annex 2, which may be amended in writing from time-to-time.

1.8 "***Upgrade Kit***" shall mean a hardware and software package developed by Siemens that allows for an upgrade of a ViewRay's MRIdian Linac from an Avanto to an Avanto Dot.

1.9 "**Avanto Supply Limit**" is the maximum number of Avanto components which can be ordered by ViewRay between 01.01.2019 and 31.12.2025 as described in Article 3.1.

1.10 "**Avanto Dot Supply Limit"** is the maximum number of Avanto Dot components which can be ordered by ViewRay between 01.01.2019 and 31.12.2025 as described in Article 3.3.

1.11 **"Avanto Dot Upgrade Supply Limit"** is the maximum number of Upgrade Kits which can be ordered by ViewRay between 01.01.2019 and 31.12.2029 as described in Article 3.4.

1.12 "**Software Patch**" shall mean the package of all required changes Siemens has to implement in the current software baseline for Avanto Dot as defined in Annex 1.

1.13 "**Wind-Down Period**" shall mean a period of five years after expiration or termination of this Supply Agreement for any reason as described in Article 4.2.4.

Article 2 -Development Phase

2.1 The Development Phase shall commence upon execution of this Amendment, and ViewRay will pay the $500,000 NRE to Siemens as follows:

2.1.1 [***] upon execution of this Amendment;

2.1.2 [***] upon delivery of all software, hardware and other physical deliverables required to commence the Offline Development Phase as defined in Annex 2;

2.1.3 [***] upon successful completion of the activities described in Section 2.3.

2.2 Specifications for the Avanto Dot and Upgrade Kit, including the integration of each of the Avanto Dot and Upgrade Kit with ViewRay's MRIdian Linac, are set forth in Annex 1. Any changes to the Specifications need to be mutually agreed upon by the Parties according Section 8.3 of the Supply Agreement.

2.3 The Development Phase will be completed after successful demonstration of the integration of the Avanto Dot and Upgrade Kit with the MRIdian Linac. ViewRay will perform the demonstration and confirmation within 6 month after receipt of a Software Patch version comparable with a Siemens internal "Customer Use Tests" (CUT) Version (without CE) in accordance with Annex 1 section 3 and the required hardware. The completion of the Development Phase will be documented in a joint review meeting by both Parties , based upon a review if the verification and validation tests fulfilled all the Specifications (with consent not to be unreasonably withheld) as described in Annex 1 as well as any mutually agreed changes to the Specifications due to the combined use of the Avanto Dot and Upgrade Kit with the MRIdian Linac system.

2.4 The Development Phase will include certain software related to the integration of the Avanto Dot and Upgrade Kit with the MRIdian Linac system (the "Software Patch"). The Software Patch shall provide the functionality documented in the Specifications.

2.5 Siemens shall apply commercially reasonable efforts to provide maintenance and support for the Software Patch through [***] so that it continues to perform in accordance with the Specifications as delivered and/or upgraded.

2.5.1 Any maintenance or updates to the Software Patch: (i) shall not remove the functionality set forth in the Specifications or have a material adverse effect on the

functionality of the Software Patch and (ii) Siemens will continue to provide bug fixes and resolve other defects to the Software Patch that become known post-release.

2.5.2 The Software Patch shall be delivered free of any virus or otherwise malicious code, or any code or command intended to bring down the Software Patch or any computers, networks, data or other electronically stored information, or computer programs or systems.

Article 3 -Supply of Avanto and Avanto Dot MRI Systems

3.1 ViewRay may purchase, and Siemens shall supply, components for up to [***] Avanto systems (the "Avanto Supply Limit"). Avanto Supply Limit applies to the all and the total of Avanto system components delivered from [***], this includes potential supply in accordance with 3.2. The purchase price for the Avanto system components effective upon execution of this Amendment is set forth on Annex 3 attached hereto.

3.2 The Parties acknowledge that an available supply of the Avanto systems is necessary during the development, testing and migration to Avanto Dot systems. Therefore, in the event that Siemens causes an undue delay to the completion of the Development Phase due to intent or gross negligence, Siemens shall continue to supply Avanto systems for the additional period of such delay. The Parties further acknowledge that it is mutually beneficial to complete the Development Phase as soon as practicable. Accordingly, each Party will appoint a project manager within one week of the execution of this Amendment, who shall be responsible to complete a detailed development Annex. In the event of any material delay to the activities contemplated in the development Annex by one Party, then upon request of the other Party's project manager, the delaying Party will propose a corrective action plan within two weeks and, upon agreement with the non-delaying Party, implement such corrective action Plan. Any repeated delays would be escalated to senior management of each Party.

3.3 ViewRay may purchase, and Siemens shall supply, components for up to [***] Avanto Dot systems (the "Avanto Dot Supply Limit") by placing orders for Avanto Dot system components until [***]. The Avanto Dot Supply Limit may be increased by the number of Avanto systems that ViewRay chooses to convert to Avanto Dot systems. [***]. The purchase price for the Avanto Dot system components is set forth on Annex 3 attached hereto.

3.4 ViewRay may also purchase, and Siemens shall supply, components for up to [***] Upgrade Kits until [***]. If ViewRay wishes to extend this period until [***] Siemens can choose the delivery of refurbished components for the delivery after [***]. The total number of [***] Upgrade Kits remains in place. The purchase price for the Upgrade Kits shall be [***] per Upgrade Kit.

3.5 Siemens shall continue to provide spare parts and service support for the Avanto Dot system components until [***]. From [***] to [***] Siemens will provide support for Avanto Dot system components based on commercially reasonable efforts, consistent with its provision of services to its customers.
In case of insufficient residual supply on stock Siemens can allocate these units to their customer base on its sole discretion.

3.6 As part of its product lifecycle management, Siemens will proactively identify an upgrade path to any new or replacement MRI system to enable an orderly migration from the Avanto Dot to Siemens' next generation MRI platform. Annex 3 includes indicative, non-binding pricing for the next generation platform, which is subject to mutual agreement in the future.

3.7 The provisions of this Amendment shall replace and supersede Sections 9 of the Supply Agreement in its entirety. In addition, Sections 8.1 and 8.2 of the Supply Agreement are hereby deleted and replaced with the following:

"8.1 SELLER is entitled to technically change the COMPONENTS without notice to BUYER; provided that the COMPONENTS continue to conform to the applicable specifications for the then-current COMPONENTS. Notwithstanding the foregoing, SELLER shall notify BUYER about the changes in writing at least nine (9) months before start of production of the changed COMPONENTS. SELLER shall not make technical changes to the COMPONENTS that will cause them to not conform to the applicable specifications, unless such changes are required for safety reasons and/or by a change in applicable law or regulations, in which case SELLER shall follow the procedure in Section 8.2.

8.2 If, as a result of a safety reasons and/or a change in applicable law or regulations, SELLER is required to make technical changes to the then-current COMPONENTS, and such changes could affect form, size, assembly, function or interfaces of the COMPONENTS so that such new or changed COMPONENTS fail to conform to the applicable specifications for the then-current COMPONENTS, SELLER shall as early as reasonably practicable, taking into consideration the regulatory requirements of introducing changes to the then-current COMPONENTS and the System notify BUYER and give BUYER access to specifications for the "new" COMPONENTS as well as access (at SELLER'S facility or at BUYER's request and expense at Buyer's Beachwood, Ohio facility) to a preproduction prototype of the new COMPONENTS prior to commercial release of the new COMPONENTS to permit BUYER to test the COMPONENTS and provide input to SELLER on its impact on the MRIdian Linac System. BUYER will notify SELLER not later than 9 months following the date it is notified of such technical changes by SELLER whether BUYER will adopt the new COMPONENTS for use in the MRIdian Linac System, and the parties shall cooperate to achieved the successful integration of the new COMPONENTS for use in the MRIdian Linac System. If BUYER adopts the new COMPONENTS for use in the MRIdian Linac System, Annex 1 and, to the extent applicable, Annex 2 will be amended to reflect the new COMPONENTS. SELLER is not obligated to continue to supply "old" COMPONENTS."

3.8 Section 5.2 (Payment Terms) of the Supply Agreement shall be changed in a way that all payments shall be due within [***] days after invoice.

3.9 [***].

Article 4 -Term and Termination; Exclusivity

4.1 Article 9 of the 2008 Agreement is hereby deleted.

4.2 Article 13 of the Supply Agreement is hereby deleted and replaced with the following provisions:

4.2.1 This Supply Agreement shall continue until January 1, 2026 unless it is terminated in accordance with Section 4.2.2 (the "Initial Term"). The term of the Supply Agreement will be automatically extended by twelve months unless terminated by either Party upon six months prior written notice with effect to the end of a calendar year.

4.2.2 Either Party may, without prejudice to any other rights it may have, terminate this Supply Agreement by providing written notice to the other Party if the other Party breaches any of its representations, warranties or obligations under

this Supply Agreement and fails to cure such breach within 60 days after receiving written notice thereof from the non-breaching Party.

4.2.3 In the event of a CHANGE OF CONTROL of ViewRay by a third party that is a Direct Competitor of Siemens, either Party may terminate the 2008 Agreement in the form of this Amendment upon 90 days' written notice to the other. For purposes of this Agreement, "Direct Competitor" means [***].

4.2.4 Subject to the Avanto Supply Limit and Avanto Dot Supply Limit described in Sections 3.1-3.3, for a period of five years after expiration or termination of this Supply Agreement for any reason (the "Wind-Down Period"), Siemens will continue the supply of Components for ViewRay's MRIdian Linac System. This cooperation during the Wind-Down Period will include: (i) the continued manufacture and orderly supply of Components after the termination or expiration date, provided that in the event that the termination was effected by Siemens as a result of ViewRay's material breach of this Supply Agreement, ViewRay will promptly pay all sums due Siemens under this Supply Agreement (other than those that are disputed in good faith by ViewRay) as of the date of termination; (ii) continued support of Components in accordance with the terms of this Supply Agreement after the termination or expiration date, provided that in the event that the termination was effected by Siemens as a result of Buyer's material breach of this Supply Agreement ViewRay will promptly pay all sums due Siemens under this Supply Agreement (other than those that are disputed in good faith by ViewRay) as of the date of termination; and (iii) completion of the development phase of this agreement, including but not limited to NRE payments from ViewRay and all deliverables and activities outlined under Article 2, unless otherwise agreed in writing by the parties.

4.2.5 After the termination or expiration of this Supply Agreement, at Buyer's request, Siemens will continue to provide components for Upgrade Kits and support services to ViewRay for installed Components in accordance with Sections 3.4 and 3.5. ViewRay will continue to support such end users in the same manner that ViewRay provides similar support for other elements of the MRIdian Linac system.

4.2.6 [***].

4.2.7 The provisions in Articles 7, 14 and 15 in the Supply Agreement shall survive the expiration or termination of this Supply Agreement. Any licenses granted by Siemens to ViewRay under this Supply Agreement or the 2008 Agreement will survive any expiration or termination of this Supply Agreement for any reason for as long as and to the extent that they are reasonably necessary to continue servicing and supporting existing accounts provided that ViewRay has paid any and all due payments to Siemens.

Article 5 -Medical Device and Regulatory Requirements

5.1 The following stipulations of Article 5 shall overrule any and all prior agreements with regard to Medical Device and Regulatory Requirements.

5.2 Siemens shall document, implement, and maintain an acceptable quality system, such as the ISO 9001 for industrial (non-medical) products or ISO 13485 (for Medical Device Products) standard or equivalent certification. Such quality system shall address records and controls required to ensure traceability of Components supplied to ViewRay, including product version numbers and/or serial numbers comparable but not beyond to the tracing within Siemens MAGNETOM systems.

5.3 All Components delivered to ViewRay shall undergo Siemens' production testing protocols on component level before they are released for shipment. ViewRay will identify non-conforming Components in accordance with ViewRay's internal inspection and testing procedures and notify Siemens of such non-conformance in writing, and where warranted, by issuing a more formal SCAR (Supplier Corrective Action Request). Siemens shall acknowledge receipt of notice in writing and provide an initial written status response back to ViewRay within a reasonable period of time. Siemens will investigate the non-conformance and implement correction and/or corrective actions, as required. Siemens agrees to preserve and maintain all data associated with Component and other performance failures and corrective actions and to make that data available to ViewRay upon request and that all such data shall be maintained as confidential.

5.4 Siemens shall (a) inform ViewRay in a timely manner about any quality related notifications that Siemens makes regarding the Avanto and Avanto Dot Components (as listed in Annex 1) to its own end customers. Siemens further agrees to work in good faith with ViewRay to review and investigate all product complaints related to the Components (as listed in Annex 1) and provide a summary of their investigations and conclusions. Potential solutions need to be aligned on a case-by-case basis.

5.5 Siemens shall establish and maintain procedures to identify, control, and recall Components as a result of safety or efficacy reasons. In the event of any product recall, product withdrawal or field correction related to the Components (as listed in Annex 1), the Parties agree that (a) they shall promptly notify each other and (b) they shall cooperate with each other as reasonably necessary. ViewRay shall be the point of contact for its end-user purchasers of any Component (whether directly or through any permitted sub-distributors) and be responsible for applicable regulatory authority contacts and for coordination of any end-user recall or field correction activities. Siemens shall provide supporting information to ViewRay as relevant to any such recall, withdrawal or field correction.

5.6 Upon reasonable request from ViewRay for a conflict materials report, Siemens will provide a report to ViewRay that provides disclosure of any critical materials used in the production of any Component.

Article 6 -Miscellaneous

6.1 This Amendment shall take effect on the date it is signed by both Parties. Except to the extent expressly amended by this Amendment, all of the clauses and conditions of the 2008 Agreement shall remain unaffected. The term "Agreement", as used in the 2008 Agreement, shall henceforth be deemed to be a reference to the 2008 Agreement as amended by this Amendment.

6.2 This Amendment may be executed in counterparts, each of which will be deemed an original with all such counterparts together constituting one instrument. Capitalized terms used in this Amendment and not defined herein are used with the meanings ascribed to them in the 2008 Agreement.

6.3 This Amendment may not be assigned or otherwise transferred, nor may any rights or obligations be assigned or delegated, by either Party without the prior written consent of the other Party hereto, which consent may not be unreasonably withheld, except that either Party may assign this Amendment in whole or in part and/ or its rights and obligations hereunder without the consent of the other Party to an Affiliate of such Party, or to a third-party successor in interest of all or part of the business to which this Amendment relates, whether as a result of a change of ownership (including by stock purchase, merger or consolidation) and/or as a result of the sale of all or a substantial part of the assets and/or all or a part of the business to which

this Amendment relates and/or in connection with any type of spin-off, merger, consolidation, divestiture, dissolution and any other type of business combination or business reorganization.

6.4 Any amendments as well as supplements to this Amendment must be in writing and signed by the Parties in order to be effective. A waiver of form shall be effective only if agreed upon in writing and signed by the Parties.

6.5 This Amendment shall constitute the entire understanding of the Parties regarding the subject matter hereof. Any general terms and conditions of the Parties shall not apply, even if printed on or referenced by a form used in connection with this Amendment. If provisions of this Amendment conflict with any terms or provisions of the 2008 Agreement, this Amendment shall have precedence.

[**Signature Page Follows**]

In Witness Whereof, the parties have caused this Amendment 8 to be executed by their duly authorized representatives as of the dated shown below.

ViewRay Technologies, Inc.

By:

Print Name:
Title:

Date:

Siemens Healthcare GmbH

By:

Print Name:
Title:

Date:

By:
Print Name:
Title:
Date:

VIEWRAY, INC.
AMENDED AND RESTATED 2015 EMPLOYEE STOCK PURCHASE PLAN

ARTICLE I
PURPOSE, SCOPE AND ADMINISTRATION OF THE PLAN

1.1 Purpose and Scope. The purpose of the Amended and Restated ViewRay, Inc. 2015 Employee Stock Purchase Plan, as it may be amended from time to time, (the "Plan") is to assist employees of ViewRay, Inc., a Delaware corporation, (the "Company") and its Designated Subsidiaries in acquiring a stock ownership interest in the Company pursuant to a plan which is intended to qualify as an "employee stock purchase plan" under Section 423 of the Code and to help such employees provide for their future security and to encourage them to remain in the employment of the Company and its Subsidiaries.

ARTICLE II
DEFINITIONS

Whenever the following terms are used in the Plan, they shall have the meaning specified below unless the context clearly indicates to the contrary. The singular pronoun shall include the plural where the context so indicates.

2.1 "Agent" means the brokerage firm, bank or other financial institution, entity or person(s), if any, engaged, retained, appointed or authorized to act as the agent of the Company or an Employee with regard to the Plan.

2.2 "Administrator" shall mean the Committee, or such individuals to which authority to administer the Plan has been delegated under Section 7.1 hereof.

2.3 "Board" shall mean the Board of Directors of the Company.

2.4 "Code" shall mean the Internal Revenue Code of 1986, as amended.

2.5 "Committee" shall mean the Compensation Committee of the Board.

2.6 "Common Stock" shall mean the common stock, par value $0.01, of the Company.

2.7 "Company" shall have such meaning as set forth in Section 1.1 hereof.

2.8 "Compensation" of an Employee shall mean the regular straight-time earnings or base salary, bonuses and commissions paid to the Employee from the Company on each Payday as compensation for services to the Company or any Designated Subsidiary (before deduction for any salary deferral contributions made by the Employee to any tax-qualified or nonqualified deferred compensation plan), including overtime, shift differentials, vacation pay, salaried production schedule premiums, holiday pay, jury duty pay, funeral leave pay, paid time off, military pay, prior week adjustments and weekly bonus, but excluding education or tuition

reimbursements, imputed income arising under any group insurance or benefit program, travel expenses, business and moving reimbursements, income received in connection with any stock options, restricted stock, restricted stock units or other compensatory equity awards and all contributions made by the Company or any Designated Subsidiary for the Employee's benefit under any employee benefit plan now or hereafter established. Such Compensation shall be calculated before deduction of any income or employment tax withholdings, but shall be withheld from the Employee's net income.

2.9 "Designated Subsidiary" shall mean each Subsidiary that has been designated by the Board or Committee from time to time in its sole discretion as eligible to participate in the Plan, including any Subsidiary in existence on the Effective Date and any Subsidiary formed or acquired following the Effective Date, in accordance with Section 7.2 hereof.

2.10 "Effective Date" shall mean July 15, 2015, the date the Board originally adopted the Plan.

2.11 "Eligible Employee" shall mean an Employee who (a) is customarily scheduled to work at least twenty (20) hours per week, (b) whose customary employment is more than five (5) months in a calendar year and (c) after the granting of the Option would not be deemed for purposes of Section 423(b)(3) of the Code to possess five percent (5%) or more of the total combined voting power or value of all classes of stock of the Company or any Subsidiary. For purposes of clause (c), the rules of Section 424(d) of the Code with regard to the attribution of stock ownership shall apply in determining the stock ownership of an individual, and stock which an Employee may purchase under outstanding options shall be treated as stock owned by the Employee. Notwithstanding the foregoing, the Administrator may exclude from participation in the Plan as an Eligible Employee (x) any Employee that is a "highly compensated employee" of the Company or any Designated Subsidiary (within the meaning of Section 414(q) of the Code), or that is such a "highly compensated employee" (A) with compensation above a specified level, (B) who is an officer and/or (C) is subject to the disclosure requirements of Section 16(a) of the Exchange Act and/or (y) any Employee who is a citizen or resident of a foreign jurisdiction (without regard to whether they are also a citizen of the United States or a resident alien (within the meaning of Section 7701(b)(1)(A) of the Code)) if either (i) the grant of the Option is prohibited under the laws of the jurisdiction governing such Employee, or (ii) compliance with the laws of the foreign jurisdiction would cause the Plan or the Option to violate the requirements of Section 423 of the Code; provided that any exclusion pursuant to clauses (x), and/or (y) shall be applied in an identical manner under each Offering Period to all Employees of the Company and all Designated Subsidiaries, in accordance with Treasury Regulation Section 1.423-2(e).

2.12 "Employee" shall mean any person who renders services to the Company or a Designated Subsidiary in the status of an employee within the meaning of Section 3401(c) of the Code. "Employee" shall not include (i) any independent contractor, consultant, advisor or director of the Company or a Designated Subsidiary who does not render services to the Company or a Designated Subsidiary in the status of an employee within the meaning of Section 3401(c) of the Code or (ii) interim or temporary employee unless he or she has been employed with the Company or a Designated Subsidiary for two years or more. For purposes of the Plan,

the employment relationship shall be treated as continuing intact while the individual is on military leave, sick leave or other leave of absence approved by the Company or Designated Subsidiary and meeting the requirements of Treasury Regulation Section 1.421-1(h)(2). Where the period of leave exceeds three (3) months, or such other period specified in Treasury Regulation Section 1.421-1(h)(2), and the individual's right to reemployment is not guaranteed either by statute or by contract, the employment relationship shall be deemed to have terminated on the first day immediately following such three (3)-month period, or such other period specified in Treasury Regulation Section 1.421-1(h)(2).

2.13 "Enrollment Date" shall mean the first date of each Offering Period.

2.14 "Exercise Date" shall mean the last Trading Day of each Offering Period, except as provided in Section 5.2 hereof.

2.15 "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

2.16 "Fair Market Value" shall mean, as of any date, the value of Common Stock determined as follows:

(a) If the Common Stock is (i) listed on any established securities exchange (such as the New York Stock Exchange, the NASDAQ Global Market and the NASDAQ Global Select Market), (ii) listed on any national market system or (iii) listed, quoted or traded on any automated quotation system, its Fair Market Value shall be the closing sales price for a share of Common Stock as quoted on such exchange or system for such date or, if there is no closing sales price for a share of Common Stock on the date in question, the closing sales price for a share of Stock on the last preceding date for which such quotation exists, as reported by *The Wall Street Journal* or such other source as the Administrator deems reliable;

(b) If the Common Stock is not listed on an established securities exchange, national market system or automated quotation system, but the Common Stock is regularly quoted by a recognized securities dealer, its Fair Market Value shall be the mean of the high bid and low asked prices for such date or, if there are no high bid and low asked prices for a share of Common Stock on such date, the high bid and low asked prices for a share of Common Stock on the last preceding date for which such information exists, as reported by *The Wall Street Journal* or such other source as the Administrator deems reliable; or

(c) If the Common Stock is neither listed on an established securities exchange, national market system or automated quotation system nor regularly quoted by a recognized securities dealer, its Fair Market Value shall be established by the Administrator in good faith.

2.17 "Grant Date" shall mean the first Trading Day of an Offering Period.

2.18 "New Exercise Date" shall have such meaning as set forth in Section 5.2(b) hereof.

2.19 "Offering Period" shall mean such period of time commencing on such date(s) as determined by the Board or Committee, in its sole discretion, and with respect to which Options shall be granted to Participants. The duration and timing of Offering Periods may be established or changed by the Board or Committee at any time, in its sole discretion. Notwithstanding the foregoing, in no event may an Offering Period exceed twenty-seven (27) months.

2.20 "Option" shall mean the right to purchase shares of Common Stock pursuant to the Plan during each Offering Period.

2.21 "Option Price" shall mean the purchase price of a share of Common Stock hereunder as provided in Section 4.2 hereof.

2.22 "Parent" means any entity that is a parent corporation of the Company within the meaning of Section 424 of the Code and the Treasury Regulations thereunder.

2.23 "Participant" shall mean any Eligible Employee who elects to participate in the Plan.

2.24 "Payday" shall mean the regular and recurring established day for payment of Compensation to an Employee of the Company or any Designated Subsidiary.

2.25 "Plan" shall have such meaning as set forth in Section 1.1 hereof.

2.26 "Plan Account" shall mean a bookkeeping account established and maintained by the Company in the name of each Participant.

2.27 "Section 423 Option" shall have such meaning as set forth in Section 3.1(b) hereof.

2.28 "Subsidiary" shall mean any entity that is a subsidiary corporation of the Company within the meaning of Section 424 of the Code and the Treasury Regulations thereunder. In addition, with respect to any sub-plans adopted under Section 7.1(d) hereof which are designed to be outside the scope of Section 423 of the Code, Subsidiary shall include any corporate or noncorporate entity in which the Company has a direct or indirect equity interest or significant business relationship.

2.29 "Trading Day" shall mean a day on which the principal securities exchange on which the Common Stock is listed is open for trading or, if the Common Stock is not listed on a securities exchange, shall mean a business day, as determined by the Administrator in good faith.

2.30 "Withdrawal Election" shall have such meaning as set forth in Section 6.1(a) hereof.

ARTICLE III
PARTICIPATION

3.1 Eligibility.

(a) Any Eligible Employee who shall be employed by the Company or a Designated Subsidiary on a given Enrollment Date for an Offering Period shall be eligible to participate in the Plan during such Offering Period, subject to the requirements of Articles IV and V hereof, and the limitations imposed by Section 423(b) of the Code and the Treasury Regulations thereunder.

(b) No Eligible Employee shall be granted an Option under the Plan which permits the Participant's rights to purchase shares of Common Stock under the Plan, and to purchase stock under all other employee stock purchase plans of the Company, any Parent or any Subsidiary subject to Section 423 of the Code (any such Option or other option, a "Section 423 Option"), to accrue at a rate which exceeds $25,000 of fair market value of such stock (determined at the time the Section 423 Option is granted) for each calendar year in which any Section 423 Option granted to the Participant is outstanding at any time. For purposes of the limitation imposed by this subsection, (i) the right to purchase stock under a Section 423 Option accrues when the Section 423 Option (or any portion thereof) first becomes exercisable during the calendar year, (ii) the right to purchase stock under a Section 423 Option accrues at the rate provided in the Section 423 Option, but in no case may such rate exceed $25,000 of fair market value of such stock (determined at the time such option is granted) for any one calendar year, and (ii) a right to purchase stock which has accrued under a Section 423 Option may not be carried over to any other Section 423 Option; provided that Participants may carry forward amounts so accrued that represent a fractional share of stock and were withheld but not applied towards the purchase of Common Stock under an earlier Offering Period, and may apply such amounts towards the purchase of additional shares of Common Stock under a subsequent Offering Period.

The limitation under this Section 3.1(b) shall be applied in accordance with Section 423(b)(8) of the Code and the Treasury Regulations thereunder.

3.2 Election to Participate; Payroll Deductions

(a) Except as provided in Section 3.3 hereof, an Eligible Employee may become a Participant in the Plan only by means of payroll deduction. Each individual who is an Eligible Employee as of an Offering Period's Enrollment Date may elect to participate in such Offering Period and the Plan by delivering to the Company a payroll deduction authorization no later than such period of time prior to the applicable Enrollment Date as determined by the Administrator, in its sole discretion.

(b) Subject to Section 3.1(b) hereof, payroll deductions (i) shall be equal to at least one percent (1%) of the Participant's Compensation as of each Payday of the Offering Period following the Enrollment Date, but not more than the lesser of fifteen percent (15%) of the Participant's Compensation as of each Payday of the Offering Period following the Enrollment Date or $30,000 per Offering Period; and (ii) may be expressed as a whole number percentage. Amounts deducted from a Participant's Compensation with respect to an Offering Period pursuant to this Section 3.2 shall be deducted each Payday through payroll deduction and credited to the Participant's Plan Account.

(c) Following at least one (1) payroll deduction, a Participant may decrease (to as low as zero) the amount deducted from such Participant's Compensation only once during an Offering Period by completing and filing with the Company a new payroll deduction authorization form no later than such period of time prior to the end of the Offering Period then in effect, as determined by the Administrator in its sole discretion. A Participant may not increase the amount deducted from such Participant's Compensation during an Offering Period.

(d) Notwithstanding the foregoing, upon the termination of an Offering Period, each Participant in such Offering Period shall automatically participate in the immediately following Offering Period at the same payroll deduction percentage as in effect at the termination of the prior Offering Period, unless such Participant delivers to the Company a different election with respect to the successive Offering Period in accordance with Section 3.2(a) hereof, or unless such Participant becomes ineligible for participation in the Plan.

3.3 Leave of Absence. During leaves of absence approved by the Company meeting the requirements of Treasury Regulation Section 1.421-1(h)(2) under the Code, a Participant may continue participation in the Plan by making cash payments to the Company on his or her normal payday equal to his or her authorized payroll deduction.

ARTICLE IV
PURCHASE OF SHARES

4.1 Grant of Option. Each Participant shall be granted an Option with respect to an Offering Period on the applicable Grant Date. Subject to the limitations of Section 3.1(b) hereof, the number of shares of Common Stock subject to a Participant's Option shall be determined by dividing (a) such Participant's payroll deductions accumulated prior to the Exercise Date and retained in the Participant's Plan Account on such Exercise Date by (b) the applicable Option Price; *provided* that in no event shall a Participant be permitted to purchase during each Offering Period more than 3,000 shares of Common Stock (subject to any adjustment pursuant to Section 5.2 hereof). The Administrator may, for future Offering Periods, increase or decrease, in its absolute discretion, the maximum number of shares of Common Stock that a Participant may purchase during such future Offering Periods. Each Option shall expire on the Exercise Date for the applicable Offering Period immediately after the automatic exercise of the Option in accordance with Section 4.3 hereof, unless such Option terminates earlier in accordance with Article 6 hereof.

4.2 Option Price. The "Option Price" per share of Common Stock to be paid by a Participant upon exercise of the Participant's Option on the applicable Exercise Date for an Offering Period shall be equal to eighty five percent (85%) of the lesser of the Fair Market Value of a share of Common Stock on (a) the applicable Grant Date and (b) the applicable Exercise Date; *provided* that in no event shall the Option Price per share of Common Stock be less than the par value per share of the Common Stock.

4.3 Purchase of Shares.

(a) On the applicable Exercise Date for an Offering Period, each Participant

shall automatically and without any action on such Participant's part be deemed to have exercised his or her Option to purchase at the applicable Option Price the largest number of whole shares of Common Stock which can be purchased with the amount in the Participant's Plan Account. Any balance less than eighty five percent (85%) of the lesser of the Fair Market Value of a share of Common Stock on (i) the applicable Grant Date and (ii) the applicable Exercise Date remaining in the Participant's Plan Account (after exercise of such Participant's Option) as of such Exercise Date shall be carried forward to the next Offering Period, unless the Participant has elected to withdraw from the Plan pursuant to Section 6.1 hereof or, pursuant to Section 6.2 hereof, or such Participant has ceased to be an Eligible Employee. Any balance not carried forward to the next Offering Period in accordance with the prior sentence promptly shall be refunded to the applicable Participant.

(b) As soon as practicable following the applicable Exercise Date, the number of shares of Common Stock purchased by such Participant pursuant to Section 4.3(a) hereof shall be delivered (either in share certificate or book entry form), in the Company's sole discretion, to either (i) the Participant or (ii) an account established in the Participant's name at a stock brokerage or other financial services firm designated by the Company. If the Company is required to obtain from any commission or agency authority to issue any such shares of Common Stock, the Company shall seek to obtain such authority. Inability of the Company to obtain from any such commission or agency authority which counsel for the Company deems necessary for the lawful issuance of any such shares shall relieve the Company from liability to any Participant except to refund to the Participant such Participant's Plan Account balance, without interest thereon.

(c) Shares of Common Stock purchased by a Participant pursuant to Section 4.3(a) will be subject to restrictions on transfer in the form of a holding period commencing on the Exercise Date and continuing through twelve (12) months following the Exercise Date for the Offering Period during which the shares were purchased, during which period such shares of Common Stock may not be sold, assigned, pledged, exchanged, hypothecated or otherwise transferred; *provided*, that the Participant remains an Employee during such holding period. If the Participant ceases to be an Employee during the holding period, such holding period will cease to apply.

4.4 Transferability of Rights. An Option granted under the Plan shall not be transferable, other than by will or the applicable laws of descent and distribution, and is exercisable during the Participant's lifetime only by the Participant. No option or interest or right to the Option shall be available to pay off any debts, contracts or engagements of the Participant or his or her successors in interest or shall be subject to disposition by pledge, encumbrance, assignment or any other means whether such disposition be voluntary or involuntary or by operation of law by judgment, levy, attachment, garnishment or any other legal or equitable proceedings (including bankruptcy), and any attempt at disposition of the option shall have no effect.

ARTICLE V
PROVISIONS RELATING TO COMMON STOCK

5.1 Common Stock Reserved. Subject to adjustment as provided in Section 5.2 hereof, the maximum number of shares of Common Stock that shall be made available for sale under the Plan shall be the sum of (a) 285,621 shares of Common Stock and (b) an annual increase on the first day of each year beginning in 2016 and ending in 2025 equal to the lesser of (i) one percent (1%) of the shares of Common Stock outstanding on the last day of the immediately preceding fiscal year and (ii) such number of shares of Common Stock as determined by the Board; provided, however, no more than 3,500,000 shares of Common Stock may be issued under the Plan. Shares of Common Stock made available for sale under the Plan may be authorized but unissued shares, treasury shares of Common Stock, or reacquired shares reserved for issuance under the Plan.

5.2 Adjustments Upon Changes in Capitalization, Dissolution, Liquidation, Merger or Asset Sale.

(a) Changes in Capitalization. Subject to any required action by the stockholders of the Company, the number of shares of Common Stock which have been authorized for issuance under the Plan but not yet placed under Option, as well as the price per share and the number of shares of Common Stock covered by each Option under the Plan which has not yet been exercised shall be proportionately adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Stock, or any other increase or decrease in the number of shares of Common Stock effected without receipt of consideration by the Company; *provided*, *however*, that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration." Such adjustment shall be made by the Administrator, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Common Stock subject to an Option.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, the Offering Period then in progress shall be shortened by setting a new Exercise Date (the "New Exercise Date"), and shall terminate immediately prior to the consummation of such proposed dissolution or liquidation, unless provided otherwise by the Administrator. The New Exercise Date shall be before the date of the Company's proposed dissolution or liquidation. The Administrator shall notify each Participant in writing, at least ten (10) business days prior to the New Exercise Date, that the Exercise Date for the Participant's Option has been changed to the New Exercise Date and that the Participant's Option shall be exercised automatically on the New Exercise Date, unless prior to such date the Participant has withdrawn from the Offering Period as provided in Section 6.1 hereof.

(c) Merger or Asset Sale. In the event of a proposed sale of all or substantially all of the assets of the Company, or the merger of the Company with or into another corporation, each outstanding Option shall be assumed or an equivalent Option substituted by the successor corporation or a Parent or Subsidiary of the successor corporation. In the event that the successor corporation refuses to assume or substitute for the Option, any Offering Periods then in progress shall be shortened by setting a New Exercise Date and any Offering Periods then

in progress shall end on the New Exercise Date. The New Exercise Date shall be before the date of the Company's proposed sale or merger. The Administrator shall notify each Participant in writing, at least ten (10) business days prior to the New Exercise Date, that the Exercise Date for the Participant's Option has been changed to the New Exercise Date and that the Participant's Option shall be exercised automatically on the New Exercise Date, unless prior to such date the Participant has withdrawn from the Offering Period as provided in Section 6.1 hereof.

5.3 Insufficient Shares. If the Administrator determines that, on a given Exercise Date, the number of shares of Common Stock with respect to which Options are to be exercised may exceed the number of shares of Common Stock remaining available for sale under the Plan on such Exercise Date, the Administrator shall make a pro rata allocation of the shares of Common Stock available for issuance on such Exercise Date in as uniform a manner as shall be practicable and as it shall determine in its sole discretion to be equitable among all Participants exercising Options to purchase Common Stock on such Exercise Date, and unless additional shares are authorized for issuance under the Plan, no further Offering Periods shall take place and the Plan shall terminate pursuant to Section 7.4 hereof. If an Offering Period is so terminated, then the balance of the amount credited to the Participant's Plan Account which has not been applied to the purchase of shares of Common Stock shall be paid to such Participant in one lump sum in cash within thirty (30) days after such Exercise Date, without any interest thereon.

5.4 Rights as Stockholders. With respect to shares of Common Stock subject to an Option, a Participant shall not be deemed to be a stockholder of the Company and shall not have any of the rights or privileges of a stockholder. A Participant shall have the rights and privileges of a stockholder of the Company when, but not until, shares of Common Stock have been deposited in the designated brokerage account following exercise of his or her Option.

ARTICLE VI
TERMINATION OF PARTICIPATION

6.1 Cessation of Contributions; Voluntary Withdrawal.

(a) A Participant may cease payroll deductions during an Offering Period and elect to withdraw from the Plan by delivering written notice of such election to the Company in such form and at such time prior to the Exercise Date for such Offering Period as may be established by the Administrator (a "Withdrawal Election"). A Participant electing to withdraw from the Plan may elect to either (i) withdraw all of the funds then credited to the Participant's Plan Account as of the date on which the Withdrawal Election is received by the Company, in which case amounts credited to such Plan Account shall be returned to the Participant in one (1) lump-sum payment in cash within thirty (30) days after such election is received by the Company, without any interest thereon, and the Participant shall cease to participate in the Plan and the Participant's Option for such Offering Period shall terminate; or (ii) exercise the Option for the maximum number of whole shares of Common Stock on the applicable Exercise Date with any remaining Plan Account balance returned to the Participant in one (1) lump-sum payment in cash within thirty (30) days after such Exercise Date, without any interest thereon, and after such exercise cease to participate in the Plan. Upon receipt of a Withdrawal Election,

the Participant's payroll deduction authorization and his or her Option to purchase under the Plan shall terminate.

(b) A participant's withdrawal from the Plan shall not have any effect upon his or her eligibility to participate in any similar plan which may hereafter be adopted by the Company or in succeeding Offering Periods which commence after the termination of the Offering Period from which the Participant withdraws.

(c) A Participant who ceases contributions to the Plan during any Offering Period shall not be permitted to resume contributions to the Plan during that Offering Period.

6.2 Termination of Eligibility. Upon a Participant's ceasing to be an Eligible Employee, for any reason, such Participant's Option for the applicable Offering Period shall automatically terminate, he or she shall be deemed to have elected to withdraw from the Plan, and such Participant's Plan Account shall be paid to such Participant or, in the case of his or her death, to the person or persons entitled thereto pursuant to applicable law, within thirty (30) days after such cessation of being an Eligible Employee, without any interest thereon.

ARTICLE VII
GENERAL PROVISIONS

7.1 Administration.

(a) The Plan shall be administered by the Committee, which shall be composed of members of the Board. The Committee may delegate administrative tasks under the Plan to the services of an Agent and/or Employees to assist in the administration of the Plan, including establishing and maintaining an individual securities account under the Plan for each Participant.

(b) It shall be the duty of the Administrator to conduct the general administration of the Plan in accordance with the provisions of the Plan. The Administrator shall have the power, subject to, and within the limitations of, the express provisions of the Plan:

(i) To establish Offering Periods;

(ii) To determine when and how Options shall be granted and the provisions and terms of each Offering Period (which need not be identical);

(iii) To select Designated Subsidiaries in accordance with Section 7.2 hereof; and

(iv) To construe and interpret the Plan, the terms of any Offering Period and the terms of the Options and to adopt such rules for the administration, interpretation, and application of the Plan as are consistent therewith and to interpret, amend or revoke any such rules. The Administrator, in the exercise of this power, may correct any defect, omission or inconsistency in the Plan, any Offering Period or any Option, in a manner and to the extent it shall deem necessary or expedient to make the Plan fully effect, subject to Section 423 of the

Code and the Treasury Regulations thereunder.

(c) The Administrator may adopt rules or procedures relating to the operation and administration of the Plan to accommodate the specific requirements of local laws and procedures. Without limiting the generality of the foregoing, the Administrator is specifically authorized to adopt rules and procedures regarding handling of participation elections, payroll deductions, payment of interest, conversion of local currency, payroll tax, withholding procedures and handling of stock certificates which vary with local requirements. In its absolute discretion, the Board may at any time and from time to time exercise any and all rights and duties of the Administrator under the Plan.

(d) The Administrator may adopt sub-plans applicable to particular Designated Subsidiaries or locations, which sub-plans may be designed to be outside the scope of Section 423 of the Code. The rules of such sub-plans may take precedence over other provisions of this Plan, with the exception of Section 5.1 hereof, but unless otherwise superseded by the terms of such sub-plan, the provisions of this Plan shall govern the operation of such sub- plan.

(e) All expenses and liabilities incurred by the Administrator in connection with the administration of the Plan shall be borne by the Company. The Administrator may, with the approval of the Committee, employ attorneys, consultants, accountants, appraisers, brokers or other persons. The Administrator, the Company and its officers and directors shall be entitled to rely upon the advice, opinions or valuations of any such persons. All actions taken and all interpretations and determinations made by the Administrator in good faith shall be final and binding upon all Participants, the Company and all other interested persons. No member of the Board or Administrator shall be personally liable for any action, determination or interpretation made in good faith with respect to the Plan or the options, and all members of the Board or Administrator shall be fully protected by the Company in respect to any such action, determination, or interpretation.

7.2 Designation of Subsidiary Corporations. The Board or Committee shall designate from among the Subsidiaries, as determined from time to time, the Subsidiary or Subsidiaries that shall constitute Designated Subsidiaries. The Board or Committee may designate a Subsidiary, or terminate the designation of a Subsidiary, without the approval of the stockholders of the Company.

7.3 No Right to Employment. Nothing in the Plan shall be construed to give any person (including any Participant) the right to remain in the employ of the Company, a Parent or a Subsidiary or to affect the right of the Company, any Parent or any Subsidiary to terminate the employment of any person (including any Participant) at any time, with or without cause, which right is expressly reserved.

7.4 Amendment and Termination of the Plan.

(a) The Board may, in its sole discretion, amend, suspend or terminate the Plan at any time and from time to time; *provided*, *however*, that without approval of the

Company's stockholders given within twelve (12) months before or after action by the Board, the Plan may not be amended to increase the maximum number of shares of Common Stock subject to the Plan or change the designation or class of Eligible Employees; and *provided, further* that without approval of the Company's stockholders, the Plan may not be amended in any manner that would cause the Plan to no longer be an "employee stock purchase plan" within the meaning of Section 423(b) of the Code.

(b) In the event the Administrator determines that the ongoing operation of the Plan may result in unfavorable financial accounting consequences, the Administrator may, to the extent permitted under Section 423 of the Code, in its discretion and, to the extent necessary or desirable, modify or amend the Plan to reduce or eliminate such accounting consequence including, but not limited to:

(i) altering the Option Price for any Offering Period including an Offering Period underway at the time of the change in Option Price;

(ii) shortening any Offering Period so that the Offering Period ends on a new Exercise Date, including an Offering Period underway at the time of the Administrator action; and

(iii) allocating shares of Common Stock.

Such modifications or amendments shall not require stockholder approval or the consent of any Participant.

(c) Upon termination of the Plan, the balance in each Participant's Plan Account shall be refunded as soon as practicable after such termination, without any interest thereon.

7.5 Use of Funds; No Interest Paid. All funds received by the Company by reason of purchase of Common Stock under the Plan shall be included in the general funds of the Company free of any trust or other restriction and may be used for any corporate purpose. No interest shall be paid to any Participant or credited under the Plan.

7.6 Approval by Stockholders. The Plan shall be submitted for the approval of the Company's stockholders within twelve (12) months after the date of the Board's initial adoption of the Plan. Options may be granted prior to such stockholder approval; *provided, however*, that such Options shall not be exercisable prior to the time when the Plan is approved by the stockholders; *provided, further* that if such approval has not been obtained by the end of said twelve (12)-month period, all Options previously granted under the Plan shall thereupon terminate and be canceled and become null and void without being exercised.

7.7 Effect Upon Other Plans. The adoption of the Plan shall not affect any other compensation or incentive plans in effect for the Company, any Parent or any Subsidiary. Nothing in the Plan shall be construed to limit the right of the Company, any Parent or any Subsidiary (a) to establish any other forms of incentives or compensation for Employees of the Company or any Parent or any Subsidiary, or (b) to grant or assume Options otherwise than

under the Plan in connection with any proper corporate purpose, including, but not by way of limitation, the grant or assumption of options in connection with the acquisition, by purchase, lease, merger, consolidation or otherwise, of the business, stock or assets of any corporation, firm or association.

7.8 Conformity to Securities Laws. Notwithstanding any other provision of the Plan, the Plan and the participation in the Plan by any individual who is then subject to Section 16 of the Exchange Act shall be subject to any additional limitations set forth in any applicable exemption rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3 of the Exchange Act) that are requirements for the application of such exemptive rule. To the extent permitted by applicable law, the Plan shall be deemed amended to the extent necessary to conform to such applicable exemptive rule.

7.9 Notice of Disposition of Shares. Each Participant shall give the Company prompt notice of any disposition or other transfer of any shares of Common Stock, acquired pursuant to the exercise of an Option, if such disposition or transfer is made (a) within two (2) years after the applicable Grant Date or (b) within one (1) year after the transfer of such shares of Common Stock to such Participant upon exercise of such Option. The Company may direct that any certificates evidencing shares acquired pursuant to the Plan refer to such requirement.

7.10 Tax Withholding. The Company or any Parent or any Subsidiary shall be entitled to require payment in cash or deduction from other compensation payable to each Participant of any sums required by federal, state or local tax law to be withheld with respect to any purchase of shares of Common Stock under the Plan or any sale of such shares.

7.11 Governing Law. The Plan and all rights and obligations thereunder shall be construed and enforced in accordance with the laws of the State of Delaware.

7.12 Notices. All notices or other communications by a participant to the Company under or in connection with the Plan shall be deemed to have been duly given when received in the form specified by the Company at the location, or by the person, designated by the Company for the receipt thereof.

7.13 Conditions to Issuance of Shares.

(a) Notwithstanding anything herein to the contrary, the Company shall not be required to issue or deliver any certificates or make any book entries evidencing shares of Common Stock pursuant to the exercise of an Option by a Participant, unless and until the Board or the Committee has determined, with advice of counsel, that the issuance of such shares of Common Stock is in compliance with all applicable laws, regulations of governmental authorities and, if applicable, the requirements of any securities exchange or automated quotation system on which the shares of Common Stock are listed or traded, and the shares of Common Stock are covered by an effective registration statement or applicable exemption from registration. In addition to the terms and conditions provided herein, the Board or the Committee may require that a Participant make such reasonable covenants, agreements, and representations as the Board or the Committee, in its discretion, deems advisable in order to comply with any such laws, regulations, or requirements.

(b) All certificates for shares of Common Stock delivered pursuant to the Plan and all shares of Common Stock issued pursuant to book entry procedures are subject to any stop-transfer orders and other restrictions as the Committee deems necessary or advisable to comply with federal, state, or foreign securities or other laws, rules and regulations and the rules of any securities exchange or automated quotation system on which the shares of Common Stock are listed, quoted, or traded. The Committee may place legends on any certificate or book entry evidencing shares of Common Stock to reference restrictions applicable to the shares of Common Stock.

(c) The Committee shall have the right to require any Participant to comply with any timing or other restrictions with respect to the settlement, distribution or exercise of any Option, including a window-period limitation, as may be imposed in the sole discretion of the Committee.

(d) Notwithstanding any other provision of the Plan, unless otherwise determined by the Committee or required by any applicable law, rule or regulation, the Company may, in lieu of delivering to any Participant certificates evidencing shares of Common Stock issued in connection with any Option, record the issuance of shares of Common Stock in the books of the Company (or, as applicable, its transfer agent or stock plan administrator).

7.14 Equal Rights and Privileges. Except with respect to sub-plans designed to be outside the scope of Section 423 of the Code, all Eligible Employees of the Company (or of any Designated Subsidiary) shall have equal rights and privileges under this Plan to the extent required under Section 423 of the Code or the regulations promulgated thereunder so that this Plan qualifies as an "employee stock purchase plan" within the meaning of Section 423 of the Code or the Treasury Regulations thereunder. Any provision of this Plan that is inconsistent with Section 423 of the Code or the Treasury Regulations thereunder shall, without further act or amendment by the Company or the Board, be reformed to comply with the equal rights and privileges requirement of Section 423 of the Code or the Treasury Regulations thereunder.

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Exhibit 10.42

CONFIDENTIAL SEPARATION AGREEMENT AND GENERAL RELEASE

This Confidential Separation Agreement and General Release ("Agreement"), dated as of January 7, 2020, is entered into between ViewRay, Inc., a Delaware Corporation., together with its existing and future subsidiaries and controlled affiliates ("ViewRay"), and James "Jim" Alecxih ("Employee") (collectively, the "Parties").

The Parties agree as follows:

1. **Separation of Employment**. Employee hereby acknowledges that Employee's employment with ViewRay is terminated effective January 17, 2020 (the "Separation Date"). Regardless of whether Employee enters into this Agreement, ViewRay will pay Employee all accrued wages, earned and current-year accrued but unused paid time off, through and including the Separation Date, less applicable withholdings, in accordance with ViewRay's regular payroll practices or earlier when required by applicable state law.

2. **Severance Amount**. Pursuant to the terms of this Agreement, Employee is being provided with certain severance payments. In consideration of the promises by Employee stated in this Agreement, which include but are not limited to the Employee agreeing to a release of claims and promise of confidentiality, if Employee signs and does not timely revoke this Agreement, if applicable, then ViewRay shall pay to Employee an amount equal to five hundred sixty four thousand four hundred fifty two dollars and 00/100s ($564,452), the "Severance Amount". The Severance Amount is subject to Employee's execution and non-revocation of this Agreement.

   a. Right to Receive Severance Amount Conditioned on Continued Compliance. Employee understands and acknowledges that the receipt of the Severance Amount is conditioned upon Employee's continued compliance with the terms and conditions of this Agreement including, but not limited to, the provisions of paragraphs 8, 9, and 10 below. In the event Employee fails to comply with any of the terms and conditions herein, Employee's right to receive the Severance Amount will immediately cease and ViewRay shall be entitled to the immediate return of any payments made to the Employee under this Agreement.

   b. COBRA. To the extent the Employee timely and properly elects health insurance continuation coverage under ViewRay's group health insurance plan under the Consolidated Omnibus Budget Reconciliation Act ("COBRA"), ViewRay shall pay for the cost of the monthly COBRA premium for continuing health insurance coverage as elected by Employee (the "COBRA Payment") until the earliest of: (i) 12 months; (ii) the date Employee is no longer eligible to receive COBRA continuation coverage under ViewRay's group health insurance plan; and (iii) the date on which Employee secures group health insurance through other employment. If ViewRay's making the COBRA Payment under this paragraph 2.c would violate the nondiscrimination rules applicable to nongrandfathered plans under the Affordable Care Act (the "ACA"), or result in the imposition of penalties under the ACA and the related regulations and guidance promulgated thereunder, the Parties agree to reform this paragraph 2.c in a manner as is necessary to comply with the ACA.

   Except as expressly provided in this Agreement, or an accrued benefit to which Employee is already entitled, Employee will not receive any additional compensation, bonus, severance, commissions,

or other benefits after the Separation Date. Notwithstanding the foregoing, ViewRay will not oppose any application for unemployment insurance, although ViewRay will respond truthfully to any inquiries relating to such application. Further, nothing in this Agreement shall impact Employee's rights to any vested retirement benefits. Employee acknowledges that payment of any amounts to, or on behalf of, Employee under this Agreement does not, in any way, extend the period of employment or continuous service beyond the last day of employment or confer any other rights or benefits other than what may be set forth expressly herein.

3. **Release**. In exchange for the Severance Amount, Employee and Employee's representatives, heirs, successors and assigns do hereby completely release and forever discharge ViewRay and any present or past affiliates of ViewRay, and its and their present and former shareholders, officers, directors, members, agents, employees, attorneys, insurers, successors, and assigns (collectively, "Released Parties") from all claims, rights, demands, actions, obligations, liabilities, and causes of action of every kind and character, known or unknown, mature or unmatured, which Employee may now have or has ever had. This release of claims includes, but is not limited to, all claims arising out of Employee's employment at ViewRay and the termination of that employment, or the failure/refusal of any Released Party hiring Employee, whether based on tort, contract (expressed or implied), or any federal, state, or local law, statute, or regulation (collectively, "Released Claims"). By way of example and not in limitation of the foregoing, Released Claims shall include any claims arising under Title VII of the Civil Rights Act of 1964; the Family and Medical Leave Act; the Post Civil War Civil Rights Acts (42 USC $$ 1981-1988); the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967 (the "ADEA") (this release is meant to comply with the Older Workers Benefit Protection Act ("OWBPA"), 29 U.S.C. § 621 et seq., which statute was enacted to, among other things, ensure that individuals forty (40) years of age or older who waive their rights under the A.DEA do so knowingly and voluntarily); the Equal Pay Act; the Occupational Safety and Health Act; the Americans with Disabilities Act; the Americans with Disabilities Act Amendments Act of 2008; the Uniform Services Employment and Reemployment Rights Act; the Davis-Bacon Act; the Walsh-Healey Act; the Employee Retirement Income Security Act (other than claims with regard to vested benefits); the Contract Work Hours and Safety Standards Act; Executive Order 11246; the Worker Adjustment and Retraining Notification Act; 42 U.S.C. section 1 981 ; and any state or local statute, rule or regulation governing the employment relationship. This release further includes, any claims asserting breach of contract, breach of the covenant of good faith and fair dealing, negligent or intentional infliction of emotional distress, negligent or intentional misrepresentation, negligent or intentional interference with contract or prospective economic advantage, fraud or other tort claims, defamation, invasion of privacy, claims related to disability, any and all claims for wages, commissions, compensation, reimbursement, disbursements, bonuses, benefits, vacation, penalties and any other claims arising under or related to laws or regulations relating to employment. Employee likewise releases the Released Parties for any and all obligations for attorneys' fees, paralegals' fees, and costs incurred in regard to the above claims, or otherwise. Employee further agrees that if any such claim is prosecuted in Employee's name before any court or administrative agency, Employee waives and agrees not to take any award of money or other damages from such suit. Notwithstanding the foregoing, Released Claims shall not include any workers' compensation benefits or other claims which cannot be waived as a matter of law. This releases all waivable claims, including those of which Employee is not aware and those not specifically mentioned in this Agreement. This release applies to all claims resulting from anything that has happened up through the date Employee signs this Agreement. Employee

understands that this Agreement does not waive rights or claims that may arise after the date that this Agreement is executed.

4. **Waiver of Age Discrimination Claims**. Employee understands and agrees that, by entering into this Agreement, (i) Employee is waiving any rights or claims Employee might have under the A.DEA; (ii) Employee has received consideration beyond that to which Employee was previously entitled; (iii) Employee has been and hereby is advised in writing to consult with an attorney before signing this Agreement; (iv) Employee has not relied on any statement or promises by anyone other than those contained in the written terms of this Agreement, and that Employee has entered into this Agreement knowingly without reliance upon any other representation, promise, or inducement that is not set forth herein; (v) Employee has been offered the opportunity to evaluate the terms of this Agreement for not less than twenty-one (21) days prior to Employee's execution of the Agreement, although Employee may choose to execute this Agreement sooner; and (vi) Employee has a period of seven (7) days following Employee's execution of this Agreement in which Employee may revoke this Agreement (the "Revocation Period"). The Parties agree that any material or non-material changes made to this Agreement after Employee receives this Agreement do not restart the running of the 21-day period in which Employee may review this Agreement prior to signing this Agreement. Employee may revoke this Agreement by notifying ViewRay in writing of Employee's decision to revoke to Robert Fuchs CHRO via email at Rfuchs@viewray.com prior to the expiration of the Revocation Period, with the original of the revocation sent via U.S. Mail to 1595 Wynkoop Street, Suite 900, Denver, CO 80202. This Agreement shall become enforceable on the eighth day after the employee signs and delivers this Agreement to ViewRay, provided Employee does not revoke or otherwise breach Employee's obligations hereunder prior to such time (the "Effective Date").

5. **Employee Representations**. Employee represents and warrants that Employee (i) has been paid all compensation owed (including, but not limited to, overtime and bonus compensation) and for all hours worked; (ii) has received all the leave and leave benefits and protections for which Employee was eligible, pursuant to the Family and Medical Leave Act or otherwise, and (iii) has not suffered any on-the-job injury for which Employee has not already filed a claim.

6. **General Releases Extend to Both Known and Unknown, Suspected and Unsuspected Claims (Applicable to California Employees Only)**. Employee acknowledges that he or she has read and fully understands the provisions of Section 1542 of the California Civil Code, which provides:

> **A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

Employee intends the releases set forth in this Agreement to include all claims encompassed by paragraph 4, whether known and/or unknown, to waive and relinquish every right or benefit he or she has, had, or may have under California Civil Code section 1542, and intend his or her release to extend to, and include without limitation all claims which are presently unknown, unanticipated and/or unsuspected.

Employee further acknowledges and agrees that California Labor Code section 206.5 is not applicable to the resolution of this matter. That section provides in pertinent part as follows:

No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wage has been made.

In connection with the foregoing, Employee acknowledges, agrees, represents and warrants that, at all times relevant to Employee's employment with ViewRay, Employee has been fully and properly paid for all time worked, or there is otherwise a genuine, reasonable, and good faith dispute between the parties with respect to same, and that, by this Agreement, Employee is releasing any claim to entitlement for any recovery of any nature whatsoever arising out of any such claim.

7. **Taxes and Indemnification**. Employee agrees to pay any and all taxes (other than payroll taxes) found to be owed from the Severance Package or other payments made pursuant to this Agreement and to indemnify and hold ViewRay harmless for any federal, state and local tax liability, including taxes, interest, penalties or the like, and required withholdings, which may be or is asserted against or imposed upon the Released Parties by any taxing authority based upon any amounts paid to Employee as a result of Employee's non-payment of taxes of such amounts for which Employee is legally responsible. Employee understands and agrees that any necessary tax documentation may be filed by ViewRay with regard to any payments made pursuant to this Agreement. Employee and ViewRay acknowledge that nothing herein shall constitute tax advice to the other Party.

8. **Confidentiality**.

a. Protection of Confidential and Proprietary Information. The Employee agrees not to disclose, sell or transfer to any person, firm, corporation, association or other entity, at any time in the future, any confidential and/or proprietary information concerning ViewRay or its affiliates, including, but not limited to any and all information regarding: (i) business plans and strategies; (ii) business contacts; (iii) research and development; (iv) computer programs, software, applications, directories, databases, passwords and access codes; (v) confidential personnel matters unrelated to wages, hours, or other terms and conditions of employment; (vi) operation methods and information, and accounting, financial and planning techniques; (vii) operating, administrative and training materials; (viii) marketing and sales strategies, materials and information; and (ix) any other trade secret or non-public financial, licensing, or marketing information relating to ViewRay or its affiliates (collectively, "confidential and/or proprietary information"). The Employee also agrees not to use, at any time in the future, any confidential and/or proprietary information of ViewRay or its affiliates for her own purposes and/or benefit, whether for personal or business reasons. Further, whether or not the Employee signs this Agreement, and notwithstanding the Employee's separation from employment, the Employee agrees to abide by all of ViewRay's policies, rules and procedures that relate to the protection of confidential and/or proprietary information. The Employee agrees that ViewRay's confidential and/or proprietary information is: (a) is valuable, special and a unique asset of ViewRay; (b) provides ViewRay with a substantial competitive advantage; and (c) is a legitimate business interest justifying the need for the restrictions in this paragraph.

b. Federal Defend Trade Secrets Act Notice. The Employee shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that: (i) is made in confidence to a federal, state, or local government official, either directly or indirectly,

or to an attorney, and made solely for the purpose of reporting or investigating a suspected violation of law; or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Should the Employee file a lawsuit against the Company for retaliation for reporting a suspected violation of law, the Employee may disclose the trade secret to the Employee's attorney and use the trade secret information in the court proceeding, if the Employee: (a) files any document containing the trade secret under seal; and (b) does not disclose the trade secret, except pursuant to court order.

c. Return of Confidential and/or Proprietary Information. On or immediately following the Separation Date, the Employee shall return to ViewRay all documents reflecting confidential and/or proprietary information belonging to ViewRay which are in the Employee's possession or under the Employee's control and shall not retain any copies or other reproductions, or extracts thereof, whether paper or electronic, thereafter.

d. Confidentiality of Agreement. The Employee agrees not to disclose at any time in the future any of the terms of this Agreement, except that the Employee may disclose the terms of this Agreement: (i) as may be required by law; (ii) to any taxing authority, such as the IRS; (iii) to a court of competent jurisdiction for purposes of enforcement of, or for demonstrating a breach of this Agreement; and, (iv) to the Employee's spouse, attorney and/or tax and financial advisors, provided that the individual first agrees to keep this information confidential. The Employee acknowledges and agrees that any other disclosure regarding the terms of this Agreement would constitute a material breach of the Agreement.

e. Response to Subpoenas. If the Employee is compelled by legal subpoena or court order to provide information covered by this paragraph 8, prior to such disclosure, the Employee will immediately provide a copy of such judicial order or subpoena, by hand delivery and/or E-mail, to ViewRay, Robert McCormack, General Counsel, Email: rmccormack@viewray.com. The Employee agrees to provide ViewRay with a reasonable opportunity to intervene to assert what rights it may have to non-disclosure, prior to any response to the order or subpoena. However, nothing in this paragraph is intended to, nor should be construed to limit the Employee's rights as outlined in paragraph 11 below.

9. **Non-Disparagement**. The Employee agrees and warrants that at no time in the future will the Employee make any statements (orally or in writing, including, without limitation, whether in fiction or nonfiction) or take any actions which in any way disparage or defame ViewRay or any of the Released Parties, or in any way, directly or indirectly, cause or encourage the making of such statements, or the taking of such actions by anyone else, including but not limited to other current or former employees of ViewRay (except as outlined in paragraph 11 below).

10. **No Cooperation**. The Employee also agrees that the Employee will not act in any manner that might damage ViewRay's business. This obligation includes an agreement not to counsel or assist any attorneys or their clients in the presentation or prosecution of any disputes, differences, grievances, claims, charges or complaints by any third party against ViewRay and/or any officer, director, employee, agent, representative, stockholder or attorney, unless under a subpoena or other court order to do so (except as outlined in paragraph 11 below).

11. **Non-Interference**. Notwithstanding paragraphs 8, 9, and 10 above, nothing in this Agreement shall be construed to prohibit the Employee from: (i) filing a charge or participating in any investigation or proceeding conducted by the Equal Employment Opportunity Commission or other federal, state or local government agency charged with enforcement of any law; (ii) reporting possible violations of any law, rule or regulation to any governmental agency or entity charged with enforcement of any law, rule or regulation; or (iii) making other disclosures that are protected under whistleblower provisions of any law, rule or regulation. Notwithstanding the foregoing, by signing this Agreement, the Employee acknowledges and agrees that the Employee waives not only the Employee's right to recover money or any other relief in any action the Employee might commence against ViewRay or any of the Released Parties with respect to the claims released in paragraph 3 above, but also the Employee's right to recovery in any such action brought against ViewRay or any of the Released Parties by any government agency or other party, whether brought on the Employee's behalf or otherwise.

12. **No Claims Filed**. Employee affirms that Employee has not filed, has not caused to be filed, and is not presently party to, any claims, causes of action, lawsuits or arbitrations against any of the Released Parties in any forum. Employee's representation to same constitutes a material inducement for ViewRay entering into this Agreement. In the event that Employee has filed such a claim or cause of action, it will be considered a material breach of the terms of this Agreement.

13. **Acknowledgment**. The Employee acknowledges that the Employee has been advised in writing to consult with an attorney before signing this Agreement and that the Employee has been afforded the opportunity to consider the terms of this Agreement and incorporated waiver of claims for a period of twenty-one (21) days prior to its execution. The Employee acknowledges that no representation, promise or inducement has been made other than as set forth in this Agreement, and that the Employee enters into this Agreement without reliance upon any representation, promise or inducement not set forth herein. The Employee acknowledges and represents that the Employee assumes the risk for any mistake of fact now known or unknown, and that the Employee understands and acknowledges the significance and consequences of this Agreement. The Employee further acknowledges that the Employee has read this Agreement in its entirety; that the Employee fully understands all of the terms of the Agreement and their significance; and that the Employee has signed the Agreement voluntarily and of the Employee’s own free will. The Employee further affirms that, upon receipt of his final paycheck on March 30, 2020 the Employee will have been paid and/or have received all leave (paid or unpaid), base salary, bonuses, and all other compensation and benefits to which the Employee may have been entitled from ViewRay through the Separation Date. The Employee further and specifically affirms that the Employee has been provided and/or has not been denied any leave requested under the Family and Medical Leave Act and has not suffered any workplace injuries.

14. **Fiduciary Obligations/Cooperation**: This Agreement in no way relieves the Employee of any fiduciary obligations the Employee may owe to ViewRay. The Employee agrees to cooperate with ViewRay in any investigations, defenses to claims, prosecution of claims, depositions, court appearances and all other inquiries of the Employee which relate to services that the Employee performed for ViewRay.

15. **Breach**. The Employee acknowledges that if the Employee materially breaches or threatens to materially breach any provision of this Agreement and/or commences a suit or action in

contravention of this Agreement (except as outlined in paragraph 11 above), ViewRay's obligations to pay the Severance Amount shall immediately cease and ViewRay shall be entitled to all other remedies allowed in law or equity, including but not limited to the return of any payments made to the Employee under this Agreement. Further, nothing in this Agreement shall prevent ViewRay from pursuing an injunction to enforce the provisions of paragraphs 8, 9, and 10 above. However, nothing in this paragraph regarding the return of monies is intended to, nor shall be construed to abrogate any contrary rights under the ADEA.

16. **Non-Admission**. The Parties understand that the Severance Package and other matters agreed to herein are not to be construed as an admission of or evidence of liability for any violation of the law, willful or otherwise, by any entity or any person.

17. **Severability**. If any provisions in this Agreement, other than the waiver and release provisions in paragraph 3, are held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

18. **Complete Agreement**. Any agreement to amend or modify the terms and conditions of this Agreement must be in writing and executed by the Parties. The Parties agree that this Agreement sets forth all of the promises and agreements between them concerning the subject matter and that this Agreement supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied, oral or written, regarding the subject matter, except that certain Employee Confidentiality, Inventions and Non-Interference Agreement dated May 16, 2018.

19. **Sufficiency of Consideration**. Employee agrees that Severance Package is made in exchange for, and constitutes good and valuable consideration for Employee's execution of this Agreement.

20. **Section 409A**. This Agreement is intended to comply with Section 409A of the Internal Revenue Code of 1986, as amended ("Section 409A"), including the exceptions thereto, and shall be construed and administered in accordance with such intent. Notwithstanding any other provision of this Agreement, payments provided under this Agreement may only be made upon an event and in a manner that complies with Section 409A or an applicable exemption. Any payments under this Agreement that may be excluded from Section 409A either as separation pay due to an involuntary separation from service, as a short-term deferral, or as a settlement payment pursuant to a bona fide legal dispute shall be excluded from Section 409A to the maximum extent possible. For purposes of Section 409A, any installment payments provided under this Agreement shall each be treated as a separate payment. To the extent required under Section 409A, any payments to be made under this Agreement in connection with a termination of employment shall only be made if such termination constitutes a "separation from service" under Section 409A. Notwithstanding the foregoing, ViewRay makes no representations that the payments and benefits provided under this Agreement comply with Section 409A and in no event shall ViewRay be liable for all or any portion of any taxes, penalties, interest, or other expenses that may be incurred by Employee on account of non-compliance with Section 409A.

21. **Excess Parachute Payments**. In the event that: (i) any amount or benefit paid or distributed to you pursuant to this Agreement, taken together with any amounts or benefits otherwise paid or

distributed to you (collectively, the "Covered Payments"), are or become subject to the excise tax imposed under Section 4999 of the Internal Revenue Code of 1986, as amended, or any similar tax that may hereafter be imposed (the "Excise Tax"), and (ii) it would be economically advantageous to you to reduce such Covered Payments to avoid imposition of the Excise Tax, the Covered Payments shall be reduced to an amount which maximizes the aggregate present value (as determined in accordance with Section 280G(d)(4) of the Code or any successor provision of the Code) of the Covered Payments without causing the Covered Payments to be subject to the Excise Tax. The reduction described herein shall only be made if the net after-tax amount to be received by you after giving effect to the reduction will be greater than the net after-tax amount that would be received by you without the reduction. You shall in your sole discretion determine which and how much of the Covered Payments shall be eliminated or reduced consistent with the requirements of this paragraph.

22. **Transfer of Claims**. Employee represents and warrants that Employee has not assigned, transferred, or purported to assign or transfer, to any person, firm, corporation, association or entity whatsoever, any claims released herein. Employee agrees to indemnify and hold the Released Parties harmless against, without any limitation, any and all rights, claims, warranties, demands, debts, obligations, liabilities, costs, court costs, expenses (including attorneys' fees, paralegals' fees and costs, at all levels), causes of action or judgments based on or arising out of any such assignment or transfer. Employee further warrants that there is nothing that would prohibit Employee from entering into this Agreement.

23. **Binding Effect**. This Agreement shall be binding upon and shall inure to the benefit of the Parties' representatives, agents, successors, assigns, heirs, attorneys, affiliates, and predecessors.

24. **Enforcement**. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to its choice of law principles. If either party breaches this Agreement or any dispute arises out of or relating to this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees, paralegals' fees and costs, at all levels. THE PARTIES SPECIFICALLY WAIVE THEIR RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY SUCH ACTION. However, nothing in this paragraph is intended to, nor shall be construed to abrogate any contrary rights under the ADEA.

25. **Interpretation**. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any Party. By way of example and not in limitation, this Agreement shall not be construed in favor of the Party receiving a benefit nor against the Party responsible for any particular language in this Agreement.

26. **Integration**. Employee hereby acknowledges that this Agreement, constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and supersede all prior or contemporaneous agreements and understandings among Employee, ViewRay and any other Released Party, whether written or oral, express or implied, with respect to the employment, termination and benefits of Employee.

27. **Construction**. The Parties expressly acknowledge that they have had equal opportunity to negotiate the terms of this Agreement and that this Agreement shall not be construed against the drafter.

28. **Headings**. The headings contained in the Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

29. **Electronic Transmissions and Counterparts**. This Agreement may be executed in several counterparts and by electronic transmissions (e-mail, facsimile and/or scanner) and all so executed shall constitute one Agreement, binding on all the Parties hereto, notwithstanding that the Parties are not signatories to the original or same counterpart.

30. **Representation by Counsel**. The Parties acknowledge that (i) they have had the opportunity to consult counsel in regard to this Agreement, (ii) they have read and understand the Agreement and they are fully aware of its legal effect; and (iii) they are entering into this Agreement freely and voluntarily, and based on each Party's own judgment and not on any representations or promises made by the other Party, other than those contained in this Agreement.

31. **Acceptance**. To accept this Agreement, Employee must sign and date below and return an original copy to ViewRay within 21 days at the following address 1595 Wynkoop Street, Suite 900, Denver, CO 80202.

32. **Right of Revocation/Effective Date**: The Employee has the right to revoke this Agreement within seven (7) days after the Employee's execution of this Agreement by giving notice in writing of such revocation to ViewRay, Attention: Rob Fuchs Email: rfuchs@viewray.com As such, the Agreement shall not become effective until the Effective Date. In the event that the Employee revokes this Agreement prior to the Effective Date, this Agreement, and the promises contained therein, shall automatically be deemed null and void.

The Employee represents and warrants that the Employee has read this Agreement in its entirety, has been offered a period of twenty-one (21) days to review this Agreement and incorporated release prior to its execution, and has been advised in writing herein to consult with counsel. The Employee further represents and warrants that the Employee is of sound mind and fully understands and voluntarily assents to all of the terms of the Agreement.

ViewRay, Inc.	**Employee**
Signature:	Signature:
Name:	Name:
Title:	Address:

Exhibit 10.51

Certain confidential information contained in this document, marked by brackets as [***], has been omitted because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed.

Distribution Agreement

THIS DISTRIBUTION AGREEMENT ("Agreement") is made this 29th day of November, 2019 (the "Signing Date") by and between ViewRay Technologies, Inc., a Delaware corporation and a wholly owned subsidiary of ViewRay, Inc. ("**ViewRay**"), and the party identified below ("**Distributor**").

Name: **Country of Organization:** **Principal Address:**	Chindex Shanghai International Trading Company Limited China Building A, No.1289 Yishan Road, Shanghai, 200233, P.R.China
Contact 1/Title: **Phone:** **Email:** **Contact 2/Title:** **Phone:** **Email:**	
Exclusive Distributorship:	☐ NO ☒ YES (If yes, the exclusive territories and the exclusive Products, as well as the requirements for maintaining such exclusivity, will be identified on Section 2 and Exhibit A)
Regulatory Services:	☐ NO ☒ YES (If yes, the associated Regulatory Services of Distributor will be identified on Section 6 and Exhibit F)
Term:	As specified in Section 12 and Exhibit A.

This Agreement and all exhibits attached hereto, all of which are incorporated and made a part of this Agreement, set forth the entire terms and conditions under which Distributor will act as an exclusive distributor for ViewRay for the Products and in the Territory identified in this Agreement.

VIEWRAY AND DISTRIBUTOR HAVE READ AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING THOSE TERMS CONTAINED ON THE FOLLOWING PAGES OF THIS AGREEMENT, AS OF THE EFFECTIVE DATE.

Signed:

VIEWRAY TECHNOLOGIES, INC.	**DISTRIBUTOR:**
By:	**By:**
Name:	**Name:**
Title:	**Title:**

TERMS AND CONDITIONS

1. DEFINITIONS. Capitalized terms used in this Agreement and not otherwise defined herein shall have the meaning set forth below.

"Acceptance" means the earlier of (i) successful completion of the Acceptance Test Procedure ("ATP") as shown by Customer's signatures on the ATP demonstration documents; or (ii) Customer's clinical or research use of the Product.

"Acceptance Test Procedure" or **"ATP"** means the process through which it is demonstrated that the System installed at Customer's site meets its Specifications using ViewRay's standard acceptance test procedures.

"Affiliate" means with respect to either party, any Person that, directly or indirectly, is controlled by, controls or is under common control with that party. For purposes of this Agreement, "***control***" means, with respect to any Person, the direct or indirect ownership of more than fifty percent (50%) of the voting or income interest in that Person or the possession otherwise, directly or indirectly, of the power to direct the management or policies of that Person.

"Back End Support" means the support provided by ViewRay to Distributor while the Products are under warranty or following expiration of the Warranty Period if it is ordered as a Service. A current description of Back End Support is attached as **Exhibit B;** this description may be updated from time to time by ViewRay, provided that the overall level of support is not materially diminished. Back End Support may be "Basic" or "Enhanced" as described in **Exhibit B.**

"Business Day" means any day except any Saturday, any Sunday, any day which is a legal holiday in the United States of America or in the PRC or any day on which banking institutions in the United States of America or the PRC are authorized or required by law or other governmental action to close.

"Change of Control Event" means, with respect to ViewRay: (a) a merger, consolidation, share exchange or other similar transaction involving ViewRay and any third party which results in the holders of the outstanding voting securities of ViewRay immediately prior to such merger, consolidation, share exchange or other similar transaction ceasing to hold more than fifty percent (50%) of the combined voting power of the surviving, purchasing or continuing entity immediately after such merger, consolidation, share exchange or other similar transaction, or (b) the sale or other transfer to a third party of all or substantially all of ViewRay's assets which relate to this Agreement.

"Class A Linac Radiotherapy System" means Linac radiotherapy system that falls under the category of Class A Large Medical Device as defined and regulated under the Measures for the Administration of Large Medical Device Equipment and Use□"□□□□□□□□□□□□□□□" in Chinese□ of the PRC (effective on May 22, 2018) and the Large Medical Device Equipment Catalogue ("□□□□□□□□□□□□□□□" in Chinese) of the PRC (effective on March 29, 2018).

"Collateral" means ViewRay marketing and sales materials for the Products and Services that are provided to Distributor by ViewRay for promotion and distribution to potential Customers.

"Confidential Information" means: (i) any and all non-public information of a Disclosing Party, including, without limitation, any information relating to pre-clinical and clinical data, specifications, training and any other know-how related to the design, implementation, performance, manufacture or pricing of the Products as well as Maintenance Documentation; (ii) the terms of this Agreement (including pricing and discounts); (iii) other information that is marked as "Confidential" or some other label indicating its confidential nature or, if disclosed orally, is identified as confidential at the time of its disclosure; or (iv) information disclosed by Disclosing Party that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.

"CPI" means the United States Consumer Price Index for All Urban Consumers (CPI-U).

"Customer" means any Person located in the Territory which purchases (or in the case of Software, is licensed) Products from Distributor.

"Customer Agreement" means a written agreement between Distributor and Customer regarding the sale, license and use of the Products.

"Documentation" means ViewRay's standard published documentation normally supplied with or made available to its Customers to aid in the use, support and/or operation of the Products, and any Updates and/or Upgrades (as defined in **Exhibit B**), in any form, media or language provided.

"Equipment" means those additional products set forth in **Exhibit A** which may be purchased and distributed for use with the System.

"First Line Field Services" means the maintenance and support services which must be provided by Distributor to Customers as described in **Exhibit D**.

"Installation Assistance Services" means subcontracted labor services that may be ordered by Distributor from ViewRay to aid Distributor in installing the System at a Customer site. Distributor may order similar services from a third party certified by ViewRay under a separate agreement with such third party.

"***Labeling***" means the written, printed or graphic matter for Products including those on the Product container and any posters, tags, pamphlets, circulars, booklets, brochures, instruction books, direction sheets, fillers, and advertising materials, as further defined in the United States Code of Federal Regulations, 21 C.F.R. Part 801 (Labeling).

"***Local Law***" means the laws, rules, orders and regulations of any governmental authority or other legal requirements that apply in the Territory.

"Maintenance Documentation" means any information, software and/or tools made available by ViewRay to Distributor to aid in the installation, maintenance and/or repair of the Products.

"Marks" means ViewRay's logos, trademarks, trade names, slogans, designs and other identifying symbols that are or have been used in connection with the Products by ViewRay anywhere in the world.

"NHC" means the National Health Commission of the People's Republic of China.

"Performance Target" means the performance target as specified in Exhibit A.

"Person" means any individual as well as any corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, limited liability partnership, unincorporated organization, government (or any agency or political subdivision thereof) or other type of legal entity or organization.

"PRC" means the People's Republic of China.

"PRC Customs Clearance" means that all necessary licenses, approvals, filings and documents have been acquired so that the goods may pass through the PRC customs and lawfully enter or leave the PRC.

"Product(s)" means: (i) the System, (ii) Equipment, and (iii) Software (all as identified in **Exhibit A**), and (iv) Spare Parts, together with all Documentation and any Updates and/or Upgrades provided hereunder.

"Product Clearance" means the approvals, authorizations, licenses or clearances by the appropriate Regulatory Authority(ies) required for importation, promotion, distribution, marketing, sale, pricing, use, reimbursement and after-sale services of the Product(s) in the Territory, including the initial Regulatory Approval.

"Product Warranty" means ViewRay's representations and warranties with respect to the Products as set forth in Section 9.2 (Product Warranty).

"Quality Requirements" means the Quality Requirements attached hereto as **Exhibit C**.

"Regulatory Approval" means the initial National Medical Products Administration regulatory approval for the ViewRay MRIdian® Linac System's launch to the market in the Territory.

"Regulatory Authority" means any national, supra-national, regional, state or local regulatory agency, department, bureau, commission, council or other governmental entity applicable to the Territory, including, without limitation, the PRC National Medical Products Administration (**"NMPA"**), or any of their successors.

"Regulatory Initiation Date" means the date that the second System installed within the Territory for clinical-trial purposes has initiated use on patients with respect to such clinical trials.

"Regulatory Services" are those services to be provided by Distributor identified in Section 6 and **Exhibit F.**

"Service(s)" means Back End Support (including Basic Back End Support Services and Enhanced Back End Support Services), training services, Installation Assistance Services, Full Customer Services and other applicable services which may be ordered by Distributor from ViewRay.

"Software" means (i) software that is incorporated into a Product; and (ii) any Updates and Upgrades thereto which may be provided by ViewRay.

"Spare Parts" means ViewRay replacement parts or additional ViewRay parts for the System or Equipment.

"Specifications" means ViewRay's published specifications for the Product(s) at the time of the delivery to Distributor or as updated pursuant to Back End Support.

"System" means the ViewRay MRIdian® Linac System as described in the current Specification. This includes Updates to the current System, but does not include new products developed or acquired by ViewRay.

"Term" means the term of this Agreement as specified in Section 12.

"Territory" means the country(ies) specified in **Exhibit A**.

"Upfront Payment" means upfront payment specified in Section 4.3.

"US Laws" means the United States Federal Food, Drug and Cosmetic Act of 1941, as amended and United States Foreign Corrupt Practices Act or 1977, as amended.

"Warranty Period" means: [***] Warranty Periods applicable to the Products shall be extended to the extent delays in the delivery of the Products to Distributor are caused by ViewRay.

2. APPOINTMENT AND OBLIGATIONS

2.1 Appointment.

(a) ViewRay hereby appoints Distributor during the Term, as an exclusive distributor of the Products to Customers for their use in the Territory. [***]
(b) [***]
(c) [***]
(d) [***]
(e) The Distribution Agreement will be binding on successors and permitted assigns, including those resulting from a Change of Control Event.
(f) Any sales to House Accounts (as defined in Exhibit A) shall be referred to and detailed in Exhibit A.

2.2 Distributor Requirements. During the Term, Distributor must: (i) ensure not to materially breach the applicable quality standards and requirements promulgated by NMPA; (ii) use commercially reasonable effort to achieve the Performance Target as specified in EXHIBIT A; (iii) ensure not to materially breach the Quality Requirements and the

requirements of Section 2.5 (Quality Generally); (iv) remain responsible for all Customer support activities specified in Section 2.11; and (v) comply with ViewRay's training requirements for distributors. Distributor is responsible for reasonable costs and expenses incurred by it or its personnel to attend ViewRay training.

2.3 Promotion. During the Term, Distributor agrees to use commercially reasonable efforts to promote, market, prepare to sell, offer to sell, sell and distribute the Products throughout the Territory in compliance with all Local Laws and the terms of this Agreement. Distributor will timely inform ViewRay of the Collateral or display units to be exhibited in the Territory at meetings and conferences.

2.4 Distributor Personnel. Distributor must maintain technical and sales personnel who have the expertise, knowledge and skills necessary to: (i) inform potential Customers about the features and capabilities of the Products and any Competitive Products (as defined in Section 2.6); and (ii) allow Distributor to comply with its obligations under this Agreement.

2.5 Quality Generally. Distributor must have a quality program in place at each of its facilities where Products are stored, installed and serviced sufficient to maintain the quality and integrity of the Products and which otherwise complies with applicable quality standards and requirements promulgated by NMPA in all material aspects. Distributor must comply with the Quality Requirements in **Exhibit C** at all times in all material aspects. Distributor must monitor its compliance with the Quality Requirements and notify ViewRay if Distributor no longer meets them immediately and in writing. Distributor will then have sixty (60) days to correct its compliance issues and certify to ViewRay that is has done so, in writing. If Distributor fails to do so, ViewRay may terminate this Agreement for cause immediately upon written notice, and with no liability to Distributor.

2.6 Non-compete Obligation. [***]

2.7 Business Conduct. Distributor must not: (i) make false or misleading representations or advertisements with regard to ViewRay or the Products; (ii) offer warranties or guarantees to Customers or potential Customers that differ in material aspects from the Specifications, features or capabilities of the Products as contained in this Agreement, the Documentation or the Collateral; (iii) purport to commit ViewRay to obligations not contained in this Agreement; or (iv) otherwise act or fail to act in a manner that harms ViewRay or its Products' goodwill. In addition, Distributor must at all times comply with its obligations regarding global anti-corruption as further described in Section 6.7.

2.8 Publicity. During the Term: (i) ViewRay may identify Distributor as an exclusive distributor of the Products in its marketing materials and on its website; and (ii) Distributor may indicate to the public that it is an authorized exclusive distributor of the Products in the Territory.

2.9 Spare Parts. Because ViewRay's Product warranties are based upon the use of parts that conform to their applicable Specifications, Distributor must only use Spare Parts provided by ViewRay when Distributor installs, services, repairs and maintains the Products.

2.10 Reports and Audit. During the Term and for a period of three (3) years after any termination or expiration of this Agreement, Distributor: (i) must maintain complete and accurate books, records and accounts relating to the distribution of the Products, the provision of services to Customers, compliance with Anti-Corruption Laws (as defined in Section 6.7) and other requirements of this Agreement; and (ii) conditioned upon either (x) a request to ViewRay by applicable laws or any order officially issued by a competent government authority, or (y) a request by ViewRay due to ViewRay's reasonable belief, supported by profound evidence, that Distributor has breached a material term of this Agreement, Distributor will permit ViewRay or its authorized representatives to examine Distributor's books, records and accounts directly relating to the sale of the Products provided that (a) ViewRay shall provide Distributor with reasonable prior notice; (b) such examination shall be aligned in normal business hours and shall not interfere with Distributor's normal business operation; (c) such examination shall not violate any applicable Local Laws; and (d) the auditor shall enter into written confidential agreement with Distributor so as to be subject to obligations of confidentiality no less strict than ViewRay's confidentiality obligations to Distributor hereunder. During the examination, Distributor may only provide information directly related to the distribution of the Products and shall have no obligation to provide information that is either a trade secret or confidential information of any third party or that has no connection with the distribution relationship contemplated under this Agreement.

2.11 Customer Support Activities. Distributor will provide prompt and comprehensive pre-sales support services, installation services and First Line Field Services to Customers. Distributor will be permitted to use Maintenance Documentation and to purchase Back End Support and Installation Assistance Services from ViewRay (or may purchase similar services from a third party certified by ViewRay) to assist Distributor in meeting these obligations. Distributor acknowledges and agrees that it is responsible for these activities notwithstanding the purchase of Back End Support and/or Installation Assistance Services. In addition, Distributor will have primary responsibility for room evaluation, architecture support and any quality assurance issues in relation to Customer installation sites. All System installations and support shall be performed in accordance with ViewRay's installation specifications and Maintenance Documentation. In no event shall Distributor, Customer or their respective agents use the Products to treat patients, for clinical use or for research use prior to Acceptance of the System pursuant to the Acceptance Test Procedures ("***Early Use***"). Any Early Use of the Products without the prior, express written approval of ViewRay, shall: void the Product Warranty. Distributor must defend, indemnify and hold ViewRay harmless from any direct loss or damage resulting from Early Use. Distributor will support ViewRay's training of new Customer personnel and will require new Customer users to attend training by ViewRay in accordance with ViewRay's then applicable training requirements. Distributor must provide appropriate interpretation and translation services (at Distributor's expense) necessary to ensure Customer personnel can understand the Product training, learn how to use the Products, and participate in the training courses provided by ViewRay in a meaningful and effective way.

2.12 Adaptation for Local Market. As requested by ViewRay, Distributor will translate the agreed upon Documentation and/or Collateral and/or Labeling into the language(s) of the Territory (the "**Translations**"), at its own expense. Distributor will obtain ViewRay's prior written approval of the Translations prior to distributing, selling or using them (or any updated version of the foregoing). ViewRay shall not unreasonably withhold such approval. Distributor shall also promptly provide prior to first use and thereafter from time to time, upon request of ViewRay, samples of any modified Collateral or promotional and advertising materials for the Products or otherwise related to this Agreement produced by or for Distributor, and Distributor shall make modifications to such promotional and advertising materials if reasonably requested by ViewRay. Upon the effectiveness of this Agreement, Distributor irrevocably assigns and transfers all rights, title and interest in the Translations to ViewRay, including, but not limited to, all related copyrights and moral rights. Distributor waives and agrees never to assert any moral rights that Distributor or its employees, agents or subcontractors may have in the Translations and must defend, indemnify and hold ViewRay harmless for any claim made by its employees, agents or subcontractors otherwise. ViewRay grants Distributor during the Term, an exclusive, non-transferable and non-royalty bearing license to use such Translations in the Territory solely for Distributor's performance under this Agreement.

2.13 Representatives. Each party will designate an official liaison to handle all discussions with the other relating to this Agreement. These liaisons will meet quarterly or at some other interval mutually agreed upon by the parties to review and address business and technical issues.

2.14. Sub-distributors. Distributor may, upon timely notice to ViewRay, appoint one or more sub-distributors to fulfill its performance as contemplated hereunder including but not limited to advertise, promote, market, distribute, sell, import, provide after-sale services and interact with Regulatory Authorities with respect to the Products in the Territory. If Distributor appoints a sub-distributor to sell Products, any acts or omissions of such sub-distributor that, if performed by Distributor, would constitute a breach of this Agreement shall be deemed a breach of this Agreement by Distributor. Distributor shall enter a written agreement with each of such sub-distributors that contains terms consistent with this Agreement in material aspects and that are at least as protective to ViewRay and the Products as the terms of this Agreement. Notwithstanding such appointment, Distributor shall at all times remain fully liable for the performance of its sub-distributors. Furthermore, Distributor shall be responsible and liable for any benefits or privileges that it grants to its sub-distributors which are in excess of those granted by ViewRay to Distributor. Distributor agrees to provide ViewRay with a list of sub-distributors, including name, address and contact information, upon written request to the extent permitted under applicable laws. Distributor shall require its Affiliates and any sub-distributor it may use to keep and maintain true and fair records of all sales of the Products.

3. ORDER PROCESS AND PRICING

3.1 Tender Notice. If Distributor successfully fixes a tender with respect to the purchase of the Products, it shall, within ten (10) Business Days, inform ViewRay.

3.2 Pricing and Quotes. ViewRay will issue a quote ("***Quote***") for Products and/or requested Services to Distributor at a price consistent with **Exhibit A,** as may be reasonably revised by ViewRay from time to time as specified herein

("***Prices***") or at a price being otherwise agreed by the Parties. ViewRay shall promptly notify Distributor for any Price revision. Unless a different currency is specified in **Exhibit A**, all Prices will be in U.S. dollars. Prices are exclusive of all taxes, duties, tariffs, shipping costs and installation costs (if applicable). The Quote will incorporate any discounts offered to Distributor by ViewRay, and no further discounts will be applied. Distributor must set its own prices for resale to its Customers. Distributor is responsible for managing and administering its contractual relationship with its Customer and ViewRay has no obligation to provide services to or otherwise interact with Customers.

3.3 Special Pricing Quotes ("*SPQ*"). From time-to-time, at ViewRay's sole discretion, ViewRay may grant a SPQ to meet pricing from competitive products on particular bids or for other competitive reasons. SPQs cannot be used in conjunction with any other promotional pricing or rebates. Distributor agrees that the Customer named in the specific SPQ is the only one to which Distributor will sell the Products according to the terms and conditions set forth under such SPQ. ViewRay requires certain supporting documentation to substantiate and verify the granting of a SPQ. If Distributor fails to comply with these requirements, then Distributor must reimburse ViewRay for a sum equal to the difference between ViewRay's standard Prices and the prices granted in the SPQ for all Products and Services purchased with the benefit of the SPQ. This sum shall be paid to ViewRay within forty-five (45) Business Days from receipt of written notification from ViewRay. Distributor understands that it will be deemed a material breach of this Agreement if any of the supporting documents are inaccurate, not genuine or otherwise not submitted in good faith.

3.4 Orders. Distributor will place written orders for Products (except for Spare Parts which will be specified separately) and/or Services by signing the final Quote agreed and issued by ViewRay and returning it to ViewRay. Spare Parts may be ordered by issuing a written purchase order to ViewRay. To the extent of any inconsistency between a Quote and this Agreement, the terms and conditions of this Agreement will prevail. In no event will either party's standard purchase order terms and conditions override any provisions of this Agreement. ViewRay shall, within ten (10) days from the receipt of the final Quote signed by Distributor, sign and return a fully executed Quote (or provide an order acknowledgement) to Distributor, at which point the order will become binding on the parties (an "**Order**"). With respect to an Order for a System, ViewRay shall ensure that the System (including one set of TPS Workstation and Coil which conform with the then-effective Specifications) and the corresponding Software will be prepared and delivered no later than nine (9) months after the Order is received by Distributor. [***] With respect to an Order for additional Software, ViewRay shall ensure a prompt delivery to Distributor or Distributor's designated Person.

3.5 Orders Non-cancelable. Once Distributor requests a specific delivery date, the System ordered by Distributor will be queued for manufacturing. At this point, the Order becomes non-cancelable.

3.6 Delivery. All Products (excluding Software) are delivered Ex Works Fremont, California (Incoterms 2010), for pick up by Distributor's designated freight forwarder. ViewRay shall use commercially reasonable effort to support Distributor or Distributor's designated agents clearing the Products for export. Delivery may originate at multiple locations. ViewRay shall inform Distributor of any change of the original location at least one (1) months prior to the Products' delivery. Software will be delivered electronically or pre-installed on Products.

Risks and titles to the Products shall pass to Distributor when the Products are made available by ViewRay for loading onto Distributor's designated freight forwarder's vehicles for shipment.

4. PAYMENT

4.1 Taxes. The Prices for the Products is exclusive of all taxes, including national and local sales, use or value-added taxes, goods and services tax, consumption tax, customs duties, withholding taxes or similar charges imposed by any governmental entity after the Products are delivered to Distributor. Distributor will pay all taxes and duties assessed in connection with this Agreement and its performance, except for taxes payable on ViewRay's net income. Distributor will promptly reimburse ViewRay for any and all taxes or duties that ViewRay may be required to pay on Distributor's behalf in connection with this Agreement. Distributor will provide ViewRay with appropriate resale certificate numbers and other documentation (if any) satisfactory to the applicable taxing authorities to substantiate any claim of exemption from any taxes or duties. If Local Law requires Distributor to withhold any taxes levied by any governmental authority on payments to be made pursuant to this Agreement, Distributor must: (i) withhold the taxes, remit payment of the taxes to the appropriate taxing authorities and furnish ViewRay with copies of tax receipts evidencing its payment of the withheld amounts to the taxing authorities promptly; and (ii) increase the sums paid by Distributor to ViewRay to ensure that ViewRay receives the net amount ViewRay would have received had there been no required withholding.

4.2 Payment. ViewRay shall invoice Distributor and Distributor must pay for the Products and Services in accordance with the payment schedule specified in Exhibit A. If the parties intend a different payment schedule, they shall mutually agree on such payment schedule in writing either in the Order or in a separate document. Distributor may dispute amounts shown on an invoice in good faith, provided it does so within thirty (30) days after its receipt of such invoice. If ViewRay does not receive payment of an undisputed amount when due, ViewRay shall notify Distributor in writing promptly. Distributor will then have a thirty (30) days period to make the due payment, failing which ViewRay may give notice of termination of this Agreement for material breach and any late payment will impose a service charge on such amounts equal to one and one-half percent (1.5%) of the due amount per month. ViewRay retains a security interest in the Products until Distributor pays ViewRay in full for such Products. Distributor shall use commercially reasonable effort to provide assistance to ViewRay to enable ViewRay to perfect its security interest in the Products.

4.3 **Upfront Payment.** Subject to Section 12.1, conditioned upon (i) the effectiveness of this Agreement; (ii) the written acceptance by Distributor of a document list provided by ViewRay under which historical regulatory documents necessary for Distributor to act as the representative of ViewRay's Regulatory Approval matters within the Territory shall be listed out and committed to be provided in time; and (iii) the applicant name for the ongoing type test report related to the System being changed to Distributor , Distributor will pay a lump sum $1.5 Million U.S. Dollars to ViewRay. Conditioned upon ViewRay's compliance with its obligations hereunder, on the first anniversary from the date this Agreement comes into effect, Distributor will pay $1 Million U.S. Dollars to ViewRay. Conditioned upon ViewRay's compliance with its obligations hereunder, on the second anniversary from the date this Agreement comes into effect, Distributor will pay another $1 Million U.S. Dollars to ViewRay (the total $3.5 Million U.S. Dollars shall be referred to as "Upfront Payment").

5. OWNERSHIP AND LICENSES

5.1 Trademark License. Subject to Distributor's compliance with the terms and conditions of this Agreement, ViewRay hereby grants to Distributor an exclusive, non-transferable, free of charge license to use the Marks in connection with the importation, promotion, marketing, advertising, distribution, sale, support and after-sale service of Products in the Territory during the Term. Distributor must comply with ViewRay's policies or guidelines regarding advertising and trademark usage as established from time to time with respect to its use of the Marks in material aspects. Distributor must indicate that ViewRay is the owner of ViewRay's Marks when it uses them and shall timely inform ViewRay regarding the use of such Marks. Distributor acquires no rights in the Marks by its use. Prior to any distribution or other release of materials to third parties that will contain Marks, Distributor must inform ViewRay, with the sole exception of unmodified Collateral and the corresponding Translations. Distributor must not contest the validity of any of the Marks or of ViewRay's exclusive ownership of the Marks at any time. Distributor must not adopt, use, or register any of the Marks or any word or mark confusingly similar to the Marks in any jurisdiction regardless of form, whether as a corporate name, trademark, service mark, domain name or other indication of origin. Distributor must provide all reasonable assistance, including execution of documents as reasonably requested by ViewRay, to protect ViewRay's trademark rights in the Territory. In the event of expiration or termination of this Agreement, Distributor must discontinue all use of the Marks immediately, except as for the sale of (i) Products (except for Spare Parts) to any Customer where a corresponding Order or letter of intent was placed prior to the date of termination or expiration (and where the Customer is identified in the Order or the letter of intent) ; and (ii) services to any Customer that was a party to an agreement with Distributor for the purchase of such services as of the date of termination or expiration until the completion of the transactions described in such agreement; and (iii) Spare Parts. ViewRay has the sole and exclusive right to bring legal action in the Territory for infringement with respect to the Marks, and if ViewRay chooses to bring legal action, Distributor shall use commercially reasonable effort to assist ViewRay in its legal claims. Distributor must notify ViewRay if it knows or suspects infringement of the Marks. Any material violation of this Section 5.1 (Trademark License) shall incur a thirty (30) days cure period under which, Distributor may cure its violation to this Section 5.1, otherwise, it will be deemed as a material breach of this Agreement.

5.2 Proprietary Rights. ViewRay or its suppliers or licensors own all rights, titles, and interests (including, without limitation, all intellectual property rights) in and to the intellectual property in all Products, Maintenance Documentation, Collateral, Marks and any materials provided to Distributor hereunder. ViewRay shall provide Distributor copies of all the certificates and proving documents with respect to such intellectual properties within ten (10) Business Days upon Distributor's reasonable request. Distributor acknowledges that it is granted only those limited license rights as specified in Sections 5.1 (Trademark License) and 5.4 (Software License), the right to distribute the Products to Customers

and other rights as specified in this Agreement. ViewRay retains all rights that are not expressly and explicitly granted by ViewRay to Distributor. Distributor acknowledges that the Products, Maintenance Documentation, Collateral and Marks are protected by copyright laws and other laws pertaining to intellectual property rights in the United States and other countries and embody valuable Confidential Information of ViewRay and its suppliers, the development of which required the expenditure of considerable time and money. Distributor must not: (i) decompile, reverse engineer, disassemble, or otherwise attempt to derive the source code of the Products or attempt to disable any security devices or codes incorporated into or distributed with the Products; (ii) copy, modify, translate or create derivative works of the Products (except as expressly specified in this Agreement); (iii) modify or create derivative works of Maintenance Documentation or Collateral (except as expressly specified in this Agreement or as approved by ViewRay); or (iv) rent, lease, loan, distribute, assign or transfer the Software, Documentation, Maintenance Documentation or Collateral, unless expressly permitted in writing by ViewRay. Distributor must not permit of or enable any third party, including any Customer to take actions prohibited by this Section 5.2 (Proprietary Rights).

5.3 Proprietary Marks. Distributor must not alter, remove or obscure any copyright notices, trademark notices or other proprietary or confidentiality notices that are: (i) placed or embedded by ViewRay or its suppliers or licensors in the Products, Maintenance Documentation or Collateral; (ii) displayed when the Products are run; or (iii) applied to the Products, Maintenance Documentation, Collateral or any other materials provided under this Agreement or their Labeling.

5.4 Software License. The Software is licensed, not sold. Software is provided only in binary or executable form. Distributor must license all Software to its Customers pursuant to terms consistent with the provisions of **Exhibit E** ("***License Provisions***") in a written agreement signed by both Distributor and its Customers. Distributor is permitted to use Software solely on behalf of the Customer in connection with performing its obligations for Customer and otherwise in accordance with the License Provisions. If any portion of the Software is licensed under an open source license requiring the distribution of source code, the source code for such open source software will be made available as specified in the applicable license as further described in the License Provisions. Software is licensed with no additional charge except that ViewRay may charge for Upgrades to the Products.

6. REGULATORY MATTERS; LEGAL COMPLIANCE

6.1 Regulatory Approvals.

(a) Distributor shall use commercially reasonable efforts to obtain Regulatory Approval and, if agreed by the parties, additional Product Clearances for the Products in the Territory (if necessary). Unless the parties otherwise agree in writing in a particular case or for the performance of this Agreement, all such Product Clearances shall be obtained and maintained in the name of ViewRay (or its designee) and not in the name of Distributor, its sub-distributors, agents or representatives. If the parties determine that any such Product Clearances should be held in the name of Distributor or its sub-distributors, agents or representatives (as applicable) based upon applicable laws, Distributor shall cooperate with ViewRay to ensure that the applicable Product Clearances are assigned to ViewRay upon the expiration or termination of this Agreement and Distributor shall not, and shall cause its agents and representatives to not, oppose any new registration for the Product by ViewRay or its designee. Distributor shall bear all out-of-pocket fees and expenses it pays in acquiring the Regulatory Approval. ViewRay shall, at its own cost, reasonably support Distributor in all aspects and be actively involved with Distributor in such efforts with respect to the Regulatory Approval and Product Clearances for the Products for the Territory. If the Regulatory Approval is not obtained within three (3) years of the Regulatory Initiation Date, the parties will meet and discuss alternatives to agree upon a plan to address the Regulatory Approval in a manner that is mutually beneficial. Either party may terminate the Agreement upon notice to the other if such matters are not resolved by mutual agreement. Provided however, in the case the failure to achieve the Regulatory Approval is caused by ViewRay or Distributor, such party shall not have the right to terminate this agreement.

(b) Distributor shall make the filings contemplated by Section 6.1(a) in consultation with ViewRay and Distributor shall provide ViewRay with draft copies of all filings it proposes to make pursuant to Section 6.1(a) and consider the comments (if any) of ViewRay before making such filings and shall not make any such filing over the objection of ViewRay, provided however, such objection shall not be unreasonably raised. ViewRay shall provide Distributor all documentation and assistance reasonably required for such filings and approvals and shall, upon Distributor's reasonable request, meet with Distributor at mutually agreed times and places regarding such filings and approvals. Such meetings shall include, but not be limited to, discussion regarding the preparation of filings and assignment of responsibilities.

(c) Distributor shall (i) inform ViewRay of any development with respect to efforts to obtain Product Clearances on a regular and timely basis; and (ii) notify ViewRay promptly upon receipt of any Product Clearance. Distributor shall, and shall cause its agents and representatives to, promptly deliver to ViewRay (or its designee) upon request, copies of all Product Clearances.

(d) Distributor shall keep ViewRay advised of regulatory interactions, activities and correspondence and the registration status of the Product(s) in the Territory on a quarterly basis, except that matters requiring more immediate attention shall be communicated as soon as practicable.

(e) Each party shall promptly and, in any event, within ten (10) Business Days of receipt of notice of formal inquiry, inform the other in writing of any formal inquiry relating to any Product by any Regulatory Authority for the Territory. Informal inquires shall be summarized and informed on a quarterly basis, except those requiring immediate attention.

(f) Distributor shall provide such Regulatory Services consistent with the terms of **Exhibit F**.

6.2 Importation. Distributor shall obtain all necessary licenses and permits and satisfy all formalities as may be required to export the Products and, upon mutual agreement, additional Products from the ViewRay shipping point with ViewRay's reasonable support and to import the Products into the Territory, including, but not limited to, any permits that may be required by any governmental agency or Local Law relating to customs, technical standards or specifications, or health or medical safety regulations.

6.3 Labeling. Distributor must print and distribute Translations (whether created by Distributor pursuant to Section 2.12 or otherwise provided by ViewRay) to necessary third parties, including Regulatory Authorities and Customers, in accordance with Local Laws and as appropriate to ensure patient and user safety.

6.4 Expenses. Except as otherwise set forth under this Agreement, Distributor will not seek reimbursement of any kind for importation, licensing, permitting, translation or printing costs, as required in this Section 6.

6.5 Quality Requirements. Distributor must comply with the Quality Requirements at all times in connection with its performance of this Agreement in all material respects.

6.6 Compliance with Local Laws. Distributor shall comply with all applicable Local Laws and the applicable laws, regulations and rules of the United States in all material respects, including but not limited to, the US Laws (collectively, "**Applicable Laws**") in connection with this Agreement and the Products.

6.7 Compliance with GACL. Distributor acknowledges that ViewRay must comply with applicable global anti-corruption laws (collectively, "**GACL**"), including, without limitation, the Foreign Corrupt Practices Act ("**FCPA**"). Distributor agrees to conduct all of its activities under this Agreement in compliance with the GACL in all material respects. If Distributor uses any subcontractors in connection with fulfilling its obligations under this Agreement, it shall ensure that such subcontractors comply with the GACL in all material respects. Distributor shall certify to its compliance with the requirements of Sections 6.6 and 6.7 annually or as otherwise requested by ViewRay by fully completing, signing and delivering to ViewRay such annual compliance certifications in the forms provided by ViewRay, a copy of which as of the Effective Date is attached as **Exhibit G**.

6.8 Trade Compliance. Distributor must not export or re-export the Products, or any items that use the Products without obtaining the appropriate licenses in advance.

6.9 Regulatory Updates. Distributor shall use commercially reasonable effort to monitor changes to Local Laws and notify ViewRay of any impending changes that may necessitate modifications to the Collateral, Products, Documentation, Maintenance Documentation or Services, or any aspect of Distributor's performance under this Agreement as soon as it becomes aware of them.

7. VIEWRAY'S OBLIGATIONS

7.1 Training; Technical Assistance. ViewRay shall provide training in the use and technical aspects of the Products to Distributor and Customers. For the initial on-site, go-live training provided in connection with Distributor's first installation, ViewRay provides this training in the U.S. free of any charge, and Distributor must pay for reasonable travel and subsistence costs of the persons that receive ViewRay training in the U.S. For training provided within the Territory, the reasonable cost of travel and accommodations of the persons that ViewRay dispatches to the Territory to provide such training must be paid by Distributor. Additional ViewRay training may be purchased separately in accordance with ViewRay's then current policies and prices. All training provided by ViewRay will be conducted in English and to the extent any Customer or Distributor personnel do not have adequate English language reading and comprehension skills, Distributor must provide at its cost, an interpreter and translation services sufficient to enable all personnel attending the training to understand and participate in the training courses meaningfully and effectively.

7.2 Product Changes and Regulatory Extensions. ViewRay has the sole discretion, to: (i) introduce changes to the Products; (ii) discontinue the manufacture of any Products; (iii) discontinue the development of any new product, whether or not that product had been announced publicly; or (iv) commence the manufacture and sale of new products or features which may supplant existing Products. ViewRay shall notify Distributor of any changes to Products that affect their form, fit or function or which would invalidate Product Clearance, and provide Distributor with updated Documentation, Collateral and Maintenance Documents relating to the changes as soon as practicable prior to providing changed Products to Distributor. For any change that will cause a necessity to change any of the Product Clearance, ViewRay shall reimburse Distributor for the actual costs and expenses incurred by Distributor (including those paid to third parties) to acquire the new Product Clearance. [***] ViewRay will provide prompt notice to Distributor if ViewRay discontinues development of a new product that had been announced publicly.

7.3 Product Supply. ViewRay shall ensure a sufficient supply of Products as ordered by Distributor which shall conform with the Specifications and Quality Requirements set forth herein or otherwise agreed by the parties.

7.4 Government Authorizations. ViewRay shall comply with all applicable laws and will maintain throughout the term of this Agreement all permits, licenses, registrations and other forms of authorizations and approvals from any government authority, necessary or required to be obtained or maintained by it in order to perform its obligations hereunder in a manner which complies with all applicable laws.

7.5 Assistance and Support. ViewRay shall use commercially reasonable effort to assist and support Distributor in exercising its rights or performing its obligations under this Agreement.

8. CONFIDENTIALITY

8.1 Confidentiality. During the performance under this Agreement, either party (in such case, the **"Disclosing Party"**) may disclose Confidential Information to the other party (in such case, the **"Receiving Party"**). The Receiving Party must maintain the Confidential Information in confidence and not use it except for the limited purposes of performing the Receiving Party's obligations under this Agreement. All Confidential Information, including copies made by the Receiving Party, will remain the property of the Disclosing Party. Nothing in this Agreement shall be construed as granting or conferring any rights by license or otherwise in the Confidential Information except as expressly stated in this Agreement.

8.2 Exclusions. Confidential Information excludes information when written records establish that it: (i) was in the public domain prior to the time that the Disclosing Party disclosed it to the Receiving Party, or entered the public domain afterward through a third-party source that had the right to do so; (ii) is already known by the Receiving Party before the disclosure by the Disclosing Party without any obligation of confidentiality; (iii) was disclosed to the Receiving Party from a third party source that had the right to do so; or (iv) was independently developed by the Receiving Party without access to or use of the Disclosing Party's Confidential Information. Nothing in this Agreement prevents the Receiving Party from disclosing Confidential Information to its and its affiliates' respective directors, officers, employees, agents, advisors and other representatives who have a necessity to know the Confidential Information for the purpose of this Agreement. The Receiving Party may also disclose the Confidential Information to the extent it is compelled to do so by any applicable laws, regulations or stock exchange rules or by any lawful process, such as a court order, formal request to disclose or subpoena, and provided that the Receiving Party (a) asserts the confidential nature of the Confidential Information to the governmental authority; (b) if permitted under applicable laws, notifies the Disclosing Party in writing of the required disclosure immediately; and (c) cooperates fully with the Disclosing Party, at the Disclosing Party's sole cost and expense, in protecting against the disclosure and/or obtains a protective order narrowing the scope of the compelled disclosure to protect its confidentiality.

8.3 **Injunctive Relief**. Notwithstanding any other provision of this Agreement, the Receiving Party's breach of this Section 8 (Confidentiality) may cause the Disclosing Party irreparable harm for which recovery of money damages might be inadequate such that the Disclosing Party may seek injunctive relief on an immediate basis without posting a bond, in addition to any and all remedies available at law.

9. REPRESENTATIONS AND WARRANTIES

9.1 **Authorization; Enforceability.** ViewRay and Distributor each represent and warrant that: (i) it is duly organized, validly existing and in good standing under the laws of its organizing jurisdiction; (ii) it has all requisite power and authority to enter into this Agreement; (iii) it is duly authorized to execute and deliver this Agreement and to perform its obligations and complete the transactions under it; (iv) this Agreement is valid, binding and enforceable; and (v) entering into this Agreement and performing the obligations under this Agreement will not violate any applicable laws or contractual relationship with any third party.

9.2 **Product Warranty.** ViewRay represents and warrants to Distributor that the Products supplied to Distributor conforms to their applicable Specifications at the time of delivery and throughout the Warranty Period, provided that with respect to Software, ViewRay does not warrant that the Software will be error free, that all defects will be corrected, or that it will run without interruption. Any warranty claim or other liability is excluded whenever that claim or liability is not caused by ViewRay, including but not limited to when it arises out of: (i) accident, theft, misuse, or neglect; (ii) use of the Product outside of normal operating conditions, specifications, or in an environment or a manner not authorized by ViewRay as set forth in the applicable Documentation; (iii) use of the Product outside the scope of the License Provisions as described in **Exhibit E**; (iv) lack of routine care or maintenance or failure to implement Bug Fixes and Updates, as defined in **Exhibit B**; (v) any modification of the Product not authorized by ViewRay in writing, (vi) any modification to any Software, except that such modification is otherwise permitted under the License Provisions; (vii) computer viruses which adversely affect the Product unless they were introduced by ViewRay; (viii) changes to the operating system or environment that were not made by ViewRay; (ix) combination of the Product with other products not supplied or authorized by ViewRay; (x) acts of God, electrical power surges, or other causes external to the System; or (xi) arising as a result of the use of third-party products that are not licensed or introduced by ViewRay. ***If any Product is modified by any party that is not authorized by ViewRay or by any party other than ViewRay or Distributor or an authorized ViewRay service provider at ViewRay's direction and in accordance with ViewRay's instructions and Maintenance Documentation: (a) the warranty for such Products will be void and of no effect, (b) such Products may not eligible for Back End Support, and (c) ViewRay shall have no liability for damages, claims or any Losses in connection with such Products. Distributor must ensure that each Customer Agreement includes this disclaimer or similar language with the same meaning. For the avoidance of doubt, if the warranty claim or other liability is caused due to the party authorized by ViewRay (other than Distributor), ViewRay or the authorized ViewRay service provider's failure to modify the Products in accordance with ViewRay's direction or Maintenance Documentation, ViewRay remains responsible for such Defect in accordance with Section 9.3 and, if applicable, is also responsible to indemnify Distributor in accordance with Section 10.3.***

9.3 **Remedies**. ViewRay will repair or replace any part of the System (or other Product) that is covered by the warranties specified in Section 9.2 (Product Warranty) (a "**Defect**") under the procedure set forth in this Section 9.3 (Remedies). Distributor must notify ViewRay of any alleged Defect in writing. Based upon the nature of the alleged Defect, Distributor must either request a Return Material Authorization (***"RMA"***) number from ViewRay or request that ViewRay dispatch service personnel to inspect the Product at its location. If Distributor requests that ViewRay dispatch service personnel, ViewRay will do so promptly. If Distributor requests an RMA number, then ViewRay will issue an RMA number to Distributor, and Distributor will then have a maximum of thirty (30) days following its receipt of the RMA to return the part exhibiting the Defect to ViewRay. Distributor's shipment must be properly insured with the freight prepaid and must include both a reasonably detailed statement of the claimed Defect and proof of the date of Distributor's purchase. In the event ViewRay reasonably determines that the returned part of the System or other Product is covered by ViewRay's warranty, ViewRay will either repair or replace it, at ViewRay's option and at its expense (including the fees and expenses incurred by ViewRay's dispatched service personnel). ViewRay will return all repaired or replaced parts and Products to Distributor properly insured with the freight prepaid, along with the amount of the shipment charges and other expenses (including but not limited to insurance fees) Distributor incurred in returning the nonconforming part or Product to ViewRay. In the event ViewRay reasonably determines that the Product claimed to contain a Defect is not covered by ViewRay's warranty,

Distributor must reimburse ViewRay for ViewRay's costs and expenses related to ViewRay's inspection, repair efforts (if any), and its return of the Product to Distributor. Repaired or replaced parts are warranted for the remainder of the original Warranty Period for the associated Product. If Distributor disputes ViewRay's determination that the Product does not contain a Defect, the dispute will be discussed and resolved using the procedure provided in Section 13 below (Dispute Resolution). ViewRay has sole discretion to determine whether to repair or replace the Product or part causing the Defect. If ViewRay determines repair or replacement is not feasible or the remedy would fail of its essential purpose, ViewRay will refund the sums paid by Distributor for the defective Product or part within forty-five (45) days. If ViewRay and Distributor determine that the whole System is not capable of operating its original function due to such Defect, ViewRay will issue an additional RMA and accept the return from Distributor the remaining of the System and the corresponding Equipment and Spare Parts (if any). In such case, ViewRay shall bear all the insurance and freight costs and other expenses incurred in shipping the remaining parts of the System and the corresponding Equipment and Spare Parts back to ViewRay and shall return the sums paid by Distributor for the defective System calculated based on straight-line depreciation over a ten (10) year period that begins on the date the System received its Acceptance and the sum Paid by Distributor for the services provided in that specific year. The sums shall be paid by ViewRay within forty-five (45) days from the receipt of the remaining System. Any late payment will impose a service charge equal to 1.5% of the due amount per month. ViewRay's ability and obligation to repair or replace the Defect requires that: (1) ViewRay technicians have access to the Customer site for warranty repair or replacement purposes; and (2) ViewRay obtain full ownership of the Products or parts it replaces at the Customer site. Distributor has sole responsibility to ensure ViewRay's required access and ownership described in the preceding sentence.

9.4 **No Conflict.** Throughout the Term of this Agreement, ViewRay undertakes here that it is not and will not become a party to any agreement that would prevent it from granting the rights granted to Distributor under this Agreement or prevent Distributor from performing its obligations under this Agreement. It will not misappropriate any trade secret of a third party in connection with the performance of its activities hereunder.

9.5 **Compliance with Law.** ViewRay has and will maintain throughout the Term of this Agreement all permits, licenses, registrations and other forms of governmental authorizations and approvals as required by applicable laws for Distributor to execute and deliver this Agreement and to perform its obligations hereunder.

9.6 **No Infringement.** There are no legal claims, judgments or settlements against or owed by ViewRay or any of its Affiliates, or pending or, to ViewRay's actual knowledge, threatened legal claims or litigation, in each case, relating to antitrust, anti-competition, anti-bribery, intellectual property infringement, breach of contract or corruption violations, which would have a material adverse effect on the ability of ViewRay to perform its obligations under the Agreement.

10. INDEMNITY

10.1 Intellectual Property Indemnification. ViewRay shall defend, indemnify and hold Distributor and its Affiliates and their officers, directors, employees and agents ("***Distributor Indemnified Parties***") harmless from any third party claims, suits, demands, losses, damages and expenses (including reasonable attorneys' fees) ("***Losses***") to the extent they arise from an allegation that the Products as delivered: (i) misappropriate any trade secret of a third party; or (ii) infringe any copyright, trademark or patent enforceable within the United States or the Territory ("***Claim***"). ViewRay is not obligated to indemnify Distributor Indemnified Parties to the extent that the alleged misappropriation or infringement is caused by: (a) use of a Product in a manner not contemplated in the Documentation or other written instructions from ViewRay; (b) modification of the Products unless performed in accordance with this Agreement; or (c) use of the Products in combination with any products or materials not provided by ViewRay where there would have been no infringement absent such combination. If the Products or any part of them are, or in the opinion of ViewRay may become, the subject of any Claim, or if it is judicially determined that the Products or any part of them infringes or misappropriates any such intellectual property or proprietary right, or if the distribution or use of the Products or any part of them is, as a result, enjoined or ViewRay wishes to minimize its liability hereunder, then ViewRay at its option, may: (i) procure for Distributor and its Customers the right to distribute or use, as applicable, such Products as provided herein; or (ii) replace the Products with non-infringing, functionally equivalent products; or (iii) suitably modify the Products so they become non-infringing. In the event that ViewRay is unable to do either (i), (ii) or (iii) above using its commercially reasonable efforts, then Distributor shall have the right to return the Products. Distributor's shipment for such return must be properly insured with the freight cost prepaid by ViewRay. For any fees and expenses incurred by Distributor in returning the Products, ViewRay shall reimburse Distributor completely. ViewRay shall accept such return and pay back to Distributor all fees and expenses paid by Distributor for such Products amortized over a ten (10) year period using the straight-line method for the benefit of the Customer and for such Services in that specific

year within forty-five (45) days from the receipt of the returned Products. Such amounts will be paid by ViewRay in a lump sum, and any late payment will impose a service charge equal to 1.5% of the due amount per month.

10.2 Product Liability. ViewRay shall indemnify and hold Distributor harmless against any Losses to the extent arising from any claims, suits, proceedings, or demands alleging such Losses were incurred due to a Product defect (excluding matters for which Distributor is solely responsible under Section 10.3). ViewRay shall maintain product liability insurance in such amounts as ordinary good business practice for its type of business would require. Distributor acknowledges that if any Product is modified by any party that is not authorized by ViewRay or by any party other than ViewRay or Distributor or an authorized ViewRay service provider at ViewRay's direction and in accordance with ViewRay's instructions and Maintenance Documentation, ViewRay shall have no liability for damages, claims or any Losses in connection with such Products. For the avoidance of doubt, if Losses are caused due to the party authorized by ViewRay, ViewRay itself or the authorized ViewRay service provider's failure to modify the Products in accordance with ViewRay's instructions and Maintenance Documentation, ViewRay shall indemnify Distributor against such Losses.

10.3 Indemnity. Each of the parties must indemnify, defend and hold harmless the other party and its Affiliates and their officers, directors, employees and agents ("***Indemnified Parties***") against all Losses to the extent arising out of the negligence, intentional wrongful acts, omissions where there is a duty to act, or misrepresentations of such party or any person for whose actions such party is responsible, except to the extent such claims are caused by the intentional conduct or gross negligence of the other party. Distributor is solely responsible for any claims, warranties or representations made by Distributor or its employees or agents which differ from the warranty provided by ViewRay in the limited warranty specified herein for each Product sold or licensed hereunder, or which differ from written Documentation provided by ViewRay.

10.4 Procedure. To receive the benefit of indemnification under this Section 10, the party seeking indemnification must promptly notify the indemnifying party ("***Indemnifying Party***") in writing of the claim or suit and provide reasonable cooperation (at the Indemnifying Party's expense) and tender to the Indemnifying Party (and its insurer) full authority to defend or settle the claim or suit. Neither party has any obligation to indemnify the other party in connection with any settlement made without the Indemnifying Party's prior written consent. The indemnified party ("***Indemnified Party***") has the right to participate at the Indemnified Party's expense in the claim or suit and in selecting its own counsel in the proceeding. The Indemnified Party shall cooperate with Indemnifying Party (and its insurer), as reasonably requested, at Indemnifying Party's sole cost and expense.

11. LIMITATION OF LIABILITY

11.1 Limitation on Damages. IN NO EVENT SHALL VIEWRAY BE LIABLE TO DISTRIBUTOR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY,OR CONSEQUENTIAL DAMAGES OR LOSSES OF ANY KIND (INCLUDING BUT NOT LIMITED TO, LOST OR STOLEN DATA, LOSS OF USE, LOST BUSINESS OPPORTUNITIES OR OTHER ECONOMIC ADVANTAGE, OR LOSS OF GOODWILL), IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY, WHETHER FORESEEABLE OR NOT, EVEN IF ADVISED THAT THESE TYPES OF DAMAGES ARE OR MAY BE POSSIBLE.

11.2 Liability Cap. THE AGGREGATE LIABILITY OF VIEWRAY ARISING OUT OF THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED UNDER IT ARE LIMITED TO DIRECT LOSSES CAUSED BY VIEWRAY AND THE REASONABLE FEES AND EXPENSES (INCLUDING REASONABLE LEGAL FEES AND INSPECTION FEES) INCURRED THEREBY, WHICH IN NO EVENT SHALL EXCEED [***]. THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT: (i) THE LIMITATIONS OF LIABILITY SPECIFIED IN THIS SECTION 11 (LIMITATION OF LIABILITY) OR ANY OTHER SECTION OF THIS AGREEMENT ARE AN ESSENTIAL BASIS OF THEIR BARGAIN THAT CORRECTLY ALLOCATES THE RISKS BETWEEN THEM; AND (ii) THEY RELIED ON THESE LIMITATIONS OF LIABILITY IN SETTING THE PRICING AND OTHER TERMS SET FORTH IN THIS AGREEMENT. NOTWITHSTANDING ANYTHING TO THE CONTRARY, PRODUCT QUALITY LIABILITY, LIABILITY TO THIRD PARTIES FOR BODILY INJURY, INCLUDING DEATH AND LIABILITY FOR BREACH INCURRED DUE TO TERMINATION OF THE AGREEMENT BY VIEWRAY (EXCEPT ANY TERMINATION SPECIFICALLY PERMITTED IN THIS AGREEMENT) SHALL BE DETERMINED ACCORDING TO APPLICABLE LAWS SEPARATELY AND SHALL NOT BE SUBJECT TO SUCH LIABILITY CAP.

12. TERM AND TERMINATION

12.1 **Term.** [***] The Agreement will expire at the end of the sixtieth (60) months following the receipt of the Regulatory Approval for ViewRay MRIdian® Linac System ("Initial Term"). The Agreement may renew for an additional sixty (60) month term in accordance with the provisions set forth in Exhibit A unless otherwise extended or terminated as specified herein.

[***]

12.2 Termination.

12.2.1 *Termination for Cause*. Unless otherwise agreed under this Agreement, either party may terminate this Agreement at any time, if the other party materially breaches the terms of this Agreement and fails to cure that breach within thirty (30) days after receiving a written notice detailing the breach from the non-breaching party. Either party may also terminate this Agreement at any time if the other party: (i) ceases to do business or otherwise terminates its business operations; (ii) is subject to voluntary or involuntary bankruptcy petition under any applicable law or any insolvency law (and in the case of an involuntary petition, it is not dismissed within one hundred and twenty (120) days) or has been appointed a receiver, fiscal agent or similar officer by a court for his business or property. ViewRay may terminate this Agreement if Distributor materially breaches the Quality Requirements and fails to cure such failure within sixty (60) days from the date ViewRay notifies Distributor of such failure. Distributor may terminate this Agreement if (i) ViewRay decides to discontinue the manufacture or makes a change to the System that will invalidate Product Approvals in a manner that prevents sale of the Products; or (ii) ViewRay fails its obligation under Section 7.3 Product Supply or its obligation under Section 3.4 Orders, if two or more than two Systems are not delivered in time or if one System is not delivered more than three (3) months from the specified delivery time; and, in the case of (ii), ViewRay fails to cure such failure within sixty (60) days from the date Distributor notifies ViewRay of such failure.

12.2.2 *Termination for Failure to Meet Performance Target*. ViewRay may terminate this Agreement upon ninety (90) days' notice to Distributor if Distributor fails to meet the applicable Performance Target as described in Exhibit A unless Distributor cures such failure prior to the expiration of the ninety (90) day period.

12.2.3 *Termination for Change in Laws or Regulations*. Either party may terminate this Agreement, effective immediately upon written notice, if any applicable laws become effective that restricts in material aspects either party's ability to perform its material obligations under this Agreement which renders the performance of this Agreement impracticable. Prior to termination related to any such change of law or regulation, the parties shall in good faith cooperate and endeavor to prepare amendments to this Agreement to allow for compliance with the new law or regulation.

12.2.4 *Termination due to Change in Circumstances*. Distributor may terminate this Agreement if the Distribution Right granted hereunder is materially adversely changed or affected due to reason(s) that cannot be attributed to Distributor. If the Regulatory Approval is not obtained within three (3) years of the Regulatory Initiation Date, the parties will meet and discuss alternatives to agree upon a plan to address the Regulatory Approval in a manner that is mutually beneficial. Either party may terminate the Agreement upon notice to the other if such matters are not resolved by mutual agreement; provided however, that if the failure to achieve the Regulatory Approval is caused by ViewRay or Distributor, such party shall not have the right to terminate this agreement.

12.3 Effect of Termination.

12.3.1 *Effect of Termination Generally*. Upon termination (including expiration) of this Agreement for any reason: (i) ViewRay and Distributor will terminate all tasks (if any) for all affected Customers and prospective Customers in an orderly manner, as soon as practical and in accordance with a schedule agreed to by the parties to minimize disruption to Customers; (ii) Distributor must cease conducting any activities with respect to the marketing or promotion of the Products; (iii) Distributor will discontinue any and all use of the Marks authorized for use under this Agreement, except as necessary to fulfill its obligations to Customers in accordance with this Section 12.3 (Effect of Termination); (iv) all licenses shall cease except as necessary to fulfill obligations to Customers in accordance with this Section 12.3; (v) Distributor must cease all use of ViewRay Confidential Information and return to ViewRay or certify in writing to ViewRay that it has securely destroyed all documents and other tangible or intangible items it or its employees or agents have received or created pertaining, referring or relating to the Confidential Information of ViewRay and all materials provided to it by ViewRay (except that Distributor

may maintain such Confidential Information and materials as necessary to fulfill its obligations under this Section 12.3 consistent with its ongoing obligations of confidentiality and use), except that Distributor shall be entitled to retain Confidential Information which is required to be retained by law, pursuant to a subpoena or order or requirement or an official request issued by any court of competent jurisdiction or by any other rule or regulation of any stock exchange or by any other governmental, administrative or regulatory body to which it is subject or for the internal archive purpose; and (vi) Distributor will assign and transfer all Product Clearances and reimbursement approvals (if any) for the Products in the Territory as well as any other registrations with respect to the Products or this Agreement to ViewRay or its designee.

12.3.2 *Ongoing Obligations and Rights*. Termination of this Agreement by either party for any reason or expiration, shall not affect the rights and obligations of the parties that accrued prior to the date of termination or expiration or release either party from its obligations to provide services to Customers made prior to the date of termination or expiration or affect existing agreements or Orders for the Products or Services. Notwithstanding any provision of this Agreement to the contrary, except in the case of termination of this Agreement by ViewRay for Distributor's cause pursuant to Section 12.2.1 (Termination for Cause) or 12.2.3 (Termination for Change in Laws or Regulations), Distributor may continue to exercise the rights and licenses granted hereunder on a non-exclusive basis to the extent necessary to allow Distributor to fulfill its obligations under existing agreements with Customers or included in any fixed tender with a Customer that was outstanding at the time of termination or expiration provided that (i) Distributor shall inform ViewRay of all such fixed tenders at the time of termination or expiration; and (ii) Distributor shall place the Order for any System covered by such fixed tenders within [***] after termination or expiration and takes possession of the System within [***] months thereafter. Unless this Agreement is terminated by ViewRay for cause pursuant to Section 12.2.1 (Termination for Cause) or 12.2.3 (Termination for Change in Laws or Regulations), (i) Distributor specifically: (a) may continue to distribute Products to any Customer where a corresponding Order was placed prior to the date of termination or expiration (and where the Customer is identified in the Order); and (b) shall retain the right to continue to provide Services and Spare Parts to any Customer that was a party to an agreement with Distributor for the purchase of Services and/or Spare Parts as of the date of termination or expiration until the completion of the transactions described in such agreement; and (ii) ViewRay will continue to provide Back End Support and/or Spare Parts to assist Distributor in supporting such Customers pursuant to these terms. If Distributor fails to provide the same or greater quality of Services to any Customer, then ViewRay shall have the right but not the obligation to require that Distributor use its commercially reasonable effort to assign the Customer service agreement to ViewRay or its designee. Alternatively, ViewRay or its designee will have the right to enter into a separate agreement with such Customer to provide them with support services.

12.3.3 *Transition Period*. Unless this Agreement is terminated by ViewRay for cause pursuant to Section 12.2.1, ViewRay shall supply Distributor with Products that are the subject of Orders with an identified Customer as of the date of termination or expiration as specified in Section 12.3.2 (Ongoing Obligations and Rights), provided that ViewRay shall be entitled, before shipment of any Orders, to require advance payment or other security for payment of all previously outstanding balances (whether or not otherwise then due), plus the amount of the new Order. Acceptance of Orders by ViewRay after termination or expiration pursuant to this Section shall not constitute a renewal of this Agreement or a waiver of the right of ViewRay to treat this Agreement as terminated or expired.

12.3.4 *Survival*. The provisions of Sections 1, 2.9, 2.10, 2.12, 4, 5.2, 5.3, 5.4, 5.5, 7, 8, 9.2, 9.3, 10, 11, 12, 13 and 14 as well as the relevant provisions of all Exhibits shall survive any expiration or termination of this Agreement.

12.4 [***]

13. DISPUTE RESOLUTION.

13.1 Designated Contacts. Each party will designate an individual (a ***"Designee"***) who will have the authority to represent that party in all matters concerning the transactions contemplated by this Agreement. All communications should be addressed to the other party's Designee. ViewRay's initial Designee will be Chief Commercial Officer. The initial Distributor Designee will be the person identified on the signature page of this Agreement. A party may change its Designee upon written notice to the other party.

13.2 Issue Resolution. In the event that any dispute arises relating to this Agreement, the Designees shall meet promptly and attempt to resolve it through good faith discussions. If the Designees are unable to resolve any dispute to their mutual satisfaction within thirty (30) days after they commence these discussions, and do not agree to extend the time for

resolution of the issues at the end of their meeting, then either party may submit such dispute for arbitration. The Arbitration shall be administered by the Hong Kong International Arbitration Centre (HKIAC) under the HKIAC Administered Arbitration Rules in force when the notice of arbitration is submitted. The seat of arbitration shall be Hong Kong. The arbitration proceedings shall be conducted in English. The number of arbitrators shall be three. Each party shall appoint an arbitrator, and the third arbitrator shall be appointed by common agreement by both parties or failing that by the HKIAC. The arbitral award is final and binding upon both parties. Pending resolution of any dispute, both parties will continue their performance under this Agreement including, without limitation, the payment of all amounts due to the other party that are not in dispute.

14. GENERAL PROVISIONS.

14.1 Governing Law. This Agreement shall be governed and construed in accordance with the laws of State of New York, United States of America, excluding its conflict of laws rules.

14.2 Amendment and Waiver. Any amendment or modification of this Agreement must be made in writing and signed by duly authorized representatives of each party. No provision of or right under this Agreement shall be deemed to have been waived by any act or acquiescence on the part of either party, its agents or employees, but only by an instrument in writing signed by an authorized officer of each party. No waiver by either party of any breach of this Agreement by the other party shall be effective as to any other breach, whether of the same or any other term or condition and whether occurring before or after the date of the waiver.

14.3 Independent Contractors. Each party represents that it is acting on its own behalf as an independent contractor and is not acting as an agent for or on behalf of any third party. This Agreement and the relations hereby established by and between Distributor and ViewRay do not constitute a partnership, joint venture, franchise, agency or contract of employment. Distributor is not granted, and shall not exercise, the right or authority to assume or create any obligation or responsibility on behalf of or in the name of ViewRay or its Affiliates.

14.4 Assignment. Except to its Affiliates, Distributor may not assign or transfer, by law or otherwise, any of its rights or obligations under this Agreement without the prior written consent of ViewRay. Any purported assignment in violation of this Section 14.4 (Assignment) will be null and void. ViewRay may assign this Agreement to an Affiliate or to a successor or acquirer, as the case may be, in connection with a merger or acquisition, or the sale of all or substantially all of ViewRay's assets or the sale of that portion of ViewRay's business to which this Agreement relates upon prior written notice to Distributor. This Agreement shall bind and inure to the benefit of the parties hereto and their permitted successors and assigns.

14.5 Notices. All notices, claims, demands and other communications hereunder shall be in writing and shall be deemed given upon the earlier of actual receipt or: (a) personal delivery to the party to be notified, (b) upon confirmation of receipt, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next Business Day, (c) ten (10) Business Days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) three (3) Business Days after deposit with a globally recognized overnight courier, freight prepaid, specifying next Business Day delivery, with written confirmation of receipt, to each party at its respective address set out below (or at such other address as any party hereto shall hereafter specify by notice in writing to the other parties hereto):

To ViewRay:	To Distributor:

14.6 Severability. In the event any provision of this Agreement shall be held to be invalid, illegal or unenforceable (together "**Invalid Provision**") in any respect for any reason, that invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement. The parties agree that they will negotiate in good faith or will permit an arbitrator to replace any Invalid Provision with an alternative valid provision that is as similar as possible in substance to the Invalid Provision.

14.7 Captions. Captions of the sections and subsections of this Agreement are for reference purposes only, do not constitute terms or conditions of this Agreement and shall not limit or affect the meaning or construction of the terms and conditions of this Agreement.

14.8 Word Meanings. Words such as *herein*, *hereinafter*, *hereof* and *hereunder* refer to this Agreement as a whole and not merely to a section or paragraph in which these types of words appear, unless the context otherwise requires. The singular shall include the plural, and each masculine, feminine and neuter reference shall include and refer also to the others, unless the context otherwise requires.

14.9 Entire Agreement. The terms and provisions contained in this Agreement (including the Exhibits) constitute the entire understanding of the parties and supersedes all previous proposals, oral or written, and all negotiations, conversations or discussions had between the parties related to the matter hereof. This Agreement is made in the English language and the English version of this Agreement shall control. In the event that any translation of this Agreement is made into another language, the non-English version shall be for informational purposes only. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and any terms or conditions set forth in any purchase order, purchase agreement, service agreement or other document relating to the transactions contemplated by this Agreement, the terms and conditions set forth in this Agreement shall prevail.

14.10 Rules of Construction. The parties agree that they have participated equally in the formation of this Agreement and that the language and terms of this Agreement shall not be construed against either party by reason of the extent to which such party or its professional advisors participated in the preparation of this Agreement. Each party agrees that it had the opportunity to review this Agreement with its legal counsel prior to executing it.

14.11 Counterparts. This Agreement may be executed in multiple counterparts (including via electronic or facsimile signatures), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

14.12 Force Majeure. "***Force Majeure Events***" are significant events or circumstances that are not caused by or within the control of a party, but which delay or prevent that party's ability to comply with its obligations under this Agreement; they do not include events that a party can avoid or prevent by exercising reasonable diligence. ***Force Majeure Events*** include but are not limited to the following: acts of God; floods; fire; earthquakes; wars; revolutions; civil commotions; acts of public enemy; labor strikes (other than by the employees of the affected party); terrorism; embargos; or other actions of a government in its sovereign capacity. In order to assert that its delay or inability to perform its obligations is caused by a Force Majeure Event, then that party ("***Disadvantaged Party***") must give prompt written notice to the other party which details the relevant circumstances. If the identified Force Majeure Event is legitimate, then both parties will then be excused from performing their contract obligations until the Force Majeure Event no longer interferes with the Disadvantaged Party's ability to meet its obligations. If Force Majeure conditions continue for more than forty five (45) consecutive days or an aggregate of ninety (90) days in any twelve (12) month period, then either party may terminate this Agreement in accordance with Section 12.2.1 (Termination for Cause).

14.13 Further Assurances. Each party covenants and agrees that, subsequent to the execution and delivery of this Agreement and without any additional consideration, it will execute and deliver any further legal instruments and perform any acts that are or may become reasonably necessary to effectuate the purposes and intent of this Agreement.

List of Exhibits

Exhibit A: Products; Pricing, Performance Target, Territory, exclusivity

Exhibit B: Back End support

Exhibit C: Quality Requirements

Exhibit D: First line field services

Exhibit E: License Provisions

Exhibit F: Regulatory Services

Exhibit G: GACL Certifications

Exhibit A
[***]

EXHIBIT B

BACK END SUPPORT TERMS

Back End Support may be purchased as "Basic" or "Enhanced". While Basic Back End Support includes most of the elements specified in these Back End Support Terms, the main difference is that it only includes remote support. In the event that Distributor purchases Basic Back End Support and the issue cannot be resolved remotely, Distributor will be charged and will pay for all reasonable travel, labor and subsistence expenses of ViewRay personnel dispatched to the Customer site plus a fee equal to 100% of the above costs.

As of the Effective Date, Back End Support consists of the following when purchased by Distributor. The description of Back End Support may be modified from time to time by ViewRay provided that the general level of support is not materially diminished. ViewRay will provide Back End Support when requested by Distributor to help Distributor maintain the Products installed at the site referenced in the Order, so that each performs substantially in accordance with its applicable Specifications defined for the Product version as installed and/or updated in accordance with these Back End Support Terms.

1. Definitions:

1.1 "***Bug Fix"*** means an error correction or minor change in the existing Software and/or hardware configuration that is required in order to enable the Product to perform to its existing Specification(s).

1.2 "***Consumables"*** means items that are consumed as part of the operation of the System, for example liquid helium.

1.3 ***"New Product"*** means components that enable new and materially different functionality and/or performance from the Product described in their current Specification.

1.4 "***Upgrade"*** means a new release of a Product offered by ViewRay for an additional fee from time to time, that contains new or enhanced features and/or functionality and/or performance improvements. An Upgrade is generally indicated by a change to the numbers to the left of the decimal point, e.g., versions 1.0, 2.0, 3.0, and 4.0.

1.5 ***"Support Term"*** means the Warranty Period or any period where Distributor has ordered Back End Support for the Products at a Customer site.

1.6 ***"Update"*** means an update or revision to any part of a Product that ViewRay generally provides to its customers during the Warranty Period or pursuant to a maintenance agreement at no additional charge and which contains only error corrections, minor new features, functionality and/or performance improvements. An Update is generally indicated by a change to the version number to the right of the decimal point, e.g., versions 1.1, 1.2, 1.3, and 1.4.

2. General Requirements. Back End Support is available only for Products that are purchased directly from ViewRay, installed by Distributor, ViewRay field service engineers or ViewRay certified installers, have not been moved from their original installation location or disconnected from its original power supply and have not been modified without written permission or direction from ViewRay. In the event of a lapse in service, Distributor may reinstate such Service by payment of the applicable service fee for the then-current service period in addition to the reasonable costs for ViewRay to inspect, repair, and return the Product to the status at which the Product would have been had a service agreement been in force continuously since the expiration of the Warranty Period.

3. Software Maintenance (Bug Fixes and Updates)

3.1 Back End Support entitles Distributor to receive Updates and Bug Fixes for Products covered by Back End Support. Software Updates and Bug Fixes may be transmitted electronically to Distributor for subsequent installation by Distributor's technicians. Items of significant complexity, however, may be installed by ViewRay field service engineers or service engineers certified by ViewRay. If the Products are covered by Basic Back End Support, Distributor will be charged the reasonable fees and expenses for the required site visit for installation. Applicable Updates will be included for those product features that were originally purchased or licensed or subsequently purchased or licensed separately as an Upgrade.

3.2 Back End Support does not entitle Distributor or its Customer to receive any Upgrades or New Products. Distributor may purchase or license Upgrades and New Products separately, and such Upgrades or New Products will then be maintained in accordance with these Back End Support Terms.

3.3 As part of Back End Support, ViewRay will provide Distributor with any and all applicable Product notices regarding maintenance, support, Upgrades, Updates and Bug Fixes generally circulated by ViewRay to ViewRay distributors and customers with System installations. Notices may be provided to Distributor via electronic mail or on ViewRay's website. Distributor must ensure that all such notices are provided to Customer in a timely manner and are translated as appropriate.

4. System Quality Assurance Testing

4.1 Back End Support does not include any System Quality Assurance Testing ("***QA***") or System commissioning. System commissioning and QA are the sole responsibility of Customer, and Distributor shall require its Customer to perform QA on a regular and ongoing basis in accordance with industry standards. In addition, Distributor shall require its Customer to maintain up-to-date QA logs. If a Customer fails to perform the appropriate QA of the Products, and to record such QA in the appropriate logs, ViewRay may terminate Back End Support with respect to such Customer, without liability.

4.2 Prior to performing any Back End Support, ViewRay will review Customer's QA logs, and if such logs are not up-to-date, ViewRay may refuse to service a Product until QA is performed. In the event that the requested service is necessary to bring the Product to a point where QA can be performed, ViewRay will proceed with the service only after Customer signs a written acknowledgement that QA is Customer's sole responsibility and that appropriate QA will be performed prior to conducting any patient treatments. Distributor shall require its Customer to acknowledge and agree to the terms of this Section 4.2.

5. Escalated Service and Service Coverage Period

5.1 Escalated Service.

5.1.1 Once Distributor has fulfilled its obligation to provide First Line Field Services without successfully resolving the problem, ViewRay will provide "***Escalated Service***" as specified herein. Escalated Service includes but is not limited to telephone support and advice on the use of the Products. The Escalated Service Coverage Period for corrective maintenance will be the hours of 8:00 AM to 5:00 PM PRC local time Monday through Friday (excluding national holidays for Distributor's location) ("***Standard Service Hours***"). Distributor has the option to request Escalated Service outside of Standard Service Hours, in which case Distributor will be charged at ViewRay's then-current hourly rate for such service, plus any reasonable and applicable overtime charges.

5.1.2 ViewRay will provide Distributor with contact points to request Escalated Service on a 24-hours-a-day, 7-days-a-week ("***24/7***") basis. ViewRay will respond within one (1) business hour of receipt of a call for Level 1 problems, within three (3) business hours for Level 2 problems and within five (5) business hours for a Level 3 problem. In the event that the issue cannot be resolved by telephone or other remote response, then ViewRay will respond on-site if the Severity Level is a Level 1 or Level 2 situation. On-site response times will vary depending on the Severity Level and the Customer location. For Products covered by Basic Back End Support, ViewRay will schedule on-site personnel based on available resources. For Products covered by Enhanced Back End Support, there will be no additional charge for such on-site visit. For Products covered by Basic Back End Support, Distributor will be charged separately (as specified above) for the site visit.

5.1.3 Severity Levels

Level 1: System is down, and Customer is unable to treat patients. For Products covered by Enhanced Back End Support, on-site support targeted within 24 hours (Monday-Friday or calculated starting the next Business Day).

Level 2: System is functioning, Customer is able to treat patients, but with some limitations or interruptions when treating patients. For Products covered by Enhanced Back End Support, on-site support targeted within 72 hours (Monday-Friday or calculated starting the next Business Day).

Level 3: System is functioning, Customer is able to treat patients, but with minor inconveniences or observations that require further investigation. On-site support is not provided.

There is no target timeline for on-site support for Products covered by Basic Back End Support.

5.1.4 Distributor will promptly notify ViewRay by calling ViewRay's Customer Support Line of any problem or defect with the Products and provide ViewRay field service engineers' access to the Products and use of adequate facilities and equipment at mutually agreeable times as necessary for ViewRay to perform the Escalated Service. Upon completion of any service visit by ViewRay, ViewRay shall provide, or make available to, Customer or Distributor, a copy of the service report describing the service or maintenance performed.

5.2 Conditions for Escalated Service.

5.2.1 Distributor has performed periodic maintenance on the Products as prescribed in the current Maintenance Documentation. Products must not have been modified other than in accordance with the Maintenance Documentation or ViewRay's instructions. No modifications to any Software have been made other than by ViewRay or in accordance with ViewRay's instructions notwithstanding Customer's right to make such modifications as described in the License Provisions.

5.2.2 To the extent that they become available, Distributor may be entitled to the benefits of remote diagnostic capabilities used by ViewRay field service engineers. This may require Customer to modify their telecommunications infrastructure to take advantage of this capability. Such modification would be at Distributor's or Customer's sole cost and expense.

5.2.3 Distributor must take the necessary precautions and provide the necessary resources (e.g., secure facilities, after-hours security guards, emergency alert systems) to ensure that ViewRay personnel and contractors performing Escalated Service may perform their duties in a safe and secure environment. If ViewRay, in its sole discretion, determines that ViewRay personnel or contractors performing Escalated Service are at unreasonable risk due to Distributor's or Customer's failure to take such precautions or provide such resources, or otherwise as a result of a failure to comply with their respective obligations, ViewRay may suspend performance of Escalated Service. Distributor covenants that any service agreement between Distributor and a Customer includes a provision to support and enforce the above requirements.

5.2.4 Distributor must provide ViewRay with the following information: (a) details of the type of technical support, services and/or Spare Parts as applicable, including all equipment model/serial numbers as relevant; (b) the quantity of Spare Parts required; (c) the requested delivery and/or performance dates, detailing reasons for any urgent requests; and (d) complete details of the site address, Customer(s) name and equipment serial numbers.

6. **Spare Parts & Consumables; Customer Relations**

6.1 ViewRay shall make a commercially reasonable effort to supply at the time of need or stock with ViewRay's field service engineers, all tools, equipment, Spare Parts and Consumables as would reasonably be required by ViewRay to perform Back End Support. The provision of Spare Parts as needed for the performance of Back End Support is included in Back End Support.

6.2 Spare Parts used for Back End Support may be either newly manufactured or factory refurbished at ViewRay's choice. All Spare Parts and assemblies provided will be manufactured or refurbished in accordance with ViewRay's

quality system and any applicable laws. Parts replaced become the property of ViewRay and will be disposed of by ViewRay. Notwithstanding the foregoing, all parts that are considered by local regulation to be "hazardous" or "contaminated" waste, or material that requires "special handling" will be disposed of, recycled or retained by Customer according to applicable Local Laws.

6.3 Consumables can be supplied and installed by ViewRay and the cost of these Consumables will be passed through to the Distributor at the then available quoted price.

6.4 Distributor must report any complaints and properly report any expressions of dissatisfaction by the Customer relating to the Products or support services provided by either Distributor or ViewRay to ViewRay immediately and in writing. Distributor has no authority to offer or commit anything on behalf of ViewRay to the Customer to resolve its complaints or dissatisfaction.

7. Support Exclusions

7.1 General Exclusions. All obligations of ViewRay for Back End Support shall be suspended and/or cease in the event of:

7.1.1 Damage to Products from fire, accident, abuse, floods, lightning, natural disasters or other calamities commonly defined as "Acts of God".

7.1.2 The intentional abuse of the Products or negligence by Distributor or Customer.

7.1.3 Product alterations or modifications not authorized by ViewRay, including any move of the System from its installation site or caused by combination of the Products with products not supplied by ViewRay.

7.1.4 Use of a Product for other than its intended and authorized purposes, or in a manner not consistent with ViewRay's Documentation, including maintenance of the necessary operating environment and line current conditions.

7.1.5 Failure to make payments in accordance with the payment schedule set forth in the Order.

7.1.6 Modifications to any Software licensed under an open source software license which would otherwise permit such modification.

7.2 Permitted Modifications. If corrective action or adjustment of the System is performed by Distributor or Customer's staff at the direction of ViewRay, those actions or adjustments shall not reduce ViewRay's responsibility hereunder or liability for the performance of the System.

8. Breach. Either party may terminate Back End Support at any time, if the other party breaches any material obligation related thereto (or pursuant to the Agreement) and fails to cure such breach within thirty (30) days after notice thereof from the non-breaching party. An event of breach may include, but is not limited to, failure to make payment due, failure to provide access as required to execute the services contemplated by these Back End Support Terms, failure to perform and log QA, or, to the maximum extent permitted by applicable laws, the filing of notice under bankruptcy or equivalent laws, failure to provide service in time, failure to provide service according to the applicable Quality Requirement or instruction. Termination shall not be the terminating party's exclusive remedy, and the terminating party shall reserve the right for all other available legal and equitable remedies.

EXHIBIT C

ViewRay Distributor Quality Requirements

Section 1 Scope

These Distributor Quality Requirements (these "**Requirements**") outline the quality controls applied to the specified Products acquired by Distributor from ViewRay pursuant to the Distribution Agreement . These provisions are being incorporated into the Distribution Agreement with the purpose of defining how production and supply activities will be established, controlled, and maintained for the manufacturing or supply of Products.

Section 2 Definitions and Interpretation

2.1 Terms are defined in their relevant section above or below; have the same meaning in the Distribution Agreement; or as defined by Applicable Laws, or as commonly used in the medical device industry for the management of quality systems.

2.2 For the purpose of this Exhibit C, the term "Product" also includes any related services.

2.3 Words such as herein, hereinafter, hereof and hereunder refer to this Agreement as a whole and not merely to a section or paragraph in which these types of words appear, unless the context otherwise requires. The singular shall include the plural, and each masculine, feminine and neuter reference shall include and refer also to the others, unless the context otherwise requires.

Section 3 Quality Management System

3.1 *Compliance with Quality Standards.* The Distributor shall document, implement, and maintain a quality system that complies with the requirements set forth under the applicable Local Laws.

3.2 *Continuous Improvement*. Distributor's performance shall be reviewed periodically, such as at the end of each quarter. Nonconformance reports and corrective and preventative actions requests and status shall be discussed with each project review, to occur at least annually. Quality objectives, including continuous improvement, shall be developed or updated over time and at least annually as the Products and the relationship evolve.

Section 4 Audits and Certificate of Conformity

4.1 *Audit Rights*. Upon reasonable advance notice and during normal business hours that will not interrupt Distributor's business operation, Distributor agrees that ViewRay and its agents (so long as such agents have entered into binding confidentiality agreements with ViewRay for the benefit of Distributor providing for obligations no less strict than ViewRay's confidentiality obligations to Distributor hereunder) will have the right, as required by Applicable Laws or otherwise, to conduct compliance audits. During the audit, Distributor may only provide information directly related to the distribution of the Products and shall have no obligation to provide information that is either a trade secret or confidential information of any third party or that has no connection with the distribution relationship contemplated under this Agreement.

Section 5 Non-Conforming Products

5.1 *Inventory Controls*. Unless otherwise directed by ViewRay, Distributor shall maintain a first in, first out ("FIFO") and other inventory control systems to ensure that nonconforming Components or prior Product versions or down-version Product are not inadvertently shipped.

5.2 *Procedures for Non-Conforming Products*. Distributor shall establish and maintain procedures to identify, receive, prevent, control, and recall Product that does not conform to or fulfill the Product Specifications. Such procedures shall address the identification, documentation, evaluation, segregation, and disposition of nonconforming Product. Nonconforming Products shall not be used or shipped without the prior written consent of ViewRay.

5.3 *Inspection and Investigation.* ViewRay will identify non-conforming Products in accordance with ViewRay's internal inspection procedures and notify the Distributor of such non-conformance in writing. In all instances Distributor shall acknowledge receipt of notice in writing and provide an initial written status response back to ViewRay within three (3) Business Days. Distributor will investigate the non-conformance and implement correction and/or corrective actions, as

required. A final response is expected within seven (7) Business Days. ViewRay will work with Distributor to develop a plan to include (a) root cause or methodology to arrive at root cause, (b) containment plan, (c) corrective action implementation date, (d) any follow-on preventative action plans, and (e) verification that corrective action and preventative measures have conclusively fixed the original problem, thus allowing the issue to be closed out. Distributor agrees to preserve and maintain all data associated with Product and other performance failures and corrective actions and to make that data available to ViewRay upon request at no charge and further agrees that all such data, including any detailed failure analysis shall be ViewRay Confidential Information.

5.4 *Returns*. Distributor shall have documented return procedures to correctly identify and manage returned Product from Customers.

Section 6 Quality Records Retention

6.1 *General*. Distributor shall maintain records (and if applicable, shall cause its affiliates and its subcontractors to retain) detailed written records relating to the Products ("**Quality Records**"), including but without limitation to, any records relating to compliance with all applicable regulations. In general, Distributor shall ensure retention of Quality Records associated with the Products provided to ViewRay for a minimum of seven (7) years from record release date. Quality Records associated with the Products shall be retained by Distributor until written authorization is received from ViewRay for the disposition of such records. Quality Record disposition may consist of continued retention by Distributor, transfer to ViewRay, or disposal by Distributor. The Distributor shall furnish ViewRay with copies of records relating to the manufacture, quality and testing of the Product upon request.

6.2 *Testing Records*. If the Distributor is required to perform acceptance activities per ViewRay written agreement or purchase specification, the Distributor shall maintain records of the acceptance activities performed and/or Products and services delivered to ViewRay. These records may include, as appropriate, test/inspection criteria, revision level of documents/equipment/software used, operating procedures (planning, routing, or traveler sheets), dates of test/inspection, and the results. The records required shall be retained for a minimum of seven (7) years unless Distributor submits the records to ViewRay in response to receiving ViewRay's written demand for such records, by written agreement or purchase specification. Records associated with the Products shall be retained by Distributor until written authorization is received from ViewRay for the disposition of the records. Record disposition may consist of continued retention by Distributor, transfer to ViewRay, or disposal by Distributor.

6.3 *Requests for Quality Records*. Quality Records are to be archived in a readable form and, if requested, are to be made available to ViewRay within seven (7) Business Days of such request if the Quality Records remain archived at Distributor's facility. Certain documents may be archived offsite, in which case they will be made available to ViewRay within approximately fourteen (14) Business Days of such request. The provisions about archiving of Quality Records shall survive the termination of the Distribution Agreement.

Section 7 Complaints and Corrective Actions

7.1 *Complaint Handling*. Distributor shall establish a system for complaint handling and a single point of contact to coordinate answering questions from ViewRay, and to respond to Product inquiries or complaints from the end-users of the Products where applicable. Distributor shall establish procedures to determine and analyze the root cause of nonconforming material and Products. Distributor shall also have documented procedures for the investigation of Customer returns or complaints. Distributor shall notify ViewRay within three (3) Business Days of the initial receipt of any complaints received by Distributor regarding the Product. Any complaint which has been reported to a regulatory authority shall require preliminary investigation and response by the Distributor to ViewRay within one (1) Business Day. Distributor shall work in good faith with ViewRay to review, investigate and resolve all Product complaints and provide a summary of investigations and conclusions. Distributor will retain complaint investigation records and evaluate trends and severity of complaints.

7.2 *Corrective Action Plan*. Upon request from ViewRay, the Distributor shall provide documented corrective action plans within a mutually agreed upon time, typically fourteen (14) Business Days from receiving a corrective action request from ViewRay; such corrective action plan is subject to ViewRay's written approval.

Section 8 Packaging, Transportation and Storage

Distributor shall ensure there is proper and robust packaging to protect the Product against damage from transportation, handling, or storage. During transportation and during any period when Products are within Distributor's control, Distributor shall comply with Product handling instructions such as conditions of temperature, light, humidity, date of expiration, and other pertinent factors as required.

Section 9 Labeling (as applicable)

During any period that Products are being sold with Distributor labeling, ViewRay will retain Distributor's labeling on Products. In addition, during any period that ViewRay branded versions of Products are being resold with ViewRay labeling, ViewRay shall maintain any Distributor labeling that is required to fulfill regulatory requirements. Labeling includes, but is not limited to, instructions for use, manuals, and certificates, which are delivered together with Products, and direct Product labeling. For Distributor-labeled Products, all labeling shall be retained in its original form, without any additions, omissions, or changes. ViewRay must obtain Distributor's written permission before any changes are made to Distributor labeling by ViewRay. If labeling needs to be translated into the local language due to a regulatory requirement or to customer requirement, the responsibility and the costs of translations are to be undertaken by Distributor. The translated material shall not change the meaning or intent of the original text. A copy of the translated material shall be forwarded to ViewRay.

Section 10 Traceability

Distributor shall establish a system to ensure full traceability of Products from which it is possible to determine the complete distribution history of the Products. Minimum information (as applicable) shall include the following Product details: Product status, quantities shipped, delivery dates, official Product name, Product number, kit and/or packing lot numbers and ship to information (*e.g.*, Customer name, address and phone numbers). If applicable, Product version numbers and/or serial numbers must also be obtainable. Distributor shall maintain serial numbers, lot history records, and other documents.

Section 11 International Trade Compliance (as applicable)

11.1 *In general.* Both parties will cooperate to effect compliance with all applicable laws.

11.2 *Compliance With Trade Laws, Marking, And Duty Drawback.* All agreements required by any applicable federal law or regulation to be incorporated are hereby incorporated. Distributor shall mark each item of foreign goods with the English name of the country of origin (if known) as conspicuously and permanently as possible (or on the container if the item cannot be so marked), and comply with all other applicable marking requirements. At ViewRay's request, Distributor shall (a) inform ViewRay of the existence of any duty drawback rights, (b) provide a certificate of country of origin of imported goods sufficient to satisfy the customs authorities of the country of receipt, (c) designate ViewRay as importer of record of imported and dutiable goods, (d) furnish ViewRay properly executed documents required by U.S. Customs to prove importation and duty payment, and (e) transfer customs duty drawback rights from Distributor to ViewRay. Distributor warrants that the produced or will be produced Products are sold in compliance with the provisions of all applicable federal, state, or other laws.

Section 12 Compliance with Law, ViewRay Policies, & Disaster Plan

12. 1 *Compliance with Laws.* Distributor shall comply with all applicable laws and industry codes. Provided however, with regard to industry codes, only those promulgated by NMPA will apply.

12.2 *Compliance with ViewRay Policies*. Prior to performing any work for ViewRay, Distributor shall read and become familiar with policies furnished by ViewRay, including but not limited to those relating to ethics, standards of conduct, and business courtesies. Distributor shall use commercially reasonable effort to comply with such policies in all material respects in the performance of the works and supply of Products.

12.3 *Disaster Plan*. Distributor shall develop and keep current a formal business recovery plan that details strategies for response to and recovery from a broad spectrum of potential disasters. Upon request, Distributor shall make such plan available to ViewRay or its designated representative for review.

Section 13 Regulatory Authority Inspection and Communication Cooperation, Recalls

13. 1 *Inspection and Communication*. Each party shall, to the extent practicable, notify the other party as soon as any Regulatory Authority's quality inspection or communication involves the Product. ViewRay is allowed to observe such an inspection and contribute input into the discussion and communication. Distributor will notify ViewRay within three (3) Business Days of the receipt of a Regulatory Authority inspection report, deficiency letter or written regulatory compliance observation, which contains any significant adverse findings that relate to the Product or the facilities used to produce, test or warehouse the Product sold to ViewRay. A significant adverse finding is herein defined as the following: conditions, practices, or processes that adversely affect or may potentially adversely affect product or service quality and/or the rights, safety or well-being of subjects/patients and/or the quality and integrity of data, documentation, or other materials or information addressed in the inspection. As they relate directly to either Product or the facilities used to produce, test, or warehouse the Product sold to Customers, Distributor shall provide copies or a summary of the inspection or audit report, deficiency letter or written regulatory compliance observation within five (5) Business Days. These can be edited to exclude Distributor or Customers' proprietary information. Both parties agree to cooperate with each other on inspection, audit and other responses to Regulatory Authorities.

13.2 *Recalls and Field Corrections.* In the event of any Product recall, Product withdrawal or field correction of any Product that is required by a governmental agency, by Distributor, or by ViewRay for safety or efficacy reasons, the parties agree that (a) they shall promptly notify each other and (b) they shall fully cooperate with each other concerning the necessity and nature of such action. Distributor shall be the point of contact for Customers of any Product (whether directly or through any permitted sub-distributors) and Distributor shall be responsible for making any and all applicable Regulatory Authority contacts and for coordination of any recall or field correction activities involving such Products whether or not such action was requested by Distributor. Product recall and field correction activities may include, but are not limited to, communications and meetings with all required regulatory agencies, replacement stock, service labor, installation, travel, notifying Customers of such recall and any replacement Product to be delivered to those same Customers, including shipping. In those instances where it is determined that the Product recall or field correction is required primarily as a result of Distributor not adhering to the provisions of these Quality Requirements, the Distributor shall be responsible for all incidental damages incurred by ViewRay, inclusive of but not limited to cost associated with inspection, testing, boxing, packing, crating, transportation and field service labor and travel expenses to the extent of its contribution to such Product recall or field correction. All such damages shall be at ViewRay's actual documented costs. In those instances that the Product recall or field correction are results of Products deficiency, ViewRay shall bear all the costs and expenses incurred including but not limited to all incidental damages incurred by Distributor, such as costs associated with inspection, testing, boxing, packing, crating, transportation and field service labor, travel expenses and attorney fees. All such damages shall be at Distributor's actual documented costs.

Section 14 Service and Installation (as applicable)

14.1 *Service and Installation of ViewRay Product.* Distributor shall provide trained and qualified personnel with respect to the installation, operation, maintenance, and repair of the Products. Such training and qualifications will include reasonable engineering and technical information, documentation and demonstrated competency in the Product, work instructions and manuals. Distributor warrants that any work performed by Distributor for ViewRay or to any ViewRay Customer, including maintenance, calibration, and support services, shall be performed per the appropriate ViewRay documentation and to generally accepted industry standards.

14.2 *Calibration and Maintenance.* Distributor shall ensure that the equipment used is calibrated to meet the manufacturer's pertinent published Specifications (or ViewRay's Specifications if required). ViewRay requires calibration be performed according to the most current version of applicable standards promulgated by a national government standards agency if the test equipment is utilized outside the United States. Distributor shall comply with all applicable laws.

Section 15 Subcontractors (as applicable)

When Distributor engages a subcontractor to perform work under the Distribution Agreement, Distributor shall remain fully liable and responsible for all work completed by subcontractor, and subcontractor shall comply with all applicable provisions hereunder. The Distributor shall have an appropriate quality agreement with subcontractors used for production, packaging, testing, processing, or release. ViewRay shall have the right to audit any subcontractor in the same manner it may audit Distributor in accordance with the provisions of Section 4 of this Exhibit C.

Section 16 Change Requests. A "**Change Request**" means any of the changes proposed by ViewRay or Distributor as described herein.

16.1. *Distributor Proposed Product Changes*. Any changes proposed by Distributor or Distributor's subcontractors, to materials, processes, or software, which may affect the form, fit, or function of the Product, and/or the reliability, safety, regulatory compliance, serviceability, performance and warranty of the Product, and/or any approved Product quality plans, must be submitted prior to implementation in the form of a written Change Request for ViewRay's approval. For clarification purposes, applicable Product changes may be inclusive of but not limited to, changes of sources of material, components and parts, changes in manufacturing processes, test procedures, manufacturing locations and relocation or replacement of any equipment utilized in the manufacturing the Product. Changes may not be made to any Products unless and until the Distributor has received written approval for the changes from ViewRay. At minimum, the Change Request must include the ViewRay affected part number or software revision (if applicable), proposed date of implementation, serial number verification/validation records, effectiveness of the assembly that is changed, reason for the change, specific details of the change (including price and Lead-time changes) and, if available, supporting data that demonstrates that Product reliability has not been impacted negatively. In addition, ViewRay has the right to request Product samples for evaluation prior to approval by ViewRay of such Product changes at no additional cost.

Section 17 Quality Representatives.

Each party will identify an Authorized Quality Representatives.

Authorized Quality Representative on behalf of Distributor:

Authorized Quality Representative of ViewRay:

Section 18 Vigilance System Requirements (as applicable for Medical Device Products)

19.1 *Vigilance Systems*. Distributor is obliged to have a system that ensures compliance with any worldwide regulatory medical device incident vigilance system requirements, which are applicable in the countries where Products will be used and shall, to the extent practicable, provide ViewRay with reasonable access to such records and notice of all Product complaints, including complaints concerning deaths or injuries to patients treated with the Products or malfunctions of the Products that gives rise or could give rise to the need to file a Medical Device Report (***"MDR"***) within the meaning of the Federal Food, Drug and Cosmetic Act of 1941, as amended (the ***"Act"***) and other applicable equivalent worldwide adverse event reporting regulations. Such system shall cover both Product recalls/field safety corrective actions and any other adverse event (also called medical device reporting or mandatory problem reporting). In these specific situations, where Products need to be traced, the parties shall cooperate with each other to appropriately trace such Products. If either party receives a complaint or becomes aware of an event where a Product could have potentially contributed to or caused a death or serious injury, or an event where a Product has malfunctioned and, if that malfunction occurred again, it could cause death, or serious injury, the party shall use its best efforts to give such notice to the other party orally within one (1) Business Day, or as soon as otherwise reasonable under the circumstances, and to confirm such notice by facsimile or email within one (1) Business Day after giving oral notice. Distributor shall promptly and, to the extent practicable, within three (3) Business Days (unless a

shorter period is required under applicable laws) notify ViewRay in writing whenever Distributor becomes actually aware of an adverse experience with any of the Products. Each such written notice shall be deemed Confidential Information of ViewRay. Distributor shall cooperate fully with ViewRay in dealing with Customer complaints concerning the Products. ViewRay shall be solely responsible for processing the final analysis of medical complaints with respect to the Products. Distributor shall provide reasonable and necessary support to ViewRay for carrying out such activities. If required by local regulations, Distributor is responsible for reporting medical complaints to the local authority; provided that Distributor shall consult with ViewRay in each case prior to making such report and ViewRay and Distributor will cooperate to promptly report the medical complaint to the local authority. In the event the investigation indicates that the Product is defective, the parties will coordinate their efforts to ensure that proper recall/field safety notices shall be delivered to end-users and any requested information concerning the effectiveness of the recall/field safety corrective action shall be reported back and shared by the parties.

Exhibit 1

The following table provides a high-level summary of key responsibilities. It is not intended to replace or override the detail in other sections of these Requirements. "X" in a column indicates responsibility of the respective party.

Topic	ViewRay	Distributor
Quality Systems / GMP Declaration		X Maintaining applicbale QMS certification and facility registration, as applicable
Product specifications	X	
Auditing and Monitoring	X Ensure Monitoring/Audits are done	X Maintaining an "Approved" status
Third Party Inspection Notification		X Providing notice of inspection, copy of regulatory report/response, obtaining approval for Regulatory Agency contact
Software detailed design specifications	X	
Design History File	X	
Design Control / Design Control Changes	X	
Verification and Validation	X Product verification/validation, validation/release of equipment and test methods for ViewRay-provided equipment and methods	X Validation / Qualification for Distributor's processes, as applicable
Submission	X	X Providing required input
RA issues for countries in which Product is distributed	X	X Notifying ViewRay of inquiries
Record Retention	X (Installation, Test, Servicing Records)	X
Device History Record (DHR)	X Providing approval, as applicable	X
Device Master Record (DMR)	X	X
Labeling	X Development and translations	X Applying labeling per ViewRay instructions and obtaining ViewRay approval for Distributor-procured labeling
Process and Material Control – Manufacturing Changes	X Managing ViewRay managed Distributors and ViewRay produced material, engineering-directed sources	X Obtaining ViewRay approval to use Distributor managed sub-tier Distributor, obtaining ViewRay approval prior to implementing a change

Raw Material, In-Process, and Final Product Release Testing	X Approving final release	X Performing incoming inspection for ViewRay and managed material, providing, performing testing
Notification of Nonfonforming Product		X
Servicing	X Provide service procedures and processes	X Follow ViewRay servicing procedures and processes
Storage and Distribution	X Providing requirements	X Complying with ViewRay requirements
Shipping	X Providing shipping specifications	X Following specifications
Warranty	X ViewRay Products	X
Customer Certificate	X Issuing certificate	X Providing required input
Disposition of Returned Goods	X	
Training	X ViewRay initial Product training, as applicable	X On-going training needs
Customer Support and Complaint Handling	X Complaint handling	X Investigating Distributor related issues
Customer Interventions (Recalls) and Adverse Experiences (Medical Device Reporting)	X	X
Agreement Termination	X	X
Other -Metrics -Record Retention -Quality Control Plan -Quality and Compliance Reviews	 X X X X	 X X X X
Declaration of Conformity	X	X Certificates
Risk Analysis	X	X
Essential Requirements	X	X
Management of Notified Body Review and Approval	X	X
Legal Manufacturer Identified	X	

EXHIBIT D
FIRST LINE FIELD SERVICES

First Line Field Services consists of the following activities to be performed by Distributor:

1. Distributor will provide to all Customers, remotely and on-site when needed, routine maintenance and service and timely response to special requests for service of all installed Products in the Territory. Distributor will make a sufficient number of service personnel available to provide First Level Field Services. Distributor is also responsible for performing Periodic Maintenance on the Products. ***"Periodic Maintenance"*** means (i) cleaning and testing the System and Equipment and making all adjustments and repairs necessary to ensure that the System and Equipment are operating in accordance with their applicable Specifications in all material respects; (ii) testing the Software and correcting defects that prevent the Software from operating in substantial conformance with the applicable Specifications; (and (iii) all other maintenance routinely performed on the Products as described in the Maintenance Documentation.

2. Subject to and in accordance with the terms of the Agreement, Distributor is hereby granted a limited, exclusive, and non-transferable license during the Term (or such longer period as specified in Section 12.3 (Effect of Termination)) of the Distribution Agreement to use the Maintenance Documentation solely for the purposes of providing First Line Field Services to Customer(s) in the Territory. ViewRay makes no warranty that the operation of the Maintenance Documentation will be uninterrupted or error free.

3. Distributor must ensure that its field service engineers and other necessary service personnel receive training at a ViewRay training facility as contemplated by Section 7 (Training; Technical Assistance) of the Distribution Agreement.

4. Distributor may purchase Spare Parts at ViewRay's reference price or may purchase Back End Support.

5. Distributor will be responsible for the transmission and/or installation of software Bug Fixes and Updates to Customer unless otherwise specified by ViewRay.

6. Distributor will make First Line Field Services available to Customers between the hours of 8:00 AM to 9:00 PM local time Monday through Saturday (excluding national holidays for Customer's location). Distributor must provide Customer with contact points to request service on a 24-hours-a-day, 7-days-a-week basis.

7. Distributor, directly or remotely as the situation requires, either with Distributor's own personnel or through contractors, shall initially respond within one (1) hour of receipt of a call for service from Customer. The initial response shall include telephone support, including (as applicable) consultations, diagnostic assistance and advice on the use and maintenance of the Products.

8. Distributor must provide ViewRay with a written report of all its activities with respect to the provision of the First Line Field Services in the Territory which written report shall be in such form and contain such details as ViewRay may reasonably require.

9. Distributor must keep and maintain all Product downtime records each month and provide them to ViewRay whenever ViewRay requests them.

10. With respect to every service call, Distributor must complete a written service report in English, unless otherwise agreed. This report shall be in such form and contain such details as ViewRay may reasonably require.

11. All component parts replaced during the Warranty Period or in connection with the provisions of Services which are declared returnable shall be returned at ViewRay's cost and in accordance with the RMA procedures.

12. All First Level Field Services shall be performed using such degree of competency and level of care and skill as is appropriate for service providers maintaining equipment in the health care industry and in any event with no less than reasonable care and skill. Distributor must meet ViewRay's quality standards required for the First Level Field Services as communicated to Distributor from time to time including maintaining sufficiently trained and approved service personnel. Distributor must obtain ViewRay's prior approval for service personnel it wishes to appoint to perform First Level Field Services. Distributor is not authorized to perform any First Level Field Services using untrained personnel. ViewRay may at

any time, at its own expense, upon reasonable prior notice, review the quality of Distributor's service performance and, if in ViewRay's reasonable discretion this is determined to be unsatisfactory, ViewRay will inform Distributor of its findings and if capable of remedy, ViewRay shall require Distributor to take such remedial action as ViewRay deems appropriate. The costs of any remedial action shall be borne by the Distributor.

13. Distributor will maintain an Uptime of the System of at least 95% of normal treatment hours per maintenance year. Normal treatment hours will be from 8:00 AM to 5:00 PM local time Monday through Friday (excluding national holidays for Customer's location). Uptime means any time, during normal treatment hours, that the System is not available for patient treatment, excluding hours for scheduled maintenance.

EXHIBIT E

LICENSE PROVISIONS

Distributor must enter an enforceable agreement with each Customer that includes provisions no less protective of the Software and Documentation than those specified herein.

1. Customer is granted a limited, personal, non-exclusive, non-transferable right to use the Software and Documentation in conjunction with Customer's use of the Product for which such Software and Documentation were provided, for Customer's internal business purposes. Software may be used only in the Territory and in accordance with the Documentation.

2. Customer may not sell, rent, lease, license, time share or otherwise transfer or provide access to the Software or Documentation to any third parties other than to Distributor in connection with Distributor's performance of support services for Customer. However, if Customer is a managed service provider to a single medical care facility end-user and the Products are installed at the end-user facility as specifically agreed in writing by ViewRay, such Customer shall be permitted to use the Software in the course of providing that medical care facility services related to the operation of the Products.

3. Customer shall keep the Software and Documentation confidential. Customer shall implement reasonable security measures to protect such trade secrets and copyrighted materials.

4. Customer may not reproduce (except for backup copies), reverse engineer, translate or create other versions of the Software or Documentation (except to the extent expressly permitted by law or except as specified in a license for OSS (as defined in clause 5 under this Exhibit E). Any backup copy must include all copyright and other proprietary rights notices as contained on the original

5. Each Customer Agreement must contain the following acknowledgement: "All OSS is licensed in accordance with the license accompanying the OSS. ***Notwithstanding any provision of such OSS license, Customer acknowledges that any modifications made to the OSS will void the warranty for the Products, invalidate any service obligation with respect to the Products and void any other obligation or liability of ViewRay with respect to the Products***. As used herein, "*Open Source Software" or "OSS*" means software components licensed under a license approved by the Open Source Initiative ("OSI") or similar open source or freeware license and are embedded in or provided with the Products."

6. Customer shall acknowledge that ownership of all intellectual property rights in and to the Software and Documentation remain exclusively with ViewRay or its suppliers or licensors.

8. Each license shall include a general disclaimer of warranty.

9. Any Updates or Bug Fixes provided to Customer (or Upgrades if applicable) by or on behalf of ViewRay will be considered Software for purposes of the license.

10. The Software is not guaranteed to be free from errors or to operate uninterrupted. ViewRay does not make any representations or give any warranties regarding compatibility of the Software with other software or hardware equipment not supplied by ViewRay.

11. The license may be terminated in the event Customer is in material breach of these License Provisions, which breach is not capable of remedy or, if capable of remedy, has not been remedied within a reasonable period of time. In the event of termination in accordance with the above, Customer shall immediately discontinue use of Software and shall confirm the same in writing.

Exhibit F

Regulatory Services

In addition to Distributor's obligations as set forth in the Agreement, during the Term, Distributor shall also perform and provide the following Regulatory Services to ViewRay at Distributor's sole expense:

1. Appointment by ViewRay. ViewRay hereby appoints Distributor as the sole Regulatory Services provider with respect to the Regulatory Approval of the Products. Additional Products may be added or removed from the product list for additional Regulatory Services only upon written approval of both ViewRay and Distributor. Unless otherwise agreed by the parties, for any additional Products that the parties agree are to be added to the product list and for any Regulatory Services other than the service to acquire the Regulatory Approval, ViewRay agrees to pay additional fees and expenses for the Regulatory Services as agreed by the parties. ViewRay shall provide all documents, files, materials and assistances reasonably necessary for the Regulatory Services.

ViewRay hereby undertakes that it shall have full legal rights and authorizations to appoint Distributor as its Regulatory Service provider and such appointment shall not constitute a breach or violation of any of its obligations or duties under any legal document, agreement, laws or regulations.

2. Regulatory Services to be Provided by Distributor.

a. Regulatory Approvals. Distributor shall obtain the Regulatory Approval and, if agreed by the parties, any additional Product Clearances as contemplated in Section 6 of the Agreement.

b. Representation; Reporting.

i.At ViewRay's request, Distributor shall, to the extent practicable, represent ViewRay before the Regulatory Authority, including, without limitation, representation in case of Product recall, Product withdrawal or field correction or risk of Product recalls, Product withdrawals or field correction.

ii.As required by applicable laws, Distributor shall report to the Regulatory Authority such facts, events and occurrences regarding the Products and their use, including, as applicable, complaints, incidents and recalls. Distributor shall simultaneously provide copies of all such reports to ViewRay by email to the following addresses: sdelaney@viewray.com and by hard copy pursuant to Section 14.5 of the Agreement.

iii.Distributor shall keep, maintain, and make available to ViewRay and promptly provide to ViewRay by email (to the following addresses: sdelaney@viewray.com) and by hard copy pursuant to Section 14.5 of the Agreement, any requests, notifications, or other information from the Regulatory Authority regarding the Products or Product categories.

iv. In addition to any recordkeeping requirements in the Agreement, Distributor shall maintain all records regarding product marketing, sales, distribution, complaints and incidents as are required to be maintained under Applicable Laws, and keep such records available for inspection by the Regulatory Authority.

v.Distributor shall keep, maintain, and make available to the Regulatory Authority and upon lawful request an updated copy of Product regulatory documents. Distributor shall promptly request from ViewRay any additional information requested by the Regulatory Authority, and timely provide same to the Regulatory Authority.

vi.Distributor shall file and register with the Authority any and all documents to be filed and registered in the Territory regarding the Products as required by all applicable laws.

vii.Distributor shall promptly and accurately respond to any requests for information regarding the Regulatory Authority and any of the Regulatory Services.

Exhibit G

DISTRIBUTOR'S ANNUAL CERTIFICATION OF COMPLIANCE WITH
GLOBAL ANTI-CORRUPTION LAWS AND GLOBAL ANTI-CORRUPTION POLICY

Manufacturer:	ViewRay Technologies, Inc.
Distributor:	
Distribution Agreement date:	

This annual certification is given by Distributor to Manufacturer under the above listed Distribution Agreement and for Distributor's activities under that Distribution Agreement.

Distributor acknowledges that Manufacturer must comply with global anti-corruption laws ("GACL"), including the United States Foreign Corrupt Practices Act ("FCPA"). Distributor represents and warrants it understands the requirements of GACL and the FCPA and certifies it has conducted all of its activities under the Distribution Agreement in compliance, in all material respects, with the GACL.

Distributor warrants and certifies it has maintained written books and records under applicable standards that and accurately identify the person or entities that receive payments from Distributor both for the Distribution Agreement and in connection with general marketing expenditures.

Distributor further warrants and certifies that if it has used any subcontractors or agents in connection with fulfilling its obligations under the Distribution Agreement, it is not aware that such subcontractors or agents failed to comply with the GACL and GACP in all material respects.

Distributor acknowledges it has the authority to sign this Certification

(signature)

Print Name & Title:

Date:

Exhibit H

Spare Parts List

Exhibit 21

Subsidiaries

Entity	**Jurisdiction of Organization**
ViewRay Technologies, Inc. (formerly known as ViewRay Incorporated)	Delaware
ViewRay GmbH	Germany

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statements No. 333-216797, No. 333-222264, and No. 333-229145 on Form S-3, and Registration Statements No. 333-224013, No. 333-226797, No. 333-227383, No. 333-216794, No. 333-210472, and No. 333-230460 on Form S-8 of our reports dated March 12, 2020, relating to the consolidated financial statements of ViewRay, Inc. and its subsidiaries (the "Company") and the effectiveness of the Company's internal control over financial reporting, appearing in this Annual Report on Form 10-K of the Company for the year ended December 31, 2019.

/s/ Deloitte & Touche LLP
San Francisco, California
March 12, 2020

Exhibit 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO
EXCHANGE ACT RULE 13a-14(a)/15d-14(a)
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Scott Drake, certify that:

1. I have reviewed this Annual Report on Form 10-K of ViewRay, Inc.;

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

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

4. The registrant's other certifying officer(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: March 12, 2020

/s/ Scott Drake
Scott Drake
Title: Chief Executive Officer and President
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO
EXCHANGE ACT RULE 13a-14(a)/15d-14(a)
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Brian Knaley, certify that:

1. I have reviewed this Annual Report on Form 10-K of ViewRay, Inc.;

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

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

4. The registrant's other certifying officer(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: March 12, 2020

/s/ Brian Knaley
Brian Knaley
Title: Senior Vice President and Interim Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION OF THE PRINCIPAL EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officers of ViewRay, Inc., a Delaware corporation (the "Company"), hereby does certify that:

(i) the Annual Report on Form 10-K of the Company for the year ended December 31, 2019 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

The foregoing certification (i) is given to such officers' knowledge, based upon such officers' investigation as such officers reasonably deem appropriate; and (ii) is being furnished solely pursuant to 18 U.S.C. § 1350 (section 906 of the Sarbanes-Oxley Act of 2002) and is not being filed as part of the Report or as a separate disclosure document and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Report), irrespective of any general incorporation language contained in such filing.

VIEWRAY, INC.

Dated: March 12, 2020

By: /s/ Scott Drake
Name: Scott Drake
Title: Chief Executive Officer
(Principal Executive Officer)

Dated: March 12, 2020

By: /s/ Brian Knaley
Name: Brian Knaley
Title: Senior Vice President and Interim Chief Financial Officer
(Principal Financial Officer)