Table of Contents

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

FORM 10-Q

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

For the quarterly period ended December 31, 2010

or

o 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: 001-33301

ACCURAY INCORPORATED
(Exact Name of Registrant as Specified in Its Charter)

Delaware	**20-8370041**
(State or Other Jurisdiction of Incorporation or Organization)	(IRS Employer Identification Number)

1310 Chesapeake Terrace
Sunnyvale, California 94089
(Address of Principal Executive Offices Including Zip Code)

(408) 716-4600
(Registrant's Telephone Number, Including Area Code)

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 229.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No o

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

Large accelerated filer o	Accelerated filer x
Non-accelerated filer o (Do not check if a smaller reporting company)	Smaller reporting company o

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

As of January 12, 2011, there were 61,912,268 shares of the Registrant's Common Stock, par value $0.001 per share, outstanding.

Table of Contents

Accuray Incorporated

Form 10-Q for the Quarter Ended December 31, 2010

Table of Contents

Table of Contents

PART I. FINANCIAL INFORMATION

Item 1. Condensed Consolidated Financial Statements

Accuray Incorporated
Condensed Consolidated Balance Sheets
(in thousands, except share and per share amounts)
(unaudited)

	December 31, 2010	June 30, 2010
Assets		
Current assets:		
Cash and cash equivalents	$ 49,513	$ 45,434
Restricted cash	22	22
Short-term available-for-sale securities	102,427	99,881
Accounts receivable, net of allowance for doubtful accounts of $251 and $115 at December 31, 2010 and June 30, 2010, respectively	29,856	37,955
Inventories	35,646	28,186
Prepaid expenses and other current assets	8,608	19,356
Deferred cost of revenue—current	4,892	7,889
Total current assets	230,964	238,723
Deferred cost of revenue—noncurrent	2,385	3,213
Property and equipment, net	16,590	14,684
Goodwill	4,495	4,495
Intangible assets, net	259	388
Other assets	1,727	1,681
Total assets	$ 256,420	$ 263,184
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	$ 8,447	$ 10,317
Accrued compensation	9,540	10,786
Other accrued liabilities	7,285	10,669
Customer advances	13,784	12,884
Deferred revenue—current	34,838	42,019
Total current liabilities	73,894	86,675
Long-term liabilities:		
Long-term other liabilities	1,030	1,059
Deferred revenue—noncurrent	3,905	5,374
Total liabilities	78,829	93,108
Commitments and contingencies (Note 7)		

Stockholders' equity:		
Preferred stock, $0.001 par value; authorized: 5,000,000 shares; no shares issued and outstanding	—	—
Common stock, $0.001 par value; authorized: 100,000,000 shares; issued: 61,865,443 and 60,666,974 shares at December 31, 2010 and June 30, 2010, respectively; outstanding: 59,725,425 and 58,526,956 shares at December 31, 2010 and June 30, 2010, respectively	60	59
Additional paid-in capital	295,801	287,764
Accumulated other comprehensive loss	(25)	(71)
Accumulated deficit	(118,245)	(117,676)
Total stockholders' equity	177,591	170,076
Total liabilities and stockholders' equity	$ 256,420	$ 263,184

Condensed consolidated balance sheet at June 30, 2010 has been derived from audited consolidated financial statements.

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

Table of Contents

Accuray Incorporated
Condensed Consolidated Statements of Operations
(in thousands, except per share amounts)
(unaudited)

	Three Months Ended December 31,		Six Months Ended December 31,	
	2010	2009	2010	2009
Net revenue:				
Products	$ 34,391	$ 35,686	$ 53,666	$ 66,032
Shared ownership programs	880	456	1,521	937
Services	18,846	20,688	36,580	40,342
Other	129	491	547	585
Total net revenue	54,246	57,321	92,314	107,896
Cost of revenue:				
Cost of products	13,134	17,556	20,459	32,207
Cost of shared ownership programs	122	329	294	650
Cost of services	11,380	13,133	23,180	27,053
Cost of other	144	339	678	403
Total cost of revenue	24,780	31,357	44,611	60,313
Gross profit	29,466	25,964	47,703	47,583
Operating expenses:				
Selling and marketing	7,987	10,063	15,747	18,712
Research and development	9,313	7,769	17,360	15,431
General and administrative	8,481	10,430	17,040	19,360
Total operating expenses	25,781	28,262	50,147	53,503
Income (loss) from operations	3,685	(2,298)	(2,444)	(5,920)
Other income, net	676	426	2,292	911
Income (loss) before provision for (benefit from) income taxes	4,361	(1,872)	(152)	(5,009)
Provision for (benefit from) income taxes	263	(696)	390	(557)
Net income (loss)	$ 4,098	$ (1,176)	$ (542)	$ (4,452)
Net income (loss) per share:				
Basic net income (loss) per share	$ 0.07	$ (0.02)	$ (0.01)	$ (0.08)
Weighted average common shares used in computing basic net income (loss) per share	59,282	57,405	58,975	57,112
Diluted net income (loss) per share	$ 0.07	$ (0.02)	$ (0.01)	$ (0.08)
Weighted average common shares used in computing diluted net income (loss) per share	61,376	57,405	58,975	57,112

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

Table of Contents

Accuray Incorporated
Condensed Consolidated Statements of Cash Flows
(in thousands)
(unaudited)

	Six Months Ended December 31,	
	2010	2009
Cash Flows From Operating Activities		

Net loss	(542)	$ (4,452)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	2,890	3,892
Stock-based compensation	4,451	6,354
Realized gain on investments	(3)	(2)
Unrealized loss on long-term trading securities, net of gain on put option	—	(227)
Provision for bad debts	136	(460)
Loss on write-down of inventories	675	2,162
Loss (gain) on disposal of property and equipment	(117)	18
Restricted cash	—	(394)
Changes in assets and liabilities:		
Accounts receivable	8,480	(990)
Inventories	(8,783)	1,934
Prepaid expenses and other current assets	796	(3,119)
Deferred cost of revenue	5,315	2,804
Other assets	(15)	(161)
Accounts payable	(4,009)	(3,731)
Accrued liabilities	(802)	3,400
Customer advances	631	525
Deferred revenue	(8,888)	(16,416)
Net cash provided by (used in) operating activities	215	(8,863)
Cash Flows From Investing Activities		
Purchases of property and equipment	(3,250)	(950)
Purchase of investments	(71,619)	(36,651)
Sale and maturity of investments	74,929	47,850
Net cash provided by investing activities	60	10,249
Cash Flows From Financing Activities		
Proceeds from issuance of common stock	2,543	1,066
Proceeds from employee stock purchase plan	973	872
Excess tax benefit from stock-based compensation	—	(498)
Net cash provided by financing activities	3,516	1,440
Effect of exchange rate changes on cash	288	(198)
Net increase in cash and cash equivalents	4,079	2,628
Cash and cash equivalents at beginning of period	45,434	36,835
Cash and cash equivalents at end of period	$ 49,513	$ 39,463

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

Table of Contents

Accuray Incorporated
Notes to Condensed Consolidated Financial Statements
(unaudited)

1. Description of Business

Organization

Accuray Incorporated (the “Company”) designs, develops and sells the CyberKnife system (“CyberKnife”), which is an image-guided robotic radiosurgery system used for the treatment of solid tumors anywhere in the body. Physicians determine when and how the CyberKnife system should be used in the treatment of patients. The CyberKnife system is designed to treat small to medium sized, discrete tumors, and is generally not used to treat (1) very large tumors, which are considerably wider than the radiation beam that can be delivered by the CyberKnife system, (2) diffuse, wide-spread disease, as is often the case for late stage cancers, because they are not localized (though the CyberKnife system might be used to treat a focal area of the disease) and (3) systemic disease, like leukemias and lymphomas, which are not localized to an organ, but rather involve ce lls throughout the body.

The Company is incorporated in Delaware, USA and has thirteen wholly-owned subsidiaries: Accuray International SARL, located in Geneva, Switzerland, Accuray Europe SAS, located in Paris, France, Accuray UK Ltd, located in London, United Kingdom, Accuray Asia Limited, located in Hong Kong, SAR, Accuray Japan KK, located in Tokyo, Japan, Accuray Spain, S.L.U., located in Madrid, Spain, Accuray Medical Equipment (India) Private Ltd., located in New Delhi, India, Accuray Medical Equipment (SEA) Private Limited, located in Singapore, Accuray Medical Equipment (Rus) LLC, located in Moscow, Russia, Accuray Medical Equipment GmbH, located in Munich, Germany, Accuray Tibbi Cihazlar Ve Malzemeler Ithalat Ihracat Anonim Sirketi, located in Istanbul, Turkey, Accuray Mexico SA de CV located in Mexico City, Mexico and Accuray Medical Equipment Canada Ltd. located in Vancouver, Canada. Th e purpose of these subsidiaries is to market and/or service the Company’s products in the various countries in which they are located.

2. Summary of Significant Accounting Policies

Basis of Presentation and Principles of Consolidation

The condensed consolidated financial statements for the 2010 fiscal year include the accounts of the Company and its subsidiaries and the Company’s variable interest entity, Morphormics, Inc. (“Morphormics”). As the Company is no longer considered the primary beneficiary of Morphormics, the condensed consolidated financial statements for fiscal year 2011 do not include Morphormics. Refer to “Note 6. Investment”. All significant inter-company transactions and balances have been eliminated in consolidation.

The accompanying condensed consolidated balance sheet as of December 31, 2010 and the condensed consolidated statements of operations for the three and six-month periods ended December 31, 2010 and 2009 and the condensed consolidated statements of cash flows for the six-month periods ended December 31, 2010 and 2009 and other information disclosed in the related notes are unaudited. The condensed consolidated balance sheet as of June 30, 2010 was derived from the Company's audited consolidated financial statements at that date. The accompanying condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and related notes contained in the Company's Annual Report on Form 10-K for the year ended June 30, 2010 filed with the Securities and Exchange Commission (the "SEC").

The accompanying condensed consolidated financial statements have been prepared in accordance with United States generally accepted accounting principles, ("GAAP"), pursuant to the rules and regulations of the SEC. Certain information and note disclosures have been condensed or omitted pursuant to such rules and regulations. The unaudited condensed consolidated financial statements have been prepared on the same basis as the annual financial statements and, in the opinion of management, reflect all adjustments, which include only normal recurring adjustments, necessary for a fair presentation of the periods presented. The results for the three and six months ended December 31, 2010 are not necessarily indicative of the results to be expected for the year ending June 30, 2011 or for any other interim period or for any future year.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses and related disclosures at the date of the financial statements. Actual results could differ from those estimates.

Table of Contents

Foreign Currency

The Company's international subsidiaries use their local currencies as their functional currencies. For those subsidiaries, assets and liabilities are translated at exchange rates in effect at the balance sheet date and income and expense accounts at the average exchange rate. Resulting translation adjustments are excluded from the determination of net income and are recorded in accumulated other comprehensive income (loss) as a separate component of stockholders' equity. Net foreign currency exchange transaction gains or losses are included as a component of other income, net, in the Company's condensed consolidated statements of operations for the three and six months ended December 31, 2010.

The majority of the Company's executed sales contracts are denominated in U.S. dollars. The CyberKnife system sales contracts denominated in foreign currency are direct end customer transactions for international customers.

Cash and Cash Equivalents

The Company considers all highly liquid investments with maturities of three months or less on the date of purchase to be cash equivalents. Cash equivalents consist of amounts invested in highly liquid investment accounts and money market accounts.

Restricted Cash

Restricted cash has historically included amounts deposited as collateral per the terms of contracts with customers requiring that deposited cash amounts be secured via letters of credit until delivery of the CyberKnife unit occurs. At December 31, 2010 and 2009, restricted cash balance represents funds held to guarantee funding of certain foreign taxes.

Fair Value of Financial Instruments

The carrying values of the Company's financial instruments including cash and cash equivalents, marketable securities, restricted cash, accounts receivable and accounts payable are approximately equal to their respective fair values due to the relatively short-term nature of these instruments.

Marketable Securities

The Company's available-for-sale securities on the condensed consolidated balance sheets include commercial paper, corporate debt and debt issued by U.S. government sponsored enterprises. All marketable securities designated as available-for-sale are reported at estimated fair value, with unrealized gains and losses recorded in stockholders' equity and included in accumulated other comprehensive income (loss). Realized gains and losses on the sale of available-for-sale marketable securities are recorded in other income, net. The cost of available-for-sale marketable securities sold is based on the specific identification method. Available-for-sale marketable securities with maturities greater than approximately three months on the date of purchase and remaining maturities of one year or less are classified as short-term available-for-sale marketable securities. The Company has the abi lity and the intent to hold these securities for a period of time sufficient to allow for any anticipated recovery in market value.

Interest, dividends, amortization and accretion of purchase premiums and discounts on all of the Company's marketable securities are included in other income, net.

Other-than-Temporary Impairment Assessment

The Company regularly reviews all of its investments for other-than-temporary declines in fair value. The review includes but is not limited to (i) the consideration of the cause of the impairment, (ii) the creditworthiness of the security issuers, (iii) the length of time a security is in an unrealized loss position, and (iv) the Company's ability to hold the security for a period of time sufficient to allow for any anticipated recovery in fair value.

Concentration of Credit Risk

The Company's cash and cash equivalents are mainly deposited with two major financial institutions and generally exceed the amount of insurance provided on such deposits. The Company has not experienced any losses in such accounts and believes that it is not exposed to any significant risk on these balances.

For the three and six months ended December 31, 2010 and 2009, there were no customers that represented 10% or more of total net revenue. The following summarizes the accounts receivable from customers in excess of 10% of total accounts receivable:

	December 31, 2010	June 30, 2010
Customer A	10%	—
Customer B	14%	—
Customer C	10%	—

Table of Contents

Accounts receivable are typically not collateralized. The Company performs ongoing credit evaluations of its customers and maintains reserves for potential credit losses. Accounts receivable are deemed past due in accordance with the contractual terms of the agreement. Accounts are charged against the allowance for doubtful accounts once collection efforts are unsuccessful. Historically, such losses have been within management's expectations.

Inventories

Inventories are stated at the lower of cost (on a first-in, first-out basis) or market value. Excess and obsolete inventories are written down based on historical sales and forecasted demand, as judged by management. The Company determines inventory and product costs, which include allocated production overheads, through use of standard costs.

Revenue Recognition

The Company earns revenue from the sale of products, the operation of its shared ownership program, and the provision of related services, which include installation services, post-contract customer support ("PCS"), training and other professional services. The Company records its revenues net of any value added or sales tax. From time to time, the Company introduces customers to third party financing organizations. No amounts received from these third party financing organizations are at risk.

The Company recognizes product revenues for sales of the CyberKnife system, optional upgrades, components and replacement parts and accessories when there is persuasive evidence of an arrangement, the fee is fixed or determinable, collection of the fee is probable and delivery has occurred. Payments received in advance of product shipment are recorded as customer advances and are recognized as revenue or deferred revenue upon product shipment or installation.

For revenue arrangements with multiple elements which were entered into by June 30, 2010 and which have not subsequently been materially modified, the Company allocates arrangement consideration to each element based upon vendor specific objective evidence ("VSOE") of fair value of the respective elements. VSOE of fair value for each element is based upon the Company's standard rates charged for the product or service when such product or service is sold separately or based upon the price established by the Company's pricing committee when that product or service is not yet being sold separately. When contracts contain multiple elements, and VSOE of fair value exists for all undelivered elements, the Company accounts for the delivered elements, principally the CyberKnife system and optional product upgrades, based upon the residual method. If VSOE of fair value does not exist for all the undelivered elements, all revenue is deferred until the earlier of: (1) delivery of all elements, and (2) establishment of VSOE of fair value for all remaining undelivered elements.

In the first quarter of fiscal 2011, the Company adopted Accounting Standards Update ("ASU") 2009-13, *Multiple-Deliverable Revenue Arrangements*, (amendments to Accounting Standards Codification ("ASC") Topic 605, *Revenue Recognition*) ("ASU 2009-13") (formerly Emerging Issues Task Force ("EITF") Issue 08-1) and ASU 2009-14, *Certain Arrangements That Include Software Elements*, (amendments to Financial Accounting Standards Board ("FASB") ASC Topic 985, *Software*) ("ASU 2009-14") (formerly EITF 09-3). The new standard changes the requirements for establishing separate units of accounting in a multiple element arrangement and requires the allocation of arrangement consideration to each deliverable to be based on t he relative selling price. The FASB also amended the accounting standards for revenue recognition to exclude software that is contained in a tangible product from the scope of software revenue guidance if the software is essential to the tangible product's functionality. The Company adopted these new standards on a prospective basis; therefore, they apply only to revenue arrangements entered into or materially modified beginning July 1, 2010. For revenue arrangements that were entered into or materially modified after the adoption of these standards, implementation of this new authoritative guidance had an insignificant impact on the Company's reported net revenue in the first quarter of fiscal 2011 as compared to net revenue if the related arrangements entered into or modified after the effective date were subject to the accounting requirements in effect in the prior year.

Under the new accounting guidance, in evaluating the revenue recognition for agreements which contain multiple deliverables, the Company determined that in certain instances it was not able to establish VSOE for all deliverables in an arrangement as the Company infrequently sells each element on a stand-alone basis, does not price products within a narrow range, or has a limited sales history. When VSOE cannot be established, the Company attempts to establish the selling price of each element based on relevant third-party evidence ("TPE"). TPE is determined based on competitor prices for similar deliverables when sold separately. Generally, the Company's offerings contain a significant level of proprietary technology, customization or differentiation such that the comparable pricing of products with similar functionality cannot be obtained. Furthermore, the Company is unable to reliably determine what similar competitor products' selling prices are on a stand-alone basis. Therefore, the Company typically is not able to determine TPE.

Table of Contents

When the Company is unable to establish selling price using VSOE or TPE, the Company uses its best estimate of selling price ("BESP") in the Company's allocation of arrangement consideration. The objective of BESP is to determine the price at which the Company would transact a sale if the product or service were sold on a stand-alone basis. BESP is generally used for offerings that are not typically sold on a stand-alone basis or for new or highly customized offerings. The Company determines BESP for a product or service by considering multiple factors including, but not limited to, pricing practices, internal costs, geographies and gross margin. The determination of BESP is made through consultation with and formal approval by the Company's pricing committee, taking into consideration the overall go-to-market pricing strategy.

As the Company's go-to-market strategies and other factors evolve, the Company may modify its pricing practices in the future, which could result in changes in selling prices, including VSOE, TPE and BESP. As a result, the Company's future revenue recognition for multiple element arrangements could differ materially from that recorded in the current period. The Company regularly reviews VSOE, TPE and BESP and maintains internal controls over the establishment and update of these inputs.

The Company has a limited number of software offerings which are not required to deliver the tangible product's essential functionality and can be sold separately. Revenues from sales of these software products and related post-contract support will continue to be accounted for under software revenue recognition rules. The Company's multiple-element arrangements may therefore have a software deliverable that is subject to the existing software revenue recognition guidance. The revenue for these multiple-element arrangements is allocated to the software deliverable and the non-software deliverables based on the relative selling prices of all of the deliverables in the arrangement using the hierarchy in the new revenue recognition accounting guidance.

The Company assesses the probability of collection based on a number of factors, including past transaction history with the customer and the credit-worthiness of the customer. The Company generally does not request collateral from its customers. If the Company determines that collection of a fee is not probable, the Company will defer the fee and recognize revenue upon receipt of cash.

The Company's agreements with customers and distributors generally do not contain product return rights.

CyberKnife sales with legacy service plans

For sales of CyberKnife systems with PCS arrangements entered into prior to the first quarter of fiscal 2011 that included rights to specified or committed upgrades for which the Company had not established VSOE of fair value, all revenue and cost of revenue related to the CyberKnife systems and subsequent PCS was deferred. Once all such upgrade obligations had been delivered, all accumulated and deferred revenue and cost of revenue for the CyberKnife systems and related PCS began to be recognized ratably over the remaining life of the PCS arrangement.

Sales of additional upgrades as optional extras prior to the delivery of all originally specified upgrade obligations were considered additional elements of the original arrangement and associated revenues were deferred and accounted for as described above. Sales of additional upgrades after delivery of all specified upgrade obligations, as stated in the original contract, were recognized once all revenue recognition criteria applicable to those arrangements were met.

CyberKnife sales with nonlegacy service plans

Currently, the Company sells CyberKnife systems with PCS contracts that provide for upgrades when and if they become available. The Company has established VSOE of the fair value of PCS in these circumstances. For arrangements entered into after June 30, 2010, with multiple elements that include the CyberKnife system, installation services, training services and a PCS service agreement, the Company recognizes revenue for the CyberKnife system and installation services, if applicable, by application of the relative selling price method for all elements in the arrangement, including PCS. If the Company is responsible for installation, the Company recognizes revenue only after installation and acceptance of the system. Otherwise, revenue is recognized upon delivery.

Other revenue

Other revenue primarily consists of research and development contract revenues.

PCS and maintenance services

Service revenue for providing PCS, which includes warranty services, extended warranty services, unspecified when and if available product upgrades and technical support is deferred and recognized ratably over the service period, generally one year, until no further obligation exists. At the time of sale, the Company provides for the estimated incremental costs of meeting product warranty obligations if the incremental warranty costs are expected to exceed the related service revenues. Training and consulting service revenues that are not deemed essential to the functionality of the CyberKnife system are recognized as such services are performed.

Table of Contents

Costs associated with providing PCS and maintenance services are expensed when incurred, except when those costs are related to system upgrades where revenue recognition has been deferred. In those cases, the costs are deferred and are recognized over the period of revenue recognition.

Distributor sales

Sales to third party distributors are evidenced by a distribution agreement governing the relationship together with binding purchase orders or signed quotations on a transaction-by-transaction basis. The Company records revenues from sales of CyberKnife systems to distributors based on a sell-through method where revenue is only recognized upon sell-through of the product to the end user customer and once all other revenue recognition criteria are met including completion of all obligations under the terms of the purchase order or signed quotation. For sales of product upgrades and accessories to distributors, revenue is recognized on either a sell-through or sell-in basis, depending upon the terms of the purchase order or signed quotation and once all revenue recognition criteria are met. These criteria require that persuasive evidence of an arrangement exists, the fees are fixed or determina ble, collection of the resulting receivable is probable and there is no right of return.

Shared ownership program

The Company also enters into arrangements under its shared ownership program with certain customers. Agreements under the shared ownership program typically have a term of five years, during which the customer has the option to purchase the CyberKnife system, either at the end of the contractual period or in advance, at the customer's request, at pre-determined prices. Under the terms of such program, the Company retains title to its CyberKnife system, while the customer has use of the product. The Company generally receives a minimum monthly payment and earns additional revenues from the customer based upon its use of the product. The Company may provide unspecified upgrades to the product during the term of each program when and if

available. Upfront non-refundable payments and minimum monthly payments from the customer are recognized as revenue over the contractual period. Additional re venues beyond the minimum payments from the shared ownership program are recorded as they become earned and receivable and are included within shared ownership program revenues in the condensed consolidated statements of operations. The Company recognized $0.88 million and $1.52 million for the three and six months ended December 31, 2010, respectively, of revenue from the shared ownership program. The Company recognized $0.46 million and $0.94 million for the three and six months ended December 31, 2009, respectively, of revenue from the shared ownership program.

Future minimum revenues under shared ownership arrangements as of December 31, 2010 are as follows (in thousands):

2011 (remaining six months)	$	259
2012		794
2013		734
2014		554
2015		693
Total	$	3,034

Total usage-based fee revenues, which are included in shared ownership program revenue, earned from the CyberKnife systems under the shared ownership program amounted to $0.06 million and $0.12 million for the three and six months ended December 31, 2010, respectively.

Under the terms of the shared ownership program, the customer has the option to purchase the CyberKnife system at pre-determined prices based on the period the system has been in use and considering the lease payments already received. Revenue from such sales is recorded in accordance with the Company's revenue recognition policy, taking into account the PCS and any other elements that might be sold as part of the arrangement. Product revenue of $3.6 million was recognized during the three and six months ended December 31, 2010 from the sale of one CyberKnife system that was formerly a part of the Company's shared ownership program.

The CyberKnife systems associated with the Company's shared ownership program are recorded within property and equipment. Depreciation and warranty expenses attributable to the CyberKnife shared ownership systems are recorded within cost of shared ownership programs.

Long-term construction and manufacturing contracts

The Company recognizes revenue and cost of revenue related to long-term construction and manufacturing contracts using contract accounting on the percentage-of-completion or the completed contract method. The Company recognizes any loss provisions from the total contract in the period such loss is identified.

Table of Contents

Deferred Revenue and Deferred Cost of Revenue

Deferred revenue consists of deferred product revenue, deferred shared ownership program revenue, deferred service revenue and deferred other revenue. Deferred product revenue arises from timing differences between the shipment of product and satisfaction of all revenue recognition criteria consistent with the Company's revenue recognition policy. Deferred shared ownership program revenue results from the receipt of advance payments that will be recognized ratably over the term of the shared ownership program. Deferred service revenue typically results from the payment for services to be delivered over a contractual service period, usually one year. Service revenue is recognized ratably over the service period. Deferred cost of revenue consists of the direct costs associated with the manufacturing of units or upgrade products, service upgrade costs for which the revenue has been deferred i n accordance with the Company's revenue recognition policy, and deferred costs associated with research and development contract costs. Deferred revenue, and associated deferred cost of revenue, expected to be realized within one year are classified as current liabilities and current assets, respectively.

Goodwill and Purchased Intangible Assets

Goodwill and purchased intangible assets with indefinite lives are not amortized. Intangible assets with determinable useful lives are amortized on a straight line basis over their useful lives. Goodwill and purchased intangible assets resulted from the Company's January 2005 acquisition of the High Energy Systems Division ("HES") of American Science and Engineering, Inc. ("AS&E"). The Company integrated this operation into its existing manufacturing operation. HES had been the sole source manufacturer of the linear accelerator used in the CyberKnife system. The Company performs an annual test for impairment of goodwill and intangible assets with indefinite lives, and interim tests if indications of potential impairment exist. As of December 31, 2010, there were no indicators of impairment.

Stock-Based Compensation

The Company accounts for stock-based compensation by measuring and recognizing the fair value of all stock-based payment awards made to employees based on the estimated grant date fair values, including employee stock options, restricted stock awards and the employee stock based purchase plan. The determination of fair value involves a number of significant estimates. The Company uses the Black-Scholes option pricing model to estimate the value of employee stock options which requires a number of assumptions to determine the model inputs. These include the expected volatility of the stock's market price, the expected term of the stock-based awards, the expected risk free rate of interest and any dividend yields. As stock-based compensation expense is based on awards ultimately expected to vest, it has been reduced for estimated forfeitures. The Company estimates and adjusts forfeiture rate s based on a periodic review of recent forfeiture activity and expected future employee turnover. As the Company has been operating as a public company for a period of time that is shorter than its estimated expected option life, the Company concluded that its historical price volatility does not provide a reasonable basis for input assumptions within its Black-Scholes valuation model when determining the fair value of its stock options. As a result, expected volatility is based on the historical volatility of a peer group of publicly traded companies. The Company continues to use the "simplified" method for the estimated term of the awards.

Income and Other Taxes

The Company is required to estimate its income taxes in each of the tax jurisdictions in which it operates prior to the completion and filing of tax returns for such periods. This process involves estimating actual current tax expense together with assessing temporary differences in the treatment of items

for tax purposes versus financial accounting purposes that may create net deferred tax assets and liabilities. The Company accounts for income taxes under the asset and liability method, which requires, among other things, that deferred income taxes be provided for temporary differences between the tax bases of the Company's assets and liabilities and their financial statement reported amounts. In addition, deferred tax assets are recorded for the future benefit of utilizing net operating losses, research and development credit carryforwards and temporary differences.

The Company records a valuation allowance to reduce its deferred tax assets to the amount the Company believes is more likely than not to be realized. Because of the uncertainty of the realization of the deferred tax assets, the Company has recorded a full valuation allowance against its domestic and certain foreign net deferred tax assets.

The calculation of unrecognized tax benefits involves dealing with uncertainties in the application of complex global tax regulations. Management regularly assesses the Company's tax positions in light of legislative, bilateral tax treaty, regulatory and judicial developments in the countries in which the Company does business. Management does not believe there will be any material changes in the unrecognized tax benefits within the next 12 months.

Net Income (Loss) Per Share

Basic net income (loss) per share is calculated based on the weighted-average number of shares of the Company's common stock outstanding during the period. Common stock equivalent shares, which are based on the number of shares underlying outstanding stock options and RSUs, are included in the calculation of diluted net income per share unless the effect of their inclusion would be anti-dilutive. For the three months ended December 31, 2010 and 2009, 4,147,790 and 6,642,583 of anti-dilutive weighted shares, respectively, were excluded from the calculation of common stock equivalent shares. For the six months ended December 31, 2010 and 2009, 6,135,039 and 6,743,898 of anti-dilutive weighted shares, respectively, were excluded from the calculation of common stock equivalent shares.

Table of Contents

The following table sets forth the basic and diluted per share computations:

	Three Months Ended December 31,		Six Months Ended December 31,	
(In thousands, except per share data)	2010	2009	2010	2009
Numerator:				
Net income (loss)	$ 4,098	$ (1,176)	$ (542)	$ (4,452)
Denominator:				
Basic weighted-average shares outstanding	59,282	57,405	58,975	57,112
Stock options and restricted stock units	2,094	—	—	—
Diluted weighted-average shares of common stock and equivalent outstanding	61,376	57,405	58,975	57,112
Basic net income (loss) per share:	$ 0.07	$ (0.02)	$ (0.01)	$ (0.08)
Diluted net income (loss) per share:	$ 0.07	$ (0.02)	$ (0.01)	$ (0.08)

Comprehensive Income (Loss)

Comprehensive income (loss) is comprised of net income (loss) and other comprehensive loss. Other comprehensive loss consists of foreign currency translation adjustments and unrealized gains and losses on investments that have been excluded from the determination of net income (loss). Comprehensive income (loss) for the three and six months ended December 31, 2010 and 2009 is as follows (in thousands):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2010	2009	2010	2009
Net income (loss)	$ 4,098	$ (1,176)	$ (542)	$ (4,452)
Unrealized gain (loss) on investments	(25)	(124)	2	(147)
Foreign currency translation	(46)	(13)	44	1
Comprehensive income (loss)	$ 4,027	$ (1,313)	$ (496)	$ (4,598)

Segment Information

The Company has determined that it operates in only one segment as it only reports profit and loss information on an aggregate basis to its chief operating decision maker. The Company's long-lived assets maintained outside the United States are not material.

The Company markets its products in the United States and internationally through its direct sales force and indirect distribution channels. Revenue by geographic region is based on the shipping addresses of the Company's customers. The following summarizes revenue by geographic region (in thousands):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2010	2009	2010	2009
Americas (including Puerto Rico)	$ 38,890	$ 45,256	$ 61,961	$ 75,882
Europe	10,575	8,460	20,525	25,089
Asia (excluding Japan)	3,689	868	7,021	1,593
Japan	1,092	2,737	2,807	5,332
Total	$ 54,246	$ 57,321	$ 92,314	$ 107,896

Recent Accounting Pronouncement

In January 2010, the FASB issued ASU No. 2010-06, *Improving Disclosures about Fair Value Measurements*. ASU No. 2010-06 amends FASB ASC 820 and clarifies and provides additional disclosure requirements related to recurring and non-recurring fair value measurements and employers' disclosures about postretirement benefit plan assets. The new disclosures and clarifications under this ASU are effective over a period of two fiscal years, for interim and annual reporting periods beginning after December 15, 2009 and after December 15, 2010. The first adoption date updates under ASU No. 2010-06 did not have a material impact on the Company's consolidated financial statements. The adoption of the second date of updates is not expected to have a material impact on the Company's consolidated financial statements.

Table of Contents

3. Collaboration Agreement

In June of 2010, the Company entered into a Strategic Alliance Agreement, or the Alliance Agreement, with Siemens AG, or Siemens, pursuant to which (1) the Company agreed to grant Siemens certain distribution rights to CyberKnife systems, (2) Siemens agreed to incorporate certain technology of the Company into certain of its linear accelerator products, the combined products being known as the Cayman Products, and (3) a research and development relationship was created between the Company and Siemens for the pursuit and implementation of other potential collaboration opportunities in the future.

The Alliance Agreement provides that Accuray will grant Siemens distribution rights to the CyberKnife system, allowing Siemens to include the CyberKnife system in multi-product sales when it also sells its own linear accelerator products or imaging products. The Company and Siemens entered into a Multiple Linac and Multi-Modality Distribution Agreement, or Distribution Agreement, which sets forth the terms of these distribution rights. Each sale under the Distribution Agreement is subject to pre-approval by the Company. The Alliance Agreement also provides that Siemens and the Company will negotiate in good faith separate distribution agreements for the distribution by Siemens of the CyberKnife system in certain countries and regions throughout the world not currently able to be fully served by the Company.

The Alliance Agreement also provides that Siemens will pay the Company a fee to develop certain technology. Siemens will have the exclusive right to purchase from the Company products incorporating this technology solely for use in Cayman Products, but the Company may terminate Siemens' exclusivity if Siemens fails to meet certain specified sales targets, or if the initial shipment of a Cayman Product does not occur within a specified period of time. The Alliance Agreement further provides that Siemens and the Company plan to develop a product concept for future joint technology development and cooperate in good faith to explore additional opportunities for ongoing collaboration on complementary technology developments.

The Alliance Agreement has a five year initial term, which will automatically renew for successive one year terms unless a party gives notice of termination to the other party at least six months before the end of a term.

As of December 31, 2010 Siemens and the Company had not yet agreed on the definition of a specification for the first Cayman Product as originally anticipated, therefore little development work and no milestone payments have occurred. Recently Siemens has reorganized its Healthcare division and the Company is in discussion with the new management within Siemens Healthcare regarding this project.

4. Financial Instruments

The Company is permitted to measure many financial instruments and certain other items at fair value, with changes in fair value recognized in earnings each reporting period. The election, called the fair value option, enables entities to achieve an offset accounting effect for changes in fair value of certain related assets and liabilities without having to apply complex hedge accounting provisions.

In November 2008, the Company had entered into an agreement ("Rights Agreement") with UBS, which provided the Company with ARS ("Auction Rate Security") Rights ("Rights") to sell its ARS at par value to UBS at any time during the period June 30, 2010 through July 2, 2012.

The Company elected fair value accounting for the put option recorded in connection with the Rights Agreement. This election was made in order to mitigate volatility in earnings caused by accounting for the purchased put option and underlying ARS under different methods. The initial election of fair value resulted in a gain included in other income, net for the put option.

Additionally, the Company recorded unrealized gains of $3.3 million related to the fair value of the put option at the time it entered into the Rights Agreement and recorded unrealized losses relating to the change in fair value of the put option beginning in November 2008. During the three and six months ended December 31, 2009, the Company recorded a total unrealized loss of $0.3 million and $0.8 million, respectively, for a total fair value of the put option of $0.6 million as of December 31, 2009. During the three and six months ended December 31, 2009, $0.4 million and $1.0 million, respectively, of unrealized gain in fair value of the ARS resulted in a net unrealized gain of $0.1 million and $0.2 million, respectively, to other income, net. During the three and six months ended December 31, 2009, UBS redeemed $0.1 million and $0.2 million, respe ctively, of the ARS, which generated realized gains that were not material. No activity related to the fair value of the put option is included in the Company's condensed consolidated statement of operations for the three and six months ended December 31, 2010 due to the liquidation of the underlying ARS securities as of June 30, 2010.

Table of Contents

The Company defines fair value as the price that would be received to sell 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. The fair value hierarchy contains three levels of inputs that may be used to measure fair value, as follows:

Level 1—Unadjusted quoted prices that are available in active markets for the identical assets or liabilities at the measurement date.

Level 2—Other observable inputs available at the measurement date, other than quoted prices included in Level 1, either directly or indirectly, including:

- Quoted prices for similar assets or liabilities in active markets;
- Quoted prices for identical or similar assets in non-active markets;
- Inputs other than quoted prices that are observable for the asset or liability; and
- Inputs that are derived principally from or corroborated by other observable market data.

Level 3—Unobservable inputs that cannot be corroborated by observable market data and reflect the use of significant management judgment. These values are generally determined using pricing models in which management's estimate utilizes market participant assumptions.

The following tables sets forth by level within the fair value hierarchy the Company's financial instruments that were accounted for at fair value on a recurring basis at December 31, 2010 and June 30, 2010, according to the valuation techniques the Company used to determine their fair values (in thousands):

	Fair Value at December 31, 2010	Fair Value Measurements Using Inputs Considered as Level 1	Level 2
Money market funds	$ 3,805	$ 3,805	$ —
Corporate notes	30,426	—	30,426
Commercial paper	48,163	—	48,163
U.S. government agency securities	24,837	—	24,837
Total	$ 107,231	$ 3,805	$ 103,426

	Fair Value at June 30, 2010	Fair Value Measurements Using Inputs Considered as Level 1	Level 2
Money market funds	$ 1,104	$ 1,104	$ —
Corporate notes	34,992	—	34,992
Commercial paper	22,513	—	22,513
U.S. government agency securities	43,774	—	43,774
Total	$ 102,383	$ 1,104	$ 101,279

As of December 31, 2010 and June 30, 2010, the Company had no assets or liabilities using Level 3 inputs.

Table of Contents

Investments in marketable securities classified as available-for-sale by security type at December 31, 2010 and June 30, 2010, consisted of the following (in thousands):

	December 31, 2010			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Short-term investments:				
Commercial paper	$ 47,158	$ 11	$ (5)	$ 47,164
Corporate notes	30,412	18	(4)	30,426
U.S. government agency securities	24,816	21	—	24,837
Total short-term investments	$ 102,386	$ 50	$ (9)	$ 102,427

	June 30, 2010			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Short-term investments:				
Commercial paper	$ 21,126	$ —	$ (11)	$ 21,115
Corporate notes	34,957	64	(29)	34,992
U.S. government agency securities	43,761	15	(2)	43,774
Total short-term investments	$ 99,844	$ 79	$ (42)	$ 99,881

As of December 31, 2010 and June 30, 2010, the Company had no long-term investments in marketable securities classified as available-for-sale.

All of the Company's investments with continuous unrealized losses have been in an unrealized loss position for less than twelve months at December 31, 2010. The Company has determined that the gross unrealized losses on its marketable securities at December 31, 2010 were temporary in nature.

The following methods and assumptions were used to estimate the fair value of each class of financial instrument:

Money market funds. Money market funds are open-ended mutual funds that typically invest in short-term debt securities. Money market funds are classified as cash and cash equivalents on the Company's condensed consolidated balance sheets. The Company classified these funds that are specifically backed by debt securities as Level 1 instruments due to its usage of unadjusted quoted prices that are available in active markets for the identical assets or liabilities at the measurement date.

Corporate notes. Corporate notes are floating-rate obligations that are payable on demand. These are classified as available-for-sale within short-term marketable securities on the Company's condensed consolidated balance sheets. The market approach was used to value the Company's variable-rate demand notes. The Company classified these securities as Level 2 instruments due to either its usage of observable market prices in less active markets or, when observable market prices were not available, its use of non-binding market prices that are corroborated by observable market data or quoted market prices for similar instruments.

Commercial paper. Commercial paper is an unsecured, short-term debt instrument issued by corporations and financial institutions that generally mature within 170 days. The total fair value of commercial paper held as of December 31, 2010 of $48.2 million includes $1.0 million of money market funds invested in commercial paper which is classified as cash equivalents. The total fair value of commercial paper held as of June 30, 2010 of $22.5 million includes $1.4 million of money market funds invested in commercial paper which is classified as cash equivalents. The portion in cash and cash equivalents represents highly liquid debt instruments with insignificant interest rate risk and maturiti es of ninety days or less at the time of purchase. The market approach was used to value the Company's commercial paper. The Company classified these securities as Level 2 instruments due to either its usage of observable market prices in less active markets or, when observable market prices were not available, its use of non-binding market prices that are corroborated by observable market data or quoted market prices for similar instruments.

U.S. government agency securities. U.S. government agency securities are issued by U.S. Federal, state and local governments, government-sponsored enterprises, and governmental entities such as authorities or special districts that generally mature within two years. These are classified as short-term and long-term marketable securities on the Company's condensed consolidated balance sheets. The market approach was used to value the Company's U.S. government agency securities. The Company classified these securities as Level 2 instruments due to either its usage of observable market prices in less active markets or, when observable market prices were not available, its use of non-binding market prices that are corroborated by observable market data or quoted market prices for similar instr uments.

Table of Contents

5. Balance Sheet Components

Accounts receivable, net

Accounts receivable, net consists of the following (in thousands):

	December 31, 2010	June 30, 2010
Accounts receivable	$ 29,901	$ 37,861
Unbilled fees and services	206	209
	30,107	38,070
Less: Allowance for doubtful accounts	(251)	(115)
Accounts receivable, net	$ 29,856	$ 37,955

Inventories

Inventories consist of the following (in thousands):

	December 31, 2010	June 30, 2010
Raw materials	$ 15,276	$ 13,683
Work-in-process	9,021	5,987
Finished goods	11,349	8,516
Total inventories	$ 35,646	$ 28,186

Property and Equipment, net

Property and equipment, net consist of the following (in thousands):

	December 31, 2010	June 30, 2010
Furniture and fixtures	$ 3,722	$ 3,628
Computer and office equipment	8,884	8,297
Leasehold improvements	8,010	7,771
Machinery and equipment	16,576	15,291
CyberKnife shared ownership systems	3,701	5,216
Construction In Progress	4,550	1,927
	45,443	42,130
Less: Accumulated depreciation and amortization	(28,853)	(27,446)
Property and equipment, net	$ 16,590	$ 14,684

Depreciation and amortization expense related to property and equipment for the three and six months ended December 31, 2010 was $1.4 million and $2.7 million, respectively. Depreciation and amortization expense related to property and equipment for the three and six months ended December 31, 2009 was $2.0 million and $3.7 million, respectively. Accumulated depreciation related to the CyberKnife systems attributable to the shared ownership program as of December 31, 2010 and June 30, 2010 was $1.9 million and $1.8 million, respectively.

Of the $4.6 million recorded in construction in process, $3.8 million relates to the Company's implementation of a new enterprise resource planning information system, and includes capitalized costs relating to license and consulting fees. The new enterprise resource planning information system commenced live operations in January 2011.

6. Investment

On July 29, 2008, the Company and Morphormics entered into a Stock Purchase Agreement pursuant to which the Company agreed to purchase 120,000 shares of Morphormics Series C Preferred Stock at $12.50 per share, for a total purchase price of $1.5 million. In exchange, Morphormics granted the Company a non-exclusive worldwide license to integrate several of its software products into the Company's treatment planning software. The equity investment afforded the Company a voting interest of approximately 18% in Morphormics. The Company's equity was considered to be at risk and was

deemed not sufficient to finance Morphormics' current product development activities without additional subordinated financial support. In addition, the Company was deemed to be Morphormics' primary beneficiary, therefore, it would absorb a majority of expected losses. The Company consol idated Morphormics in its financial results. The consolidation of Morphormics' assets and liabilities did not have a material effect on the Company's consolidated balance sheet at June 30, 2010. The Company recorded losses for the three and six months ended December 31, 2009 of $0.2 million and $0.4 million, respectively. As of June 30, 2010, the investment amount had been substantially utilized by Morphormics.

Table of Contents

Effective July 1, 2010, the determination of primary beneficiary status has changed from a quantitative approach to a qualitative approach under which the Company is no longer considered the primary beneficiary of Morphormics. The Company has deconsolidated Morphormics' assets and liabilities from its consolidated balance sheet as of July 1, 2010. The deconsolidation of the Company's investment in Morphormics, resulting in a net cumulative-effect adjustment to accumulated deficit of $27,000 on the Company's condensed consolidated balance sheet.

As of July 1, 2010, the Company determined the fair value of the investment using an income approach. The assumptions for the valuation included historical financial data, operating projections, estimated future cash flows and an adjustment for lack of liquidity.

7. Contingencies

Litigation

On July 22, 2009, a securities class action lawsuit was filed in the U.S. District Court for the Northern District of California against the Company and certain of its current and former directors and officers. On August 7, 2009 and August 9, 2009, two securities class action complaints, both similar to the one filed on July 22, 2009, were filed against the same defendants in the same court. These three actions were consolidated. The consolidated complaint generally alleges that the Company and the individual defendants made false or misleading public statements regarding the Company's operations and seek unspecified monetary damages and other relief. On August 31, 2010, the Court granted defendants' motion to dismiss the consolidated complaint and granted plaintiffs leave to file an amended complaint. On September 27, 2010, plaintiffs filed a n amended complaint. The amended complaint names the Company and certain of its current and former officers and directors as defendants and generally alleges that the defendants made false or misleading public statements regarding the Company's operations. The amended complaint seeks unspecified monetary damages and other relief. Defendants have filed a motion to dismiss the amended complaint.

On August 5, 2009, a shareholder derivative lawsuit was filed in Santa Clara County Superior Court against certain of the Company's current and former officers and directors. The Company is named as a nominal defendant. The complaint generally alleges that the defendants breached their fiduciary duties by misrepresenting and/or failing to disclose material information regarding the Company's business and financial performance, and seeks unspecified monetary damages and other relief. On February 25, 2010, the plaintiff dismissed the action without prejudice.

On November 24, 2009, a shareholder derivative lawsuit was filed in the U.S. District Court for the Northern District of California against certain of the Company's current and former officers and directors. The Company is named as a nominal defendant. Three other shareholder derivative lawsuits were filed in the same court on November 30, 2009, December 1, 2009 and March 16, 2010. These actions have been consolidated. The amended consolidated complaint generally alleges that the defendants breached their fiduciary duties by misrepresenting and/or failing to disclose material information regarding the Company's business and financial performance, and that certain defendants also violated federal and California securities laws. The amended consolidated complaint seeks unspecified monetary damages and other relief. On August 31, 201 0, the Court granted defendants' motion to dismiss, with leave to amend. On September 27, 2010, plaintiffs filed a notice of their intent not to file an amended complaint. On October 6, 2010, judgment was entered and the action dismissed. Plaintiffs filed a notice of appeal to the U.S. Court of Appeals for the Ninth Circuit on November 5, 2010.

On September 3, 2009, Best Medical International, Inc. ("Best Medical") filed a lawsuit against the Company in the U.S. District Court for the Western District of Pennsylvania, claiming the Company induced certain individuals to leave the employment of Best Medical and join the Company in order to gain access to Best Medical's confidential information and trade secrets. They are seeking monetary damages and other relief. At this time the Company does not have enough information to estimate what, if any, financial impact this claim will have.

On August 6, 2010, Best Medical filed an additional lawsuit against the Company in the U.S. District Court for the Western District of Pennsylvania, claiming the Company has infringed U.S. Patent No. 5,596,619, a patent that Best Medical alleges protects a method and apparatus for conformal radiation therapy. On December 2, 2010, the Court granted the Company's motion to dismiss, with leave to amend. On December 16, 2010 Best Medical filed an amended complaint, claiming that the Company also infringes U.S. Patent Nos. 6,038,283 and 7,266,175, both of which Best Medical alleges cover methods and apparatus for conformal radiation therapy. Best Medical is seeking declaratory and injunctive relief as well as unspecified compensatory and treble damages and other relief. At this time, the Company does not have enough information to estimate what, if any, financial impac t this claim will have.

As of December 31, 2010, the Company has not recorded any liabilities for the above referenced lawsuits as we are unable to determine if a loss is probable or estimable.

Software License Indemnity

Under the terms of the Company's software license agreements with its customers, the Company agrees that in the event the software sold infringes upon any patent, copyright, trademark, or any other proprietary right of a third party, it will indemnify its

Table of Contents

customer licensees, against any loss, expense, or liability from any damages that may be awarded against its customer. The Company includes this infringement indemnification in all of its software license agreements and selected managed services arrangements. In the event the customer cannot use the software or service due to infringement and the Company cannot obtain the right to use, replace or modify the license or service in a commercially feasible manner so that it no longer infringes, then the Company may terminate the license and provide the customer a refund of the fees paid by the customer for the

infringing license or service. The Company has recorded no liability associated with this indemnification, as it is not aware of any pending or threatened actions that are probable losses as of December 31, 2010.

8. Stock-Based Compensation

The following table summarizes the stock-based compensation charges included in the Company's condensed consolidated statements of operations (in thousands):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2010	2009	2010	2009
Cost of revenue	$ 181	$ 445	$ 644	$ 676
Selling and marketing	113	655	357	1,463
Research and development	620	653	1,294	1,301
General and administrative	1,041	1,496	2,156	2,914
	$ 1,955	$ 3,249	$ 4,451	$ 6,354

At December 31, 2010 and June 30, 2010, capitalized stock-based compensation costs of $0.3 million and $0.2 million, respectively, were included as components of inventories.

9. Goodwill and Other Purchased Intangibles

Goodwill and other intangible assets resulted from the Company's January 2005 acquisition of the High Energy Systems Division ("HES") of American Science and Engineering, Inc. The Company integrated this operation into its existing manufacturing operation. HES had been the sole source manufacturer of the linear accelerator used in the CyberKnife system. The Company performed the annual test for impairment of goodwill in December 2010 concluding that there was no impairment of goodwill. The amortization expense related to intangible assets for the three months ended December 31, 2010 and 2009 was $0.1 million and $0.1 million, respectively. The following table represents the gross carrying amounts and accumulated amortization of amortized intangible assets at December 31, 2010 and June 30, 2010 (in thousands):

	December 31, 2010	June 30, 2010
Complete technology	$ 1,740	$ 1,740
Customer contract / relationship	70	70
	1,810	1,810
Less: Accumulated amortization	(1,551)	(1,422)
Intangible assets, net	$ 259	$ 388

The following table represents the estimated useful life of the intangible assets subject to amortization:

	Years
Amortized Intangible Assets:	
Complete technology	7.0
Customer contract / relationship	7.0

The estimated future amortization expense of purchased intangible assets as of December 31, 2010, is as follows (in thousands):

Year ending June 30,	
2011 (remaining six months)	$ 130
2012	129
Total	$ 259

Table of Contents

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

The following discussion and analysis of our financial condition as of December 31, 2010 and results of operations for the three and six months ended December 31, 2010 and 2009 should be read together with our condensed consolidated financial statements and related notes included elsewhere in this report. This discussion and analysis contains forward-looking statements that involve risks, uncertainties and assumptions, including statements regarding the extent and timing of future revenues and expenses, statements regarding reimbursement rates, statements regarding regulatory requirements, statements regarding future orders, statements regarding our strategic alliance with Siemens AG, statements regarding the manuf acture and deployment of our products, statements regarding market position, sales cycle, revenues, earnings or other financial results, and other statements using words such as "anticipates," "believes," "could," "estimates," "expects," "forecasts," "intends," "may," "plans," "projects," "should," "will" and "would," and words of similar import and the negatives thereof. Our actual results, performance or achievements could differ materially from those expressed or implied by the forward-looking statements on the basis of several factors, including those that we discuss in Risk Factors, set forth in Part II, Item 1A of this quarterly report on Form 10-Q. We encourage you to read that section carefully. We urge you not to place undue reliance on these forward-looking statements, which speak only as of the date of this report. All forward-looking statements included in this report are based on information available to us on the date of this report, and we assume no obligation to update any forward-looking statements contained in this report.

In this report, "Accuray," the "Company," "we," "us," and "our" refer to Accuray Incorporated.

Overview

We have developed what we believe to be the first and only commercially available intelligent robotic radiosurgery system, the CyberKnife system, designed to treat solid tumors anywhere in the body as an alternative to traditional surgery. Physicians determine when and how the CyberKnife system

should be used in the treatment of patients. The CyberKnife system is designed to treat small to medium sized, discrete tumors, and is generally not used to treat (1) very large tumors, which are considerably wider than the radiation beam that can be delivered by the CyberKnife system, (2) diffuse, wide-spread disease, as is often the case for late stage cancers, because they are not localized (though the CyberKnife system might be used to treat a focal area of the disease) and (3) systemic disease, like leukemias and lymphomas, which are not localized to an organ, but rather involve cells throughout the body.

The CyberKnife system combines continuous image-guidance technology with a compact linear accelerator that has the ability to move in three dimensions according to the treatment plan. Our image-guidance technology enables the system to continuously acquire images to track a tumor's location and transmit any position corrections to the robotic arm prior to delivery of each dose of radiation. Our compact linear accelerator, or linac is a compact radiation treatment device that uses microwaves to accelerate electrons to create high-energy X-ray beams to destroy the tumor. This combination, which we refer to as intelligent robotics, extends the benefits of radiosurgery to the treatment of tumors anywhere in the body. The CyberKnife system autonomously tracks, detects and corrects for tumor and patient movement in real-time during the procedure, enabling delivery of precise, high dose radiation typically with sub-millimeter accuracy. The CyberKnife procedure requires no anesthesia, can be performed on an outpatient basis and allows for the treatment of patients who otherwise would not have been treated with radiation or who may not have been good candidates for surgery. In addition, the CyberKnife procedure is designed to avoid many of the potential risks and complications that are associated with other treatment options and is more cost effective than traditional surgery.

By way of an overview, in order to operate our business, we are required to first obtain regulatory clearances from governmental agencies in the United States and abroad to market our CyberKnife system, establish an effective and secure supply chain of materials and systems that we then manufacture and assemble to create the CyberKnife system, establish direct and distributor sales channels for the sales of our products, provide for ongoing sales and service supports for our products in the field and manage the attendant risks associated with our operations, including risks beyond our control, such as changes in healthcare legislation and Medicare reimbursement rates, which necessarily affect the decisions of physicians and hospitals regarding the purchase of our products.

In July 1999, we obtained 510(k) clearance from the United States Food and Drug Administration, or FDA, to market the CyberKnife system for the treatment of tumors and certain other conditions in the head, neck and upper spine. In August 2001, we received FDA clearance for the treatment of tumors anywhere in the body where radiation treatment is indicated. In September 2002, we received a CE mark for the sale of the CyberKnife system in Europe. CE mark is an international symbol that represents adherence to certain essential principles of safety and effectiveness mandated in the European Medical Device Directive. We received approval for full-body treatment in Japan in June 2008; previously our CyberKnife regulatory approvals in Japan were limited to treatment for indications in the head and neck. The CyberKnife system has also been approved for various indication s in Korea, Taiwan, China and other countries. To date, our CyberKnife system has been used to deliver more than 110,000 patient treatments.

We manufacture and assemble our CyberKnife systems at our manufacturing facility in Sunnyvale, California. We purchase major components, including the robotic manipulator, the treatment table or robotic couch, the magnetron, which creates the microwaves for use in the linear accelerator, the imaging cameras and the computers from outside suppliers, some of which are single source. Our reliance on single source suppliers could harm our ability to meet demand for our products in a timely and cost effective

Table of Contents

manner. However, in most cases, if a supplier were unable to deliver these components, we believe that we would be able to find other sources for these components subject to any regulatory qualifications, if required. We would, however, likely suffer some delays in qualifying any new supplier. We manufacture certain other electronic and electrical subsystems, including the linear accelerator. We then assemble and integrate these components with our proprietary software and perform testing prior to shipment to customer sites.

In the United States, we sell to customers, including hospitals and stand-alone treatment facilities, directly through our sales organization. Outside the United States, we sell to customers in over 80 countries directly and through distributors. We have sales and service offices in Paris, France, Hong Kong, China, Tokyo, Japan, Madrid, Spain, New Delhi, India, Singapore, Moscow, Russia, Munich, Germany, Istanbul, Turkey and London, UK. As of December 31, 2010, we had 41 employees in our sales organization.

In addition to selling the CyberKnife system to customers through direct sales, we offer alternative arrangements to customers who may not have the financial means to purchase a CyberKnife system. For example, under our shared ownership program, we retain title to the CyberKnife system while the customer has use of the system. Our shared ownership contracts generally require a minimum monthly payment from the customer, and we may earn additional revenue through the use of the system at the site. Generally, minimum monthly payments are equivalent to the revenue generated from treating three to four patients per month, and any revenue received from additional patients is shared between us and the customer. We expect to continue to offer our shared ownership program to new customers. The shared ownership program typically has a term of five years, during which the customer has the option to purcha se the system at pre-determined prices.

Our CyberKnife systems are either sold to our customers or placed with our customers pursuant to our shared ownership program. As of December 31, 2010, we had 222 CyberKnife systems installed at customer sites, including 219 sold and three pursuant to our shared ownership program. Of the 222 systems installed, 139 are in the Americas, 48 are in Asia and 35 are in Europe.

We generate revenue from sales of products and by providing ongoing services and upgrades to customers following installation of the CyberKnife system. The current United States price for the CyberKnife system typically includes initial training, installation, and a warranty up to two years. We also offer optional hardware and software when and if available, technical enhancements and upgrades to the CyberKnife system, as part of our multiyear service plans. Currently, our most comprehensive service program is our Diamond program, which consists of both our Diamond Elite multiyear service plan, or Original Diamond Plan, and our new Diamond Plus multiyear service plan, or Diamond Plus Plan. We introduced our Diamond Plus Plan in the United States during the quarter ended September 30, 2010, and since its implementation, new U.S. customers may purchase the Diamond Plus Plan. Unde r our original Diamond Plan, customers are eligible to receive up to two upgrades (software or hardware only) per year, when and if available, and under our Diamond Plus Plan, customers are eligible to receive up to twenty upgrades (hardware or software) per year, when and if available, or support services, or a combination of upgrades and support services. Each upgrade available under the Diamond Plus Plan has a value equal to one-tenth the value of the upgrades available under the Original Diamond Plan. Prior to introducing our original Diamond Plan, we offered our Platinum service plan which provided specified future upgrade obligations. For systems sold with a Platinum service plan, all revenue, including CyberKnife product and service revenue, is deferred until all upgrade obligations have been satisfied and then is recognized ratably over the remaining life of the Platinum service contract. As of December 31, 2010 and 2009, 175 out of 180 and 133 out of 148, respectively, of our customers wi th service plans had purchased non-Platinum service plans.

The CyberKnife procedure is currently covered and reimbursed by Medicare and other governmental and non-governmental third-party payors. Coverage and payment currently exist in the hospital outpatient setting and in the freestanding clinic setting. For calendar year 2011, the national unadjusted average Medicare payment rates under Healthcare Common Procedure Coding System, or HCPCS, are $3,409 under code G0339, the billing code for the first treatment, and $2,505 under code G0340, the billing code for each of the second through fifth treatments. The final rates in the hospital outpatient setting reflect a 4.6% decrease for G0339 ($3,409) and a 0.7% increase for G0340 ($2,505) compared to 2010. Payment for the freestanding clinic setting is governed by the final Medicare Physician Fee Schedule. For 2011, payment for CyberKnife procedures in the freestanding clinic settings for first and su bsequent treatments is set by local Medicare carriers and rates may vary from low payment to a payment rate exceeding the hospital outpatient payment rates.

In addition to Medicare reimbursement to hospitals and clinics, physicians receive reimbursement for their professional services in the hospital outpatient setting and the freestanding clinic setting. Payment to physicians is based on the Medicare Physician Fee Schedule, and payment amounts are updated on an annual basis. For 2011, Medicare increased reimbursement rates for the Current Procedural Terminology, or CPT, code series describing the surgeon's role in the delivery of CyberKnife cranial and spinal procedures beginning with 61796 and 63620 to varying degrees ranging from 17% to 23% compared to 2010. Radiosurgery procedures in other anatomies require other surgeons to bill unlisted CPT codes with no assigned payment rates. Payment rates for unlisted codes are set by the local Medicare carrier and rates may vary from no payment to rates equivalent to the comparable CPT rates for the series beginning with 61796 and 63620. Coding for other physicians (primarily radiation oncologists) involved in the delivery of CyberKnife strereotactic radiosurgery treatment decreased by two percent.

Our CyberKnife VSI system, introduced in November 2009, allows physicians to perform conventionally fractioned robotic image guided intensity-modulated radiation therapy, or Robotic IMRT, in addition to Robotic Stereotactic Radiosurgery procedures. Medicare 2011 final physician fee schedule rules reflect a two percent increase over 2010 for the treatment delivery code used to report IMRT services delivered by the CyberKnife VSI system.

Table of Contents

Our future success will depend in large part on our ability to maintain and increase our position in the market. To compete successfully, we will need to continue to demonstrate the advantages of our products and technologies over alternative procedures, products and technologies, and convince physicians and other healthcare decision makers of the advantages of our products and technologies. Our business and sales and installation cycle does not immediately create recognizable revenue. As such, we must invest in sales and marketing activities generally 1 to 2 years before we are able to generate revenue from those activities. Our ability to achieve and maintain long-term profitability is largely dependent on our ability to successfully market and sell the CyberKnife system and to control our costs and effectively manage our growth.

Financial Condition

Sales and Installation Cycle

The CyberKnife system has a long sales and installation cycle because it is a major capital purchase for our typical customer and requires the approval of senior management at purchasing institutions. The sales and installation cycle is typically 1 to 2 years in duration and involves multiple steps. The cycle typically begins with customer meetings with sales and products specialists, and ends upon resolution of all contingencies and either upon shipment, if a customer is responsible for installation, or upon installation by us. Prior to installation, a purchasing institution must typically obtain a radiation device installation permit, and in some cases, a certificate of need, or CON, both of which must be granted by state and local government bodies and can add time to the cycle. Recently, as a result of healthcare cost considerations and sensitivity to the cost of major capital equipmen t items, some state CON boards have become more stringent in the evaluation of CON applications. This trend, if it continues, may make the CON process more protracted and uncertain. In addition, the purchasing institution must build a radiation shielded facility or upgrade an existing facility to house the CyberKnife system. We generally receive a deposit at the time the purchase agreement is entered into, or shortly thereafter, an additional payment prior to shipment and the remaining balance for the sale of the CyberKnife system after delivery and installation. The customer also typically selects a service plan at the time of signing a CyberKnife system purchase agreement and enters into the service plan agreement prior to installation of the system.

Upon installation, we typically recognize the CyberKnife system sale price less the relative selling price of at least one year of service, training and other professional services, if applicable. We recognize the relative selling price of the first year of service as revenue pro rata over the twelve months following installation, training and other professional services, as delivered. In addition, if the customer has purchased either of our Diamond service plans or our Emerald service plan and assuming annual renewals, we would receive payment at the beginning of each of the second, third, fourth and fifth years of the multiyear service plan and recognize that revenue pro rata over each year.

Legacy Service Plans

Prior to introducing our original Diamond Plan, we offered a Platinum Elite multiyear service plan, or Platinum plan. This legacy service plan was structured so that we had an obligation to deliver two upgrades per year over the course of the multiyear service plan. If we fail to deliver the upgrades, our customers would be entitled to receive a refund of up to $100,000 for each upgrade not offered. To date, no refunds have been required pursuant to the Platinum plan. Beginning in November 2005, we phased out offering this legacy service plan to new customers.

The Platinum plan obligates us to deliver, when available, up to two upgrades per year during the term of the contract. We have not established fair value for those future obligations; hence, generally accepted accounting principles in the United States, or GAAP requires that we cannot begin to recognize any of the revenue or cost of sales derived from the sale of the CyberKnife system sold with our Platinum plan or the associated service plan until all upgrade obligations have been fulfilled. Therefore, the payments made by our customers who have our legacy Platinum plan are categorized as deferred revenue. Once we fulfill all upgrade obligations with respect to a specific Platinum plan, we ratably recognize the revenue and related cost of sales from the sale of that specific CyberKnife system and the Platinum plan over the remaining life of the contract. As of the end of June 2010, we had installed the final upgrades on all systems sold under Platinum agreements. We anticipate that we will satisfy our final obligations under the remaining Platinum service plans mainly during fiscal 2011, with an immaterial amount to complete in fiscal 2012.

Warranty

All customers purchasing a CyberKnife system receive up to a two year warranty. We recognize the CyberKnife system purchase price, minus the relative selling price of support services, upon installation if we are responsible for providing installation or otherwise on shipment. We recognize the relative

selling price of the support services ratably over the corresponding period following installation.

Table of Contents

Shared Ownership Program Revenue

We recognize revenue, consisting of a minimum monthly payment, monthly from our shared ownership program. We also recognize usage-based revenue in excess of the monthly minimum based on usage reports from our customers. We recognized revenue from our shared ownership program of $0.9 million and $1.5 million for the three and six months ended December 31, 2010, respectively. We recognized revenue from our shared ownership program of $0.5 million and $0.9 million for the three and six months ended December 31, 2009, respectively. In limited cases, we received nonrefundable upfront payments from shared ownership program customers which are treated as deferred revenue and recognized over the term of the contract.

The CyberKnife system shared ownership systems are recorded within property and equipment and are depreciated over their estimated life of seven years. Depreciation and service expense attributable to shared ownership systems are recorded within cost of shared ownership program as they are incurred.

International Sales Revenue

We sell our products internationally through a combination of direct sales force and a network of distributors. We have strategically developed distributor relationships to serve our customers. Many of our distributors are responsible for installation and service support.

For international sales, we recognize revenue once we have met all of our obligations associated with the purchase agreement, other than for undelivered elements at their relative selling price. In situations where we are directly responsible for installation, we recognize revenue once we have installed the CyberKnife system and have confirmed performance against specification. For sales through distributors, we recognize revenue upon shipment provided that we have received proof of sell-through to the end user from the distributor and that all of our remaining obligations have been satisfied. Net revenue from international customers was $15.4 million and $30.4 million for the three and six months ended December 31, 2010, respectively. Net revenue from international customers was $12.1 million and $32.0 million for the three and six months ended December 31, 2009, respectively. The increase in international revenue for the three months ended December 31, 2010 was a result principally from the increase in orders in the Europe and Asia regions. We believe the decrease in international sales for the six months ended December 31, 2010 was a result of the varying project and installation schedules by customers in our international markets.

Backlog

Backlog consists of the sum of deferred revenue, future un-invoiced payments that our customers are contractually committed to make, signed, non-contingent CyberKnife system sale agreements that meet the detailed criteria set forth below, service plans and minimum payment requirements associated with our shared ownership program. In order for a CyberKnife system sale agreement to be counted as backlog under the refined definition, it must meet the following criteria:

· The contract is signed and properly executed by both the customer and us;

· The contract is non-contingent—it either has cleared all its contingencies or contains no contingencies when signed;

· We have received a deposit or a letter of credit, or the sale is a direct channel sale to a government entity;

· The specific end customer site has been identified by the customer in the written contract or written amendment; and

· Less than 2.5 years have passed since the contract met all the criteria above.

Included in customers' agreements to purchase a CyberKnife system is an option to select the type and term of service coverage that they desire. Backlog includes the value of this service coverage selected by customers in their original agreement to purchase a CyberKnife system. Before installation of the CyberKnife system is complete and service commences, the customer must complete and sign a separate service agreement for service coverage (i.e. Diamond or Emerald service). If at the time of signing the service agreement a customer selects a different type of service than the option selected in the CyberKnife system purchase agreement, our backlog is adjusted to reflect the service agreement the customer signed.

At December 31, 2010 and 2009, our backlog was approximately $410.2 million and $325.3 million, respectively. Of total backlog, $160.50 million and $115.8 million represented CyberKnife system sales at December 31, 2010 and 2009, respectively, and $249.7 million and $209.5 million represented revenue from service plans and other recurring revenues at December 31, 2010 and 2009, respectively. We anticipate that this backlog will be recognized over the next five years as installations occur, upgrades are delivered and services are provided.

Although our backlog includes only contractual agreements from our customers, we cannot make assurances that we will convert it into recognized revenue due to factors outside our control including without limitation, changes in customers' needs, changes in reimbursement, changes to regulatory requirements, or other cancellation of orders.

Table of Contents

Results of Operations

Overview

Our results of operations are divided into the following components:

Net revenue. Our net revenue consists primarily of product revenue (revenue derived primarily from the sale of CyberKnife systems), shared ownership program revenue (revenue generated from our shared ownership program), services revenue (revenue generated from sales of post contract support service plans, installation and training) and other revenue (revenue from specialized services and other non-medical products).

Deferred Revenue—Platinum Multiyear Service Plans. We are required to defer all of the revenue associated with our Platinum plan, until we have satisfied all of the specified obligations related to the delivery of upgrades to the CyberKnife system during the life of the service plan. This includes deferring revenue for the cash received for the purchase of the CyberKnife system and Platinum service plans until we have delivered all upgrades which the customer is eligible to receive. Once we have satisfied our obligations for delivery of upgrades under the plan, we recognize revenue ratably over the remaining life of the service contract term. We have not offered the Platinum service plan to new customers since we phased it out when we introduced our Diamond plan in November 2005. As of the end of June&n bsp;2010, we had installed the final upgrades on all systems sold under Platinum agreements.

Cost of revenue. Cost of revenue consists primarily of material, labor and overhead costs. Cost of revenue may fluctuate from quarter to quarter depending on system configurations ordered by our customers and overall revenue mix.

Selling and marketing expenses. Selling and marketing expenses consist primarily of costs for personnel and costs associated with participation in medical conferences, physician symposia, and advertising and promotional activities. We expect marketing expenses may fluctuate from quarter to quarter due to the timing of major marketing events, such as significant trade shows.

Research and development expenses. Research and development expenses consist primarily of activities associated with our product development, regulatory and clinical study arrangements.

General and administrative expenses. General and administrative expenses consist primarily of compensation and related costs for finance, in-house legal and human resources, and external expenses related to accounting, legal and other consulting fees.

Other income, net. Other income, net consists primarily of interest earned on our cash and cash equivalents and investments, unrealized losses on our long-term trading securities, net of unrealized gains on our put option, foreign currency transaction gains and losses, gains and losses on fixed asset disposals, and state and local sales and use tax fines and penalties.

Three and Six Months Ended December 31, 2010 Compared to Three and Six Months Ended December 31, 2009

Net Revenue

(Dollars in thousands)	Three Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent	Six Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent
Products	$ 34,391	$ 35,686	$ (1,295)	(4)%	$ 53,666	$ 66,032	$ (12,366)	(19)%
Shared ownership program	880	456	424	93%	1,521	937	584	62%
Services	18,846	20,688	(1,842)	(9)%	36,580	40,342	(3,762)	(9)%
Other	129	491	(362)	(74)%	547	585	(38)	(6)%
Net Revenue	$ 54,246	$ 57,321	$ (3,075)	(5)%	$ 92,314	$ 107,896	$ (15,582)	(14)%

Total net revenue for the three months ended December 31, 2010 decreased $3.1 million from the three months ended December 31, 2009. Excluding revenue recognized for systems sold under our Platinum plan, we recognized $33.9 million and $32.3 million of product revenue for the three months ended December 31, 2010 and 2009, respectively. Excluding revenue under Platinum service agreements, service revenue totaled $17.8 million for the three months ended December 31, 2010, up $2.9 million from the three months ended December 31, 2009 as a result of continued growth in our installed base covered by service plans. As of December 31, 2010 and 2009, 175 out of 180 and 133 out of 148 of our customers that had purchased service plans, respectively, had purchased non-Platinum service plans.

We recognized $1.5 million of revenue for the three months ended December 31, 2010 from systems sold under our Platinum plan, consisting of $0.5 million for product revenue and $1.1 million for service revenue. All Platinum revenue for this period, except $0.7 million of service revenue, was deferred from prior periods. By comparison, we recognized $9.2 million of revenue for the three months ended December 31, 2009 from systems sold under our Platinum plan, including $3.4 million for product revenue and $5.8 million for service revenue. All Platinum revenue for the three months ended December 31, 2009, except $1.9 million of service revenue, was deferred from prior periods. As of June 30, 2010, we had satisfied all upgrade delivery obligations on all units sold under our Platinum plan. Once all upgrade delivery obligations have been sati sfied, revenue is recognized over the remaining term of the contract service term.

Table of Contents

Total net revenue for the six months ended December 31, 2010 decreased $15.6 million from the six months ended December 31, 2009. Excluding revenue recognized for systems sold under our Platinum plan, we recognized $52.0 million and $57.2 million of product revenue for the six months ended December 31, 2010 and 2009, respectively. Excluding revenue under Platinum service agreements, service revenue totaled $34.0 million for the six months ended December 31, 2010, up $4.2 million from the six months ended December 31, 2009 as a result of continued growth in our installed base covered by service plans.

We recognized $4.2 million of revenue for the six months ended December 31, 2010 from systems sold under our Platinum plan, consisting of $1.6 million for product revenue and $2.6 million for service revenue. All Platinum revenue for this period, except $1.4 million of service revenue, was deferred from prior periods. By comparison, we recognized $19.4 million of revenue for the six months ended December 31, 2009 from systems sold under our Platinum plan, including $8.8 million for product revenue and $10.6 million for service revenue. All Platinum revenue for this period, except $3.7 million of service revenue, was deferred from prior periods.

We anticipate our non-Platinum revenue to continue to grow in future periods, while we expect Platinum revenue to decrease in future periods as these legacy arrangements lapse. Additionally, we expect our service revenue to increase as our installed base continues to grow.

Gross Profit

	Three Months Ended December 31,				Six Months Ended December 31,			
	2010		2009		2010		2009	
	(Dollars in thousands)	(% of net revenue)	(Dollars in thousands)	(% of net revenue)	(Dollars in thousands)	(% of net revenue)	(Dollars in thousands)	(% of net revenue)
Gross profit	$ 29,466	54.3%	$ 25,964	45.3%	$ 47,703	51.7%	$ 47,583	44.1%
Products	$ 21,257	61.8%	$ 18,130	50.8%	$ 33,207	61.9%	$ 33,825	51.2%
Shared ownership program	$ 758	86.1%	$ 127	27.9%	$ 1,227	80.7%	$ 287	30.6%
Services	$ 7,466	39.6%	$ 7,555	36.5%	$ 13,400	36.6%	$ 13,289	32.9%
Other	$ (15)	-11.6%	$ 152	31.0%	$ (131)	-23.9%	$ 182	31.1%

The increase in gross margin as a percentage of net revenue was primarily due to the improved gross margin of product revenue in the three and six months ended December 31, 2010 compared to the three and six months ended December 31, 2009, as a result of an increase in average selling price and decreases in manufacturing costs. Additionally, service gross margins have increased due to the increase in service revenue, especially in our international regions, as a result of the growth in our installed base coupled with consistent levels of service labor costs and a reduction in service parts costs.

Selling and Marketing

(Dollars in thousands)	Three Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent	Six Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent
Sales and marketing	$ 7,987	$ 10,063	$ (2,076)	(21)%	$ 15,747	$ 18,712	$ (2,965)	(16)%
Percentage of net revenue	*14.7%*	*17.6%*			*17.1%*	*17.3%*		

Selling and marketing expenses for the three months ended December 31, 2010 decreased $2.1 million compared to the three months ended December 31, 2009. The decrease was primarily attributable to reduced stock-based compensation expense of $0.5 million and a $0.6 million decrease in compensation and benefits related expenses as we reduced headcount throughout the last twelve months, a decrease in sales commission of $0.6 million, and a reduction in consulting service of $0.3 million representing decreases in outside services for tradeshows and advertising.

Selling and marketing expenses for the six months ended December 31, 2010 decreased $3.0 million compared to the six months ended December 31, 2009. The decrease was primarily attributable to reduced stock-based compensation expense of $1.1 million and a $0.8 million decrease in compensation and benefits related expenses as we reduced headcount throughout the last twelve months, a decrease in sales commission of $0.6 million, and a reduction in consulting service of $0.3 million representing decreases in outside services for tradeshows and advertising.

We expect marketing expenses may fluctuate from quarter to quarter due to the timing of major marketing events, such as significant trade shows.

Table of Contents

Research and Development

(Dollars in thousands)	Three Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent	Six Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent
Research and development	$ 9,313	$ 7,769	$ 1,544	20%	$ 17,360	$ 15,431	$ 1,929	13%
Percentage of net revenue	*17.2%*	*13.6%*			*18.8%*	*14.3%*		

Research and development expenses for the three months ended December 31, 2010 increased $1.5 million compared to the three months ended December 31, 2009. The increase was primarily attributable to increased consulting fees of $1.0 million and workforce expense increases of $0.5 million to support increases in our research and development activities.

Research and development expenses for the six months ended December 31, 2010 increased $1.9 million compared to the six months ended December 31, 2009. The increase was primarily attributable to increased consulting fees of $1.5 million and workforce expense increases of $0.4 million to support increases in our research and development activities.

We anticipate research and development expense to increase further in the second half of fiscal year 2011 from the first half of fiscal year 2011 associated with the continued advancement of the CyberKnife system capabilities.

General and Administrative

(Dollars in thousands)	Three Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent	Six Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent
General and administrative	$ 8,481	$ 10,430	$ (1,949)	(19)%	$ 17,040	$ 19,360	$ (2,320)	(12)%
Percentage of net revenue	*15.6%*	*18.2%*			*18.5%*	*17.9%*		

General and administrative expenses for the three months ended December 31, 2010 decreased $1.9 million compared to the three months ended December 31, 2009. The decrease was primarily attributable to reduced audit and legal fees of $1.9 million, partially associated with decreases in costs incurred by us in the ongoing class action shareholder lawsuit and decreases in travel costs of $0.2 million.

General and administrative expenses for the six months ended December 31, 2010 decreased $2.3 million compared to the six months ended December 31, 2009. The decrease was primarily attributable to lower outside services expense for audit and legal fees of $3.1 million partially associated with decreases in costs incurred by us in the ongoing class action shareholder lawsuit, offset by increases of $1.1 million in compensation and benefits as a result of increase in headcount.

Other Income, Net

(Dollars in thousands)	Three Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent	Six Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent
Other income, net	$ 676	$ 426	$ 250	59%	$ 2,292	$ 911	$ 1,381	152%
Percentage of net revenue	*1.2%*	*0.7%*			*2.5%*	*0.8%*		

Other income, net, increased $0.3 million for the three months ended December 31, 2010 compared to the three months ended December 31, 2009. The increase was primarily attributable to an increase of $0.7 million related to foreign currency transaction gains as a result of the appreciation of the Euro-U.S. dollar foreign exchange rate and its effects on the remeasurement of balances and translation of transactions denominated in Euros, partially offset by a decrease in interest income of $0.4 million due to lower average interest rates earned on amounts kept in interest bearing accounts during the three months ended December 31, 2010, compared to the three months ended December 31, 2009.

Other income, net, increased $1.4 million for the six months ended December 31, 2010 compared to the six months ended December 31, 2009. The increase was primarily attributable to an increase of $2.0 million related to foreign currency transaction gains as a result of the appreciation of the Euro-U.S. dollar foreign exchange rate and its effects on the remeasurement of balances and translation of transactions denominated in Euros, partially offset by a decrease in interest income of $0.8 million due to lower average interest rates earned on amounts kept in interest bearing accounts during the six months ended December 31, 2010, compared to the six months ended December 31, 2009 and a decrease of $0.2 million related to the gain on sale of investments.

Provision for Incomes Taxes

(Dollars in thousands)	Three Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent	Six Months Ended December 31, 2010	2009	Variance in Dollars	Variance in Percent
Provision for (benefit from) income taxes	$ 263	$ (696)	$ 959	(138)%	$ 390	$ (557)	$ 947	(170)%
Percentage of net revenue	*0.5%*	*-1.2%*			*0.4%*	*-0.5%*		

Table of Contents

On a quarterly basis, we provide for income taxes based upon an estimated annual effective income tax rate. This process involves estimating actual current tax expense together with assessing temporary differences in the treatment of items for tax purposes versus financial accounting purposes that may create net deferred tax assets and liabilities.

Income tax expense was $0.3 million for the three months ended December 31, 2010, compared to income tax benefit of $0.7 million for the three months ended December 31, 2009, and $0.4 for the six months ended December 31, 2010, compared to the income tax benefit of $0.6 million for the six months ended December 31, 2009. The increase in tax expense in both periods of $1.0 million is related primarily to a $0.1 million increase in tax expense associated with foreign earnings in the three months ended December 31, 2010, and the remaining $0.9 million is related to a benefit realized from the carryback of fiscal year 2009 US alternative minimum tax losses to earlier years during the three months ended December 31, 2009.

Stock-Based Compensation Expense

Stock-based compensation expense was recorded net of estimated forfeitures for the three and six months ended December 31, 2010 and 2009 such that expense was recorded only for those stock-based awards that are expected to vest. For the three months ended December 31, 2010 and 2009, we recorded $2.0 million and $3.2 million, respectively, of stock-based compensation expense, net of estimated forfeitures, for stock options, 2007 Employee Stock Purchase Plan, or ESPP, shares issued and RSUs granted to employees. For the six months ended December 31, 2010 and 2009, we recorded $4.5 million and $6.4 million, respectively, of comparable stock-based compensation expense. For the three and six months ended December 31, 2010, the decrease in stock-based compensation was primarily attributable to a decrease in fair value of our stock options and a reduction in our headcount.

Liquidity and Capital Resources

At December 31, 2010, we had $152.0 million in cash, cash equivalents and marketable securities. We believe that we have sufficient cash resources and anticipated cash flows to continue in operation for at least the next twelve months.

Cash Flows From Operating Activities

Net cash provided by operating activities was $0.2 million for the six months ended December 31, 2010. Our net loss of $0.5 million contributed to the negative cash flows from working capital changes including a decrease in deferred revenue, net of deferred cost of revenue of $3.6 million, an increase in inventories of $8.8 million and a decrease in accounts payable of $4.0 million. This was offset primarily by a decrease in accounts receivable of $8.5 million. The decrease in deferred revenue, net of deferred cost of revenue, was primarily a result of the recognition of revenue previously deferred for systems sold under our Platinum plan and timing differences between invoicing customers for products and services and the recognition of the invoicing as revenue. Increases in inventory were due to increases in production while the decrease in accounts payable was due to timing differences between the receipt of goods and service and vendor payments. Non-cash charges included $4.5 million of stock-based compensation charges, $2.9 million of depreciation and amortization expense, and write-down of inventories of $0.7 million.

Net cash used in operating activities was $8.9 million for the six months ended December 31, 2009. Our net loss of $4.5 million contributed to the use of cash. Negative cash flow from working capital changes include a decrease in deferred revenue, net of deferred cost of revenue of $13.6 million, a $3.7 million decrease in accounts payable and a $3.1 million increase in prepaid expenses and other current assets, partially offset by a $3.4 million increase in accrued liabilities and a $1.9 million decrease in inventory. The decrease in deferred revenue, net of deferred cost of revenue, was primarily a result of the recognition of revenue previously deferred for systems sold under our Platinum plan, offset partially by differences between invoicing customers for products and services and the recognition of the invoicing as revenue. The decrease in accounts payable was primarily due to a reduction in our operating expenses. The increase in accrued liabilities was primarily due to increase in accrued compensation relating to bonus and vacation pay as well as increase in legal expenses. Non-cash charges included $6.4 million of stock-based compensation and $3.9 million of depreciation and amortization expense.

Cash Flows From Investing Activities

Net cash provided by investing activities was $0.06 million for the six months ended December 31, 2010, which was primarily attributable to net marketable security activities of $3.3 million, which consisted of $74.9 million of sales and maturities of marketable securities, offset by $71.6 million in purchases, and $3.3 million of cash used for purchases of property and equipment.

Table of Contents

Net cash provided by investing activities was $10.2 million for the six months ended December 31, 2009, which was primarily attributable to net marketable security activities of $11.2 million, which consisted of $47.9 million of sales and maturities of marketable securities, offset by $36.7 million in purchases. We also used $1.0 million of cash for purchases of property and equipment.

Cash Flows From Financing Activities

Net cash provided by financing activities of $3.5 million for the six months ended December 31, 2010 was attributable to proceeds from the exercise of common stock options and the purchase of common stock under our employee stock plans.

Net cash provided by financing activities for the six months ended December 31, 2009 was $1.4 million, which was attributable to proceeds from the exercise of common stock options and the purchase of common stock under our employee stock plans, offset by excess tax benefit from stock-based compensation of $0.5 million.

Operating Capital and Capital Expenditure Requirements

Our future capital requirements depend on numerous factors. These factors include but are not limited to the following:

· Revenue generated by sales of the CyberKnife system, our shared ownership program and service plans;

· Costs associated with our sales and marketing initiatives and manufacturing activities;

· Facilities, equipment and IT systems required to support current and future operations:

· Rate of progress and cost of our research and development activities;

· Costs of obtaining and maintaining FDA and other regulatory clearances of the CyberKnife system;

· Effect of competing technological and market developments; and

· Number and timing of acquisitions and other strategic transactions.

We believe that our current cash and cash equivalents will be sufficient to meet our anticipated cash needs for working capital and capital expenditures for the next twelve months. If these sources of cash and cash equivalents are insufficient to satisfy our liquidity requirements, we may seek to sell additional equity or debt securities or obtain additional credit facilities. The sale of additional equity or convertible debt securities could result in dilution to our stockholders. If additional funds are raised through the issuance of debt securities, these securities could have rights senior to those associated with our common stock and could contain covenants that would restrict our operations. Additional financing may not be available at all, or in amounts or on terms acceptable to us. If we are unable to obtain this additional financing, we may be required to reduce the scope of our p lanned product development and marketing efforts.

Contractual Obligations and Commitments

We presented our contractual obligations in our Annual Report on Form 10-K for the previous annual reporting period ended June 30, 2010. There have been no material changes in those obligations during the current quarter.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements.

Critical Accounting Policies and Estimates

The discussion and analysis of our financial condition and results of operations is based on our condensed consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of these condensed consolidated financial statements requires management to make estimates and judgments that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements, as well as revenue and expenses during the reporting periods. We evaluate our estimates and judgments on an ongoing basis. We base our estimates on historical experience and on various other factors we believe are reasonable under the circumstances, the results of which form the basis for

making judgments about the carrying value of assets and liabilities. Actual results could therefore differ materially from those estimates if actual conditions differ from our assumptions.

All of our significant accounting policies and methods used in the preparation of our Consolidated Financial Statements are described in Note 2, "*Summary of Significant Accounting Policies*," in Notes to the Condensed Consolidated Financial Statements. The methods, estimates and judgments that we use in applying our accounting policies require us to make difficult and subjective judgments, often as a result of the need to make estimates regarding matters that are inherently uncertain. Management believes the critical accounting policies and estimates are those related to revenue recognition, inventory valuation, stock-based compensation, income taxes, legal and other contingencies and corporate bonus accruals.

Table of Contents

Revenue Recognition

We frequently enter into sales arrangements with customers that contain multiple elements or deliverables such as hardware, software and services. In order to comply with GAAP, we have to make a number of reasoned judgments with respect to elements of these sales arrangements, including how to allocate the proceeds received from an arrangement, whether there are multiple elements of the arrangement, whether any undelivered elements are essential to the functionality of the delivered elements and the appropriate timing of revenue recognition with respect to these arrangements. For revenue arrangements with multiple elements which were entered into by June 30, 2010 and which have not subsequently been materially modified, we allocate arrangement consideration to each element based upon vendor specific objective evidence, or VSOE, of fair value of the respective elements. VSOE of fair v alue for each element is based upon our historical standard rates charged for the product or service when such product or service is sold separately or based upon the price established by our management-comprised pricing committee, which has the relevant authority when that product or service is not yet sold separately. Changes to the elements in an arrangement and the ability to establish VSOE of the fair value for those elements could affect the timing and the amount of revenue recognition.

In the first quarter of fiscal 2011, we adopted Accounting Standards Update, or ASU, 2009-13, *Multiple-Deliverable Revenue Arrangements*, (amendments to Accounting Standards Codification, or ASC, Topic 605, *Revenue Recognition*), or ASU 2009-13, (formerly Emerging Issues Task Force, or EITF, Issue 08-1) and ASU 2009-14, *Certain Arrangements That Include Software Elements*, (amendments to Financial Accounting Standards Board, or FASB, ASC Topic 985, *Software*), or ASU 2009-14, (formerly EITF 09-3). The new standard changes the requirements for establishing separate units of accounting in a multiple element arrangement and requires the allocation of arrangement consideration to each deliverable to be based on the relative selling price. The FASB also amended the accounting standards for revenue recognition to exclude software that is contained in a tangible product fr om the scope of software revenue guidance if the software is essential to the tangible product's functionality. We adopted these new standards on a prospective basis; therefore, they apply only to revenue arrangements entered into or materially modified beginning July 1, 2010. The revised guidance primarily provides two significant changes: 1) it requires us to allocate revenues in an arrangement using best estimated selling prices, or BESP, of deliverables if we do not have VSOE or third-party evidence, or TPE, of selling price; and 2) it eliminates the residual method and requires us to allocate revenue using the relative selling price method. The BESP is established considering multiple factors including, but not limited to, pricing practices, internal costs, geographies and gross margin. The determination of BESP is made through consultation with and formal approval by our pricing committee, taking into consideration the overall go-to-market pricing strategy. We may modify or develop new go-to- market practices in the future. As these go-to-market strategies evolve, we may modify our pricing practices in the future, which may result in changes in selling prices, impacting both VSOE and BESP. These factors may result in a different allocation of revenue to the deliverables in multiple element arrangements from the current fiscal year, which may change the pattern and timing of revenue recognition for these elements but will not change the total revenue recognized for the arrangement.

Revenue recognition also depends on all or a combination of the timing of shipment, completion of installation, customer acceptance and the readiness of customers' facilities. If shipments are not made on scheduled timelines, installation schedules are delayed or if the products are not accepted by the customer in a timely manner, our reported revenues may differ materially from expectations. For example, if a CyberKnife system were sold for $4 million and the sale involved multiple elements including training and service, a 5% change in BESP of the system could result in an increase or a decrease of approximately $25,000 in the amount of revenue allocated and recognized as product revenue rather than as service revenue.

Inventories

The valuation of inventory requires us to estimate obsolete or excess inventory as well as damaged inventory. The determination of obsolete or excess inventory requires us to estimate the future demand for our products. We regularly review inventory quantities on hand and adjust for excess and obsolete inventory based primarily on historical usage rates and our estimates of product demand to support future sales and service. If our demand forecast for specific products is greater than actual demand and we fail to reduce purchasing and manufacturing output accordingly, we could be required to write off inventory, which would negatively impact our gross margin. For example, if the actual amount of inventory that is disposed of as obsolete, excess or damaged is 10% larger or smaller than the amount that we estimated at June 30, 2010, then we would need to increase or decrease cost of sales by approximately $0.3 million.

Stock-Based Compensation Expense

We use the Black-Scholes option valuation model to estimate the fair value of stock options and Employee Stock Purchase Plan shares. The Black-Scholes model requires the input of highly subjective assumptions. The most significant assumptions are our estimates of the expected volatility and the expected term of the award. Our expected volatility is derived from the historical volatilities of several unrelated public companies within industries related to our business because we do not have sufficient trading history on our common stock. When making the selections of our peer companies within industries related to our business to be used in the volatility calculation, we also considered the stage of development, size and financial leverage of potential comparable companies. In addition, as our historical share option exercise experience does not provide a reasonable basis upon which to estimate the expected term, we estimate the expected term of options granted by taking the average of the vesting term and the contractual term

Table of Contents

of the option, as illustrated by the simplified method. The assumptions used in calculating the fair value of share-based payment awards represent management's best estimates, but these estimates involve inherent uncertainties and the application of management judgment. As a result, if factors change and we use different assumptions, our stock-based compensation expense could be materially different in the future.

We recognize compensation cost for only those shares expected to vest over the requisite service period of the award. We estimate our forfeiture rate based on an analysis of our actual forfeitures and will continue to evaluate the appropriateness of the forfeiture rate based on recent forfeiture activity and expected future employee turnover. Quarterly changes in the estimated forfeiture rate can have a significant effect on reported stock-based compensation expense, as the cumulative effect of adjusting the rate for all expense amortization is recognized in the period the forfeiture estimate is changed. If a revised forfeiture rate is higher than the previously estimated forfeiture rate, an adjustment is made that will result in a decrease to the stock-based compensation expense recognized in the consolidated financial statements. If a revised forfeiture rate is lower than the previously estim ated forfeiture rate, an adjustment is made that will result in an increase to the stock-based compensation expense recognized in the consolidated financial statements. For example, a change to our estimated forfeiture rate by 5% would result in an increase or decrease in overall stock based compensation expense in a fiscal year by approximately $1.2 million.

Income Taxes

We calculate our current and deferred tax provisions based on estimates and assumptions that could differ from the actual results reflected in our income tax returns filed during the subsequent year. We record adjustments based on filed returns when we have identified and finalized them, which is generally in the third quarter of the subsequent year for U.S. federal and state provisions, respectively. We have placed a full valuation allowance on all net U.S. deferred tax assets because realization of these tax benefits through future taxable income cannot be reasonably assured. We intend to maintain the valuation allowance until sufficient positive evidence exists to support the reversal of the valuation allowance. Any decision to reverse part or all of the valuation allowance would be based on our estimate of future profitability. If our estimate were to be wrong we could be required to charge potentially significant amounts to income tax expense to establish a new valuation allowance.

Our effective tax rate includes the impact of certain undistributed foreign earnings for which we have not provided U.S. taxes because we plan to reinvest such earnings indefinitely outside the United States. We plan foreign earnings remittance amounts based on projected cash flow needs as well as the working capital and long-term investment requirements of our foreign subsidiaries and our domestic operations. Material changes in our estimates of cash, working capital and long-term investment requirements in the various jurisdictions in which we do business could impact our effective tax rate. We are subject to income taxes in the United States and certain foreign countries, and we are subject to corporate income tax audits in some of these jurisdictions. We believe that our tax return positions are fully supported, but tax authorities are likely to challenge certain positions, which may not be fully sustained. However, our income tax expense includes amounts intended to satisfy income tax assessments that result from these challenges. Determining the income tax expense for these potential assessments and recording the related assets and liabilities requires management judgments and estimates. We evaluate our uncertain tax positions in accordance with the guidance for accounting for uncertainty in income taxes. We believe that our reserve for uncertain tax positions is adequate. We review our reserves quarterly, and we may adjust such reserves because of proposed assessments by tax authorities, changes in facts and circumstances, issuance of new regulations or new case law, previously unavailable information obtained during the course of an examination, negotiations between tax authorities of different countries concerning our transfer prices, or the expiration of statutes of limitations.

Loss Contingencies

As discussed in Note 7 "Contingencies" in Notes to Condensed Consolidated Financial Statements above, we are involved in various lawsuits, claims and proceedings that arise in the ordinary course of business. We record a provision for a liability when we believe that it is both 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. We review these provisions at least quarterly and adjust these provisions to reflect the impact of negotiations, settlements, rulings, advice of legal counsel, and updated information. Currently, we do not have a potential liability related to any current legal proceedings and claims that would individually or in the aggregate materially adversely affect our financial condition or operating results. Litigation is inherently unpredictable and is subject to significant uncertainties, some of which are beyond our control. Should any of these estimates and assumptions change or prove to have been incorrect, we could incur significant charges related to legal matters which could have a material impact on our results of operations, financial position and cash flows.

Corporate Bonus Expense and Accruals

We record accruals for estimated corporate bonus expense which is paid out in the first quarter of the subsequent fiscal year. Our expense accruals are based on our forecasted results for three factors: net revenue, pre-tax operating income and orders to backlog. If we underestimate or overestimate any of these factors during a fiscal year, adjustments to bonus expense and accruals may be necessary in subsequent periods during the year. For example, if our actual results as of the end of a fiscal year yielded a bonus attainment that varied by 5% from our prior estimate, we would need to increase or decrease our bonus expense accrual in the fourth quarter of the fiscal year by approximately $230,000. Historically, our estimated accrued liabilities have approximated actual expense incurred.

Table of Contents

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Interest Rate Risk

At December 31, 2010, we had $49.5 million of cash and cash equivalents and $102.4 million invested in other financial instruments. Our earnings on interest income generated from our cash and investment balances are affected by changes in interest rates. We believe that while the instruments we hold are subject to changes in the financial standing of the issuer of such securities, and except as described below, we are not subject to any material risks arising from changes in interest rates, foreign currency exchange rates, commodity prices, equity prices or other market changes that affect market risk sensitive instruments. However, should interest rates increase, the market value of our investments may decline, which could result in a realized loss if we are forced to sell before their scheduled maturity. If overall interest rates had risen by 100 basis points, the fair va lue of our net investment position at December 31, 2010 would have decreased by approximately $0.3 million, assuming consistent levels.

Foreign Currency Exchange Rate Risk

As of December 31, 2010, there were no sales contracts for CyberKnife system denominated in a foreign currency that will be recognized into revenue for future periods. Future fluctuations in the value of the U.S. dollar may affect the price competitiveness of our products outside the United States. For direct sales outside the United States, it is likely we will sell in the local currency, which could expose us to additional foreign currency risks, including changes in currency exchange rates. Some of our commissions related to sales of the CyberKnife system are payable in Euros. To the extent that management can predict the timing of payments under these or contracts we enter into that are denominated in foreign currencies, we may engage in hedging transactions to mitigate such risks in the future.

Item 4. 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 time periods specified in the Securities and Exchange Commission's rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and in reaching a reasonable level of assurance, management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As of December 31, 2010, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that as of December 31, 2010 our disclosure controls and procedures were effective such that the information relating to our Company, including our consolidated subsidiaries, required to be disclosed in our SEC reports (i) is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and (ii) is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regardin g required disclosure.

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of any changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during the three months ended December 31, 2010. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that there has not been any change in our internal control over financial reporting during the three months ended December 31, 2010 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Inherent Limitations of Internal Controls

Internal control over financial reporting cannot provide absolute assurance of achieving financial reporting objectives because of its inherent limitations. Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting also can be circumvented by collusion or improper management override. Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process. Therefore, it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

Table of Contents

PART II. OTHER INFORMATION

Item 1. Legal Proceedings.

Please refer to Note 7 to the condensed consolidated financial statements above for a description of certain legal proceedings currently pending against our Company. From time to time we are involved in legal proceedings arising in the ordinary course of our business.

Item 1A. Risk Factors.

Set forth below and elsewhere in this report and in other documents we file with the SEC are descriptions of the risks and uncertainties that could cause our actual results to differ materially from the results contemplated by the forward-looking statements contained in this report. The descriptions below include any material changes to and supersede the descriptions of the risk factors affecting our business previously disclosed in "Part I, Item IA. Risk Factors" of our Annual Report on Form 10-K for the fiscal year ended June 30, 2010 and our Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2010.

Risks Related to Our Business

If the CyberKnife system does not achieve widespread market acceptance, we will not be able to generate the revenue necessary to support our business.

Achieving physician, patient, hospital administrator and third-party payor acceptance of the CyberKnife system as a preferred method of tumor treatment will be crucial to our continued success. Physicians will not begin to use or increase the use of the CyberKnife system unless they determine, based on experience, clinical data and other factors, that the CyberKnife system is a safe and effective alternative to current treatment methods. We often need to educate physicians about the use of stereotactic radiosurgery, convince healthcare payors that the benefits of the CyberKnife system and its related treatment process outweigh its costs and help train qualified physicians in the skilled use of the CyberKnife system. For example, the complexity and dynamic nature of stereotactic radiosurgery and Robotic IMRT requires significant education of hospital personnel and physicians regarding the benefi ts of stereotactic radiosurgery and Robotic IMRT and require departures from their customary practices. We have expended and will continue to expend significant resources on marketing and educational efforts to create awareness of stereotactic radiosurgery and Robotic IMRT generally and to encourage the acceptance and adoption of our products for these technologies.

The CyberKnife system was initially used primarily for the treatment of tumors in the brain, and the broader use of the system to treat tumors elsewhere in the body has been a more recent development. As a result, physician and patient acceptance of the CyberKnife system as a comprehensive tool for treatment of solid tumor cancers anywhere in the body has not yet been fully demonstrated, particularly as compared to products, systems or technologies

that have longer histories in the marketplace. The CyberKnife system is a major capital purchase and purchase decisions are greatly influenced by hospital administrators who are subject to increasing pressures to reduce costs. These and other factors, including the following, may affect the rate and level of the CyberKnife system's market acceptance:

- The CyberKnife system's price relative to other products or competing treatments;
- Our ability to develop new products and enhancements and receive regulatory clearances and approval, if required, to existing products in a timely manner;
- Effectiveness of our sales and marketing efforts;
- The impact of the current economic environment on our business, including the postponement by our customers of purchase decisions or required build-outs;
- Capital equipment budgets of healthcare institutions;
- Increased scrutiny by state boards when evaluating certificates of need requested by purchasing institutions;
- Perception by physicians and other members of the healthcare community of the CyberKnife system's safety, efficacy and benefits compared to competing technologies or treatments;
- Publication in peer-reviewed medical journals of data regarding the successful use and longer term clinical benefits of the CyberKnife system;
- Willingness of physicians to adopt new techniques and the ability of physicians to acquire the skills necessary to operate the CyberKnife system;

Table of Contents

- Extent of third-party coverage and reimbursement rates, particularly from Medicare, for procedures using the CyberKnife system;
- Development of new products and technologies by our competitors or new treatment alternatives;
- Regulatory developments related to manufacturing, marketing and selling the CyberKnife system both within and outside the United States;
- Perceived liability risks arising from the use of new products; and
- Unfavorable publicity concerning the CyberKnife system or radiation- based treatment alternatives.

If the CyberKnife system is unable to achieve or maintain market acceptance, our revenue levels would decrease and our business would be harmed.

If we are unable to develop new products or enhance existing products, we may be unable to attract or retain customers.

Our success depends on the successful development, regulatory clearance or approval, introduction and commercialization of new generations of products, treatment systems, and enhancements to and/or simplification of existing products. The CyberKnife system is technologically complex and must keep pace with, among other things, the products of our competitors. We are making significant investments in long-term growth initiatives. For example, in November of 2009 we announced the introduction of the CyberKnife VSI system, which allows physicians to perform conventionally fractioned robotic intensity modulated radiation therapy, or Robotic IMRT, in addition to stereotactic radiosurgery. Such initiatives require significant capital commitments, involvement of senior management and other investments on our part, which we may be unable to recover. Our timeline for the development of new products or enhancements may not be achieved and price and profitability targets may not prove feasible. Commercialization of new products may prove challenging, and we may be required to invest more time and money than expected to successfully introduce them. Once introduced, new products may adversely impact orders and sales of our existing products, or make them less desirable or even obsolete. Compliance with regulations, competitive alternatives, and shifting market preferences may also impact the successful implementation of new products or enhancements.

Our ability to successfully develop and introduce new products, treatment systems and product enhancements and simplifications, and the revenues and costs associated with these efforts, are affected by our ability to:

- Properly identify customer needs;
- Prove feasibility of new products;
- Educate physicians about the use of new products and procedures;
- Limit the time required from proof of feasibility to routine production;
- Comply with internal quality assurance systems and processes timely and efficiently;
- Limit the timing and cost of obtaining regulatory approvals or clearances;
- Accurately predict and control costs associated with inventory overruns caused by phase-in of new products and phase-out of old products;
- Price our products competitively;
- Manufacture and deliver our products in sufficient volumes on time, and accurately predict and control costs associated with manufacturing, installation, warranty and maintenance of the products;

- Manage customer acceptance and payment for products;
- Manage customer demands for retrofits of both old and new products; and
- Anticipate and compete successfully with competitors.

Even if customers accept new products or product enhancements, the revenues from these products may not be sufficient to offset the significant costs associated with making them available to customers.

Table of Contents

We cannot be sure that we will be able to successfully develop, obtain regulatory approval or clearance, manufacture or introduce new products, treatment systems or enhancements, the roll-out of which involves compliance with complex quality assurance processes, including the quality system regulation, or QSR, enforced by the FDA. Failure to complete these processes
timely and efficiently could result in delays that could affect our ability to attract and retain customers, or could cause customers to delay or cancel orders, causing our backlog, revenues and operating results to suffer.

We may face numerous risks in connection with our strategic alliance with Siemens AG, any of which could cause our expected revenues to be harmed if they were to be realized.

In June of 2010, we entered into a Strategic Alliance Agreement with Siemens AG, or the Alliance Agreement, pursuant to which (1) we granted Siemens certain distribution rights to our CyberKnife systems, (2) Siemens agreed to incorporate certain Accuray technology into certain of its linear accelerator products, the combined products being known as the Cayman Products, and (3) we created a research and development relationship between Accuray and Siemens for the pursuit and implementation of other potential collaboration opportunities in the future. As of December 31, 2010 Siemens and the Company had not yet agreed on the definition of a specification for the first Cayman Product as originally anticipated, therefore little development work and no milestone payments have occurred. Recently Siemens has reorganized its Healthcare division and the Company is in discussion with the new management wi thin Siemens Healthcare regarding this project. There can be no assurance that the strategic alliance with Siemens AG will be successful or that the economic terms of the Alliance Agreement will ultimately prove to be favorable to us. We are not able to control the amount and timing of resources that Siemens will devote to the development, sales or marketing of the Cayman Products, the distribution of CyberKnife systems, or to future collaboration opportunities. Our own business may be disrupted, and we may have to divert attention from our other research and development activities, in order to satisfy our obligations under the Alliance Agreement. We may incur costs in excess of the consideration to be paid to us by Siemens. Even if Siemens and the Company successfully complete development of a product, it may not receive the regulatory approvals necessary to be marketed and sold. Failure to successfully develop, market and sell the product, failure of Siemens to distribute the CyberKnife system, and the fai lure of Accuray and Siemens to successfully collaborate on future opportunities could negatively impact our stock price and our future business and financial results.

If we are unable to provide the significant education and training required for the healthcare market to accept our products, our business will suffer.

In order to achieve market acceptance of the CyberKnife system, we often need to educate physicians about the use of stereotactic radiosurgery, convince healthcare payors that the benefits of the CyberKnife system and its related treatment process outweigh its costs and help train qualified physicians in the skilled use of the CyberKnife system. For example, the complexity and dynamic nature of stereotactic radiosurgery and Robotic IMRT requires significant education of hospital personnel and physicians regarding the benefits of stereotactic radiosurgery and Robotic IMRT and require departures from their customary practices. We have expended and will continue to expend significant resources on marketing and educational efforts to create awareness of stereotactic radiosurgery and Robotic IMRT and to encourage the acceptance and adoption of our products for these technologies. We cannot be sure t hat any products we develop will gain significant market acceptance among physicians, patients and healthcare payors, even if we spend significant time and expense on their education. Failure to gain significant market acceptance would adversely affect our product sales and revenues, harming our business, financial condition and results of operations.

We have a large accumulated deficit, may incur future losses and may be unable to maintain profitability.

As of December 31, 2010, we had an accumulated deficit of $118.2 million. We may incur net losses in the future, particularly as we increase our manufacturing, research and development, and marketing activities in connection with, among other things, the Strategic Alliance Agreement we entered into with Siemens AG on June 8, 2010. Our ability to maintain long-term profitability is largely dependent on our ability to successfully market and sell the CyberKnife system and to control our costs and effectively manage our growth. We cannot assure you that we will be able to maintain profitability. In the event we fail to maintain profitability, our stock price could decline.

We face risks related to the current global economic environment, which could delay or prevent our customers from obtaining financing to purchase the CyberKnife system and implement the required facilities, which would adversely affect our business, financial condition and results of operations.

The state of the global economy continues to be somewhat uncertain. The current global economic conditions pose a risk to the overall economy that could impact consumer and customer demand for our products, as well as our ability to manage normal commercial relationships with our customers, suppliers and creditors, including financial institutions. If the current situation deteriorates or does not improve, our business could be negatively affected, including such areas as reduced demand for our products resulting from a slow-down in the general economy, supplier or customer disruptions and/or temporary interruptions in our ability to conduct day-to-day transactions through our financial intermediaries involving the payment to or collection of funds from our customers, vendors and suppliers.

In addition, due to tight credit markets and concerns regarding the availability of credit, particularly in the United States, some of our customers have been delayed in obtaining, or have not been able to obtain, necessary financing for their purchases of the CyberKnife system or for the construction or renovation of facilities to house CyberKnife systems, the cost of which can range from approximately $0.5 million, for a customer who makes only minor renovations to an existing facility, to approximately $2.5 million, for a customer who builds an entirely new facility that includes additional features not necessarily required for the operation of a

CyberKnife system (e.g., audio visual equipment). This range is based solely on information provided to us by customers and will vary by geography and the needs of particular customer. To date, these delays have primarily affected customers that were planning to operate freestanding CyberKnife systems centers, rather than hospital-based customers. These delays have in some instances led to our customers postponing the shipment and installation of previously ordered systems or cancelling their system orders, and may cause other customers to postpone their system installation or to cancel their agreements with us. An increase in delays and order cancellations of this nature would adversely affect our product sales and revenues, and therefore harm our business and results of operations.

The high unit price of the CyberKnife system, as well as other factors, may contribute to substantial fluctuations in our operating results, which could adversely affect our stock price.

Because of the high unit price of the CyberKnife system and the relatively small number of units installed each quarter, each installation of a CyberKnife system can represent a significant percentage of our revenue for a particular quarter. Therefore, if we do not install a CyberKnife system when anticipated, our operating results will vary significantly from our expectations. This is of particular concern in the current volatile economic environment, where we have had experiences with customers cancelling or postponing orders for our CyberKnife system and delaying the required build-outs. These fluctuations and other potential fluctuations mean that you should not rely upon our operating results in any particular period as an indication of future performance. In particular, in addition to the other factors described in this *Part II, ;Item 1A*, factors which may contribute to these fluctuations include:

- Timing of when we are able to recognize revenue associated with sales of the CyberKnife system, which varies depending upon the terms of the applicable sales and service contracts;
- The proportion of revenue attributable to purchases of the CyberKnife system, our shared ownership program and installations, which is associated with our legacy service plans;
- Timing and level of expenditures associated with new product development activities;
- Regulatory requirements in some states for a certificate of need prior to the installation of a radiation device;
- Delays in shipment due, for example, to unanticipated construction delays at customer locations where our products are to be installed, cancellations by customers, natural disasters or labor disturbances;
- Delays in our manufacturing processes or unexpected manufacturing difficulties;
- Timing of the announcement, introduction and delivery of new products or product upgrades by us and by our competitors;
- Timing and level of expenditures associated with expansion of sales and marketing activities such as trade shows and our overall operations;
- Fluctuations in our gross margins and the factors that contribute to such fluctuations, as described in the Management's Discussion and Analysis Results of Operations;
- How well we execute on our strategic and operating plans;
- The extent to which our products gain market acceptance;
- Actions relating to regulatory matters;
- Demand for our products;
- Our ability to develop, introduce and market new or enhanced versions of our products on a timely basis;
- 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, changes in government regulation, or a change in a customer's financial condition or ability to obtain financing.

These factors are difficult to forecast and may contribute to substantial fluctuations in our quarterly revenues and substantial variation from our projections, particularly during the periods in which our sales volume is low. These fluctuations may cause volatility in our stock price.

Because the majority of our revenue is derived from sales of the CyberKnife system, and because we experience a long and variable sales and installation cycle, our quarterly results may be inconsistent from period to period. These fluctuations in revenue may make it difficult to predict our revenue.

Our primary product is the CyberKnife system. We expect to generate substantially all of our revenue for the foreseeable future from sales of and service contracts for the CyberKnife system. The CyberKnife system has lengthy sales and purchase order cycles because it is a major capital equipment item and requires the approval of senior management at purchasing institutions. The sales process in the United States typically begins with pre-selling activity followed by sales presentations and other sales-related activities. After the customer has expressed an intention to purchase a CyberKnife system, we negotiate and enter into a definitive purchase contract with the customer. Typically, following the execution of the contract, the customer begins the building or renovation of a facility to house the CyberKnife system, which together with the subsequent installation of the CyberKnife system, can take up to

24 months to complete. During the period prior to installation, the customer must build a radiation-shielded facility to house its CyberKnife system. In order to construct this facility, the customer must typically obtain radiation device installation permits, which are granted by state and local government bodies, each of which may have different criteria for permit issuance. If a permit were denied for installation at a specific hospital or treatment center, our CyberKnife system could not be installed at that location. In addition, some of our customers are cancer centers or facilities that are new, and in these cases it may be necessary for the entire facility to be completed before the CyberKnife system can be installed, which can result in additional construction and installation delays. Our sales and installations of CyberKnife systems tend to be heaviest during the third month of each fiscal quarter.

Under our revenue recognition policy, we generally do not recognize revenue attributable to a CyberKnife system purchase until after installation has occurred, if we are responsible for providing installation, or delivery. For international sales through distributors, we typically recognize revenue when the system is shipped with evidence of sell through to the end user. Under our current forms of purchase and service contracts, we receive a majority of the purchase price for the CyberKnife system upon installation or delivery of the system. Events beyond our control may delay installation and the satisfaction of contingencies required to receive cash inflows and recognize revenue, such as:

- Procurement delay;
- Customer funding or financing delay;
- Delay in or unforeseen difficulties related to customers organizing legal entities and obtaining financing for CyberKnife system acquisition;
- Construction delay;
- Delay pending customer receipt of regulatory approvals, including, for example, certificates of need;
- Delay pending customer receipt of a building or radiation device installation permit; and
- Delay caused by weather or natural disaster.

In the event that a customer does not, for any of the reasons above or other reasons, proceed with installation of the system after entering into a purchase contract, we would only recognize up to the deposit portion of the purchase price as revenue, unless the deposit was refunded to the customer. Therefore, the long sales cycle together with delays in the shipment and installation of CyberKnife systems or customer cancellations would adversely affect our cash flows and revenue, which would harm our results of operations and may result in significant fluctuations in our reporting of quarterly revenues. Because of these fluctuations, it is likely that in some future quarters, our operating results will fall below the expectations of securities analysts or investors. If that happens, the market price of our stock would likely decrease. These fluctuations also mean that you will not be able to re ly upon our operating results in any particular period as an indication of future performance.

Our ability to increase our profitability depends in part on maintaining or increasing our gross margins on product sales and service, which we may not be able to achieve.

A number of factors may result in adverse impacts to our gross margins, including:

- The timing of revenue recognition and revenue deferrals;
- Sales discounts;

Table of Contents

- Changes in product configurations;
- Increases in material or labor costs;
- Increased service costs;
- Increased warranty costs;
- Excess inventory and inventory holding charges;
- Obsolescence charges;
- Our ability to reduce production costs;
- Increased price competition;
- Variation in the margins across products installed in a particular period; and
- How well we execute on our strategic and operating plans.

If third-party payors do not provide sufficient coverage and reimbursement to healthcare providers for use of the CyberKnife system, demand for our products and our revenue could be adversely affected.

Our customers rely significantly on reimbursement for CyberKnife procedures. Our ability to commercialize our products successfully will depend in significant part on the extent to which public and private third-party payors provide adequate coverage and reimbursement for procedures that are performed with our products. Third party payors, and in particular managed care organizations, challenge the prices charged for medical products and services and institute cost containment measures to control or significantly influence the purchase of medical products and services. If reimbursement policies or other

cost containment measures are instituted in a manner that significantly reduces the coverage for or payment for our procedures that are performed with our products, our existing customers may not continue using our products or may decrease their use of our products, and we may have difficulty ob taining new customers. Such actions would likely have a material adverse effect on our operating results. In November 2010, the centers for Medicare and Medicaid Services, or CMS, issued the 2011 Medicare payment rates. Certain of the reimbursement rates are modestly lower than in the prior year, which could have a negative impact on the continued use of our products by existing customers and our ability to obtain new customers. CMS reviews such rates annually, and could implement more significant changes in future years. If in the future CMS significantly decreases reimbursement rates for stereotactic radiosurgery and Robotic IMRT services, or if other cost containment measures are implemented in the United States or elsewhere, such changes could discourage cancer treatment centers and hospitals from purchasing our products. We have seen our customers' decision making process complicated by the uncertainty surrounding the proposed reduction in Medicare reimbursement rates for radiotherapy an d radiosurgery at freestanding clinics in the United States and for physician reimbursement for radiation oncology, which has resulted in delay and sometimes even failure to purchase our products.

Our industry is subject to intense competition and rapid technological change, which may result in products or new tumor treatments that are superior to the CyberKnife system. If we are unable to anticipate or keep pace with changes in the marketplace and the direction of technological innovation and customer demands, our products may become less useful or obsolete and our operating results will suffer.

The medical device industry in general and the non-invasive cancer treatment field in particular are subject to intense and increasing competition and rapidly evolving technologies. Because our products often have long development and government approval cycles, we must anticipate changes in the marketplace and the direction of technological innovation and customer demands. To compete successfully, we will need to continue to demonstrate the advantages of our products and technologies over well-established alternative procedures, products and technologies, and convince physicians and other healthcare decision makers of the advantages of our products and technologies. Traditional surgery and other forms of minimally invasive procedures, chemotherapy or other drugs remain alternatives to the CyberKnife system. Also, we compete directly with traditional standard linac based radiation therapy syste ms primarily from Elekta AB (publ), or Elekta, BrainLAB AG, the Integra Radionics business of Integra LifeSciences Holdings Corporation, or Radionics, and Varian Medical Systems, Inc., or Varian, and we believe that new competitors will enter our market.

The market for standard linear accelerators is dominated by three companies: Elekta, Siemens AG and Varian. In addition, TomoTherapy Incorporated markets and sells a radiation therapy product. The CyberKnife system has not typically been used to perform traditional radiation therapy and therefore competition has been limited with standard medical linacs that perform traditional radiation therapy. However, the CyberKnife VSI system, which we introduced in November of 2009, may be used to perform Robotic IMRT, an advanced method of traditional radiation therapy, which products of these competitors are also capable of performing. In addition, some manufacturers of standard linac based radiation therapy systems, including Varian and Elekta, have products that can

Table of Contents

be used in combination with body and/or head frames and image-guidance systems to perform radiosurgery. Furthermore, many government, academic and business entities are investing substantial resources in research and development of cancer treatments, including surgical approaches, radiation treatment, drug treatment, gene therapy, which is the treatment of disease by replacing, manipulating, or supplementing nonfunctional genes, and other approaches. Moreover, at least one other company has announced that it is developing a product that, if introduced, would be directly competitive with the CyberKnife. Successful developments that result in new approaches for the treatment of cancer could reduce the attractiveness of our products or render them obsolete.

Our future success will depend in large part on our ability to establish and maintain a competitive position in current and future technologies. Rapid technological development may render the CyberKnife system and its technologies obsolete. Many of our competitors have or may have greater corporate, financial, operational, sales and marketing resources, and more experience in research and development than we have. We cannot assure you that our competitors will not succeed in developing or marketing technologies or products that are more effective or commercially attractive than our products or that would render our technologies and products obsolete. We may not have the financial resources, technical expertise, marketing, distribution or support capabilities to compete successfully in the future. Our success will depend in large part on our ability to maintain a competitive position with our te chnologies.

Our competitive position also depends on:

- Widespread awareness, acceptance and adoption by the radiation oncology and cancer therapy markets of our products;
- The discovery of new technologies that improve the effectiveness and productivity of the CyberKnife system radiosurgery process;
- Product and procedure coverage and reimbursement from third-party payors, insurance companies and others;
- Properly identifying customer needs and delivering new products or product enhancements to address those needs;
- Published studies supporting the efficacy and safety and long-term clinical benefit of the CyberKnife system;
- Limiting the time required from proof of feasibility to routine production;
- Limiting the timing and cost of obtaining regulatory approvals or clearances;
- Our ability to attract and retain qualified personnel;
- The extent of our patent protection or our ability to otherwise develop proprietary products and processes;
- Securing sufficient capital resources to expand both our continued research and development, and sales and marketing efforts; and
- Obtaining any necessary United States or foreign marketing approvals or clearances.

If customers choose not to purchase a CyberKnife system or choose to purchase our competitors' products, our revenue and market share would be adversely impacted. In addition, companies in the pharmaceutical or biotechnology fields may seek to develop methods of cancer treatment that are more

effective than radiation therapy and radiosurgery, resulting in decreased demand for the CyberKnife system. Because the CyberKnife system has a long development cycle and because it can take significant time to receive government approvals or clearances for changes to the CyberKnife system, we must anticipate changes in the marketplace and the direction of technological innovation. Accordingly, if we are unable to anticipate and keep pace with new innovations in the cancer treatment market, the CyberKnife system or an aspect of its functionality may be rendered obsolete, which would have a material ad verse effect on our business, financial condition and results of operations.

If we fail to maintain an effective system of internal control over financial reporting, we may not be able to accurately report our financial results. As a result, current and potential stockholders could lose confidence in our financial reporting, which could have an adverse effect on our business and our stock price.

Effective internal controls are necessary for us to provide reliable financial reports and to protect from fraudulent, illegal or unauthorized transactions. If we cannot provide effective controls and reliable financial reports, our business and operating results could be harmed. Our management determined, as of June 30, 2008 and September 30, 2008, that we had material weaknesses in our internal control over financial reporting and that our disclosure controls and procedures were not effective. We began our remediation efforts in fiscal year 2009 and we concluded that there were no deficiencies in our internal control over financial reporting that would constitute a material weakness as of June 30, 2009 or since then. Although we are making additional improvements in our internal controls over financial reporting, in future periods we may conclude that we have one or more material weaknesses, and remedying these material weaknesses may require significant additional financial and managerial resources and could result in a loss of investor confidence in our internal controls and financial reporting.

Table of Contents

We may have difficulties in determining the effectiveness of our internal control due to our complex financial model.

The complexity of our financial model contributes to our need for effective financial reporting systems and internal controls. We recognize revenue from a range of transactions including CyberKnife system sales, our shared ownership program and services. The CyberKnife system is a complex product that contains both hardware and software elements. The complexity of the CyberKnife system and of our financial model pertaining to revenue recognition requires us to process a broader range of financial transactions than would be required by a company with a less complex financial model. Accordingly, deficiencies or weaknesses in our internal controls would likely impact us more significantly than they would impact a company with a less complex financial model. If we were to find that our internal controls were deficient, we could be required to amend or restate our historical financial statements, wh ich would likely have a negative impact on our stock price.

Our reliance on single source suppliers for critical components of the CyberKnife system could harm our ability to meet demand for our products in a timely and cost effective manner.

We currently depend on single source suppliers for some of the critical components necessary for the assembly of the CyberKnife system, including the robotic manipulator, imaging plates, treatment table, robotic couch and magnetron, which creates the microwaves for use in the linear accelerator. If any single source suppliers were to cease delivering components to us or fail to provide the components to our specifications and on a timely basis, we might be required to find alternative sources for these components. We may have difficulty or be unable to find alternative sources for these components. As a result, we may be unable to meet the demand for the CyberKnife system, which could harm our ability to generate revenue and damage our reputation. Even if we do find alternate suppliers, we will be required to qualify any such alternate suppliers and we would likely experience a lengthy delay in our manufacturing processes or a cessation in production, which would result in delays of shipment to end users. We cannot assure you that our single source suppliers will be able or willing to meet our future demands.

We generally do not maintain large volumes of inventory, which makes us even more susceptible to harm if a single source supplier fails to deliver components on a timely basis. Furthermore, if we are required to change the manufacturer of a critical component of the CyberKnife system, we will be required to verify that the new manufacturer maintains facilities, procedures and operations that comply with our quality and applicable regulatory requirements. We also will be required to assess the new manufacturer’s compliance with all applicable regulations and guidelines, which could further impede our ability to manufacture our products in a timely manner. If the change in manufacturer results in a significant change to the product, a new 510(k) clearance would be necessary, which would likely cause substantial delays. The disruption or termination of the supply of key components for th e CyberKnife system could harm our ability to manufacture our products in a timely manner or within budget, harm our ability to generate revenue, lead to customer dissatisfaction and damage our reputation.

It is difficult and costly to protect our intellectual property and our proprietary technologies, and we may not be able to ensure their protection.

Our success depends significantly on our ability to obtain, maintain and protect our proprietary rights to the technologies used in our products. Patents and other proprietary rights provide uncertain protections, and we may be unable to protect our intellectual property. For example, we may be unsuccessful in defending our patents and other proprietary rights against third party challenges.

In addition to patents, we rely on a combination of trade secrets, copyright and trademark laws, nondisclosure agreements and other contractual provisions and technical security measures to protect our intellectual property rights. These measures may not be adequate to safeguard the technology underlying our products. If these measures do not protect our rights adequately, third parties could use our technology, and our ability to compete in the market would be reduced. Although we have attempted to obtain patent coverage for our technology where available and appropriate, there are aspects of the technology for which patent coverage was never sought or never received. There are also countries in which we sell or intend to sell the CyberKnife system but have no patents or pending patent applications. Our ability to prevent others from making or selling duplicate or similar technologies will be impaired in those countries in which we have no patent protection. Although we have several issued patents in the United States and in foreign countries protecting aspects of the CyberKnife system, our pending United States and foreign patent applications may not issue, may issue only with limited coverage or may issue and be subsequently successfully challenged by others and held invalid or unenforceable.

Similarly, our issued patents and those of our licensors may not provide us with any competitive advantages. Competitors may be able to design around our patents or develop products which provide outcomes comparable or superior to ours. Our patents may be held invalid or unenforceable as a result of legal challenges by third parties, and others may challenge the inventorship or ownership of our patents and pending patent applications. In addition, the laws of some foreign countries may not protect our intellectual property rights to the same extent as do the laws of the United States. In the event a competitor infringes upon our patent or other intellectual property rights, enforcing those rights may be difficult and time consuming. Even if successful, litigation to

enforce our intellectual property rights or to defend our patents against challenge could be expensive and time consuming and coul d divert our management's attention. We may not have sufficient resources to enforce our intellectual property rights or to defend our patents against a challenge.

Table of Contents

We also license patent and other proprietary rights to aspects of our technology to third parties in fields where we currently do not operate as well as in fields where we currently do operate. Disputes with our licensees may arise regarding the scope and content of these licenses. Further, our ability to expand into additional fields with our technologies may be restricted by our existing licenses or licenses we may grant to third parties in the future.

In October 2006, January 2007 and February 2007, we received correspondence from American Science and Engineering, Inc., or AS&E, expressing concerns that we may be using certain intellectual property we acquired from AS&E through the HES acquisition in a manner that breaches, or may breach, our contractual obligations under a license agreement with them in certain non-medical fields. The intellectual property at issue relates to the development of a next-generation linac that could be used for medical as well as non-medical purposes. We are developing the technology used in the next-generation linac independently from the intellectual property we obtained from the HES acquisition. In January of 2010, we entered into a Supply Agreement with AS&E, pursuant to which AS&E has acknowledged and agreed that our use of the intellectual property at issue did not brea ch or contravene the license agreement.

The policies we have in place to protect our trade secrets may not be effective in preventing misappropriation of our trade secrets by others. In addition, confidentiality agreements executed by our employees, consultants and advisors may not be enforceable or may not provide meaningful protection for our trade secrets or other proprietary information in the event of unauthorized use or disclosure. Litigating a trade secret claim is expensive and time consuming, and the outcome is unpredictable. In addition, courts outside the United States are sometimes less willing to protect trade secrets. Moreover, our competitors may independently develop equivalent knowledge methods and know-how. If we are unable to protect our intellectual property rights, we may be unable to prevent competitors from using our own inventions and intellectual property to compete against us, and our business may be harmed.

Third parties may claim we are infringing their intellectual property, and we could suffer significant litigation or licensing expenses or be prevented from selling our product.

The medical device industry is characterized by a substantial amount of litigation over patent and other intellectual property rights. In particular, the field of radiation treatment of cancer is well established and crowded with the intellectual property of competitors and others. We also expect that other participants will enter the field in particular, at least one other company has announced that it is developing a product that would be directly competitive with the CyberKnife. A number of companies in our market, as well as universities and research institutions, have issued patents and have filed patent applications which relate to the use of stereotactic radiosurgery to treat solid cancerous and benign tumors.

Determining whether a product infringes a patent involves complex legal and factual issues, and the outcome of patent litigation actions is often uncertain. We have not conducted an extensive search of patents issued to third parties, and no assurance can be given that third party patents containing claims covering our products, parts of our products, technology or methods do not exist, have not been filed, or could not be filed or issued. Because of the number of patents issued and patent applications filed in our technical areas or fields, our competitors or other third parties may assert that our products and the methods we employ in the use of our products are covered by United States or foreign patents held by them. For example, on August 6, 2010, Best Medical International, Inc., or Best Medical, filed a lawsuit against Accuray in the U.S. District court for the Western District of P ennsylvania, claiming Accuray has infringed U.S. Patent No. 5,596,619, a patent that Best Medical alleges protects a method and apparatus for conformal radiation therapy, and on December 16, 2010, Best Medical filed an amended complaint, claiming that the Company also infringes U.S. Patent Nos. 6,038,283 and 7,266,175, both of which Best Medical alleges cover methods and apparatus for conformal radiation therapy. Best Medical is seeking declaratory and injunctive relief as well as unspecified compensatory and treble damages and other relief.

In addition, because patent applications can take many years to issue and because publication schedules for pending applications vary by jurisdiction, there may be applications now pending of which we are unaware, and which may result in issued patents which our current or future products infringe. Also, because the claims of published patent applications can change between publication and patent grant, there may be published patent applications that may ultimately issue with claims that we infringe. There could also be existing patents that one or more of our products or parts may infringe and of which we are unaware. As the number of competitors in the market for less invasive cancer treatment alternatives grows, and as the number of patents issued in this area grows, the possibility of patent infringement claims against us increases. Regardless of the merit of infringement claims, they can b e time-consuming, result in costly litigation and diversion of technical and management personnel. Some of our competitors may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. In addition, any uncertainties resulting from the initiation and continuation of any litigation could have a material adverse effect on our ability to raise the funds necessary to continue our operations.

In the event that we become subject to a patent infringement or other intellectual property lawsuit and if the relevant patents or other intellectual property were upheld as valid and enforceable and we were found to infringe or violate the terms of a license to which we are a party, we could be prevented from selling our products unless we could obtain a license or were able to redesign the

Table of Contents

product to avoid infringement. Required licenses may not be made available to us on acceptable terms or at all. If we were unable to obtain a license or successfully redesign our system, we might be prevented from selling our system. If there is an allegation or determination that we have infringed the intellectual property rights of a competitor or other person, we may be required to pay damages, or a settlement or ongoing royalties. In these circumstances, we may be unable to sell our products at competitive prices or at all, our business and operating results could be harmed.

We could become subject to product liability claims, product recalls, other field actions and warranty claims that could be expensive, divert management's attention and harm our business.

Our business exposes us to potential liability risks that are inherent in the manufacturing, marketing and sale of medical device products. We may be held liable if the CyberKnife system causes injury or death or is found otherwise unsuitable during usage. Our products incorporate sophisticated components and computer software. Complex software can contain errors, particularly when first introduced. In addition, new products or enhancements may contain

undetected errors or performance problems that, despite testing, are discovered only after installation. Because our products are designed to be used to perform complex surgical procedures, defects could result in a number of complications, some of which could be serious and could harm or kill patients. Any weaknesses in training and services associated with our products may also be subject to product liability lawsuits. It is also possible that defects in the design, manufacture or labeling of our products might necessitate a product recall or other field corrective action, which may result in warranty claims beyond our expectations and may harm our reputation and create bad publicity. A product liability claim, regardless of its merit or eventual outcome, could result in significant legal defense costs. The coverage limits of our insurance policies may not be adequate to cover future claims. If sales of our products increase or we suffer future product liability claims, we may be unable to maintain product liability insurance in the future at satisfactory rates or with adequate amounts. A product liability claim, any product recalls or other field actions or excessive warranty claims, whether arising from defects in design or manufacture or labeling, could negatively affect our sales or require a change in the design, manufacturing process or the indications for which the CyberKnife system may be used, any of which could harm our reputation and bu siness and result in a decline in revenue.

In addition, if a product we designed or manufactured is defective, whether due to design or manufacturing, or labeling defects, improper use of the product or other reasons, we may be required to notify regulatory authorities and/or to recall the product, possibly at our expense. We have voluntarily conducted recalls and product corrections in the past. Accuray submitted one recall report to the FDA during the fiscal quarter ended December 31, 2010, relating to evaluation of treatment plans generated on the CyberKnife system. Accuray's user manuals have been revised to include additional warnings and instructions, and letters were issued to all existing users to provide such additional warnings and instructions. The costs associated with this recall were immaterial. A required notification to a regulatory authority or recall could result in an investigation by regulatory authorities of our products, which could in turn result in required recalls, restrictions on the sale of the products or other civil or criminal penalties. The adverse publicity resulting from any of these actions could cause customers to review and potentially terminate their relationships with us. These investigations or recalls, especially if accompanied by unfavorable publicity or termination of customer contracts, could result in our incurring substantial costs, losing revenues and damaging our reputation, each of which would harm our business.

The safety and efficacy of our products for certain uses is not yet supported by long-term clinical data and may therefore prove to be less safe and effective than initially thought.

Although we believe that the CyberKnife system has advantages over competing products and technologies, we do not have sufficient clinical data demonstrating these advantages for all tumor indications. For example, because our CyberKnife procedures are relatively new, we have limited clinical data relating to the effectiveness of the CyberKnife system as a means of controlling the growth of cancer at a particular body site. In addition, we have only limited five-year patient survival rate data, which is a common long-term measure of clinical effectiveness in cancer treatment. Further, future patient studies or clinical experience may indicate that treatment with the CyberKnife system does not improve patient survival or outcomes. Such results could slow the adoption of our products by physicians, significantly reduce our ability to achieve expected revenues and could prevent us from becoming pr ofitable. In addition, if future results and experience indicate that our products cause unexpected or serious complications or other unforeseen negative effects, the FDA could rescind our clearances, our reputation with physicians, patients and others may suffer and we could be subject to significant legal liability.

The CyberKnife system has been in use for a limited period of time for uses outside the brain, and the medical community has not yet developed a large quantity of peer-reviewed literature that supports safe and effective use in those locations in the body.

The CyberKnife system was initially cleared by a number of regulatory authorities for the treatment of tumors in the brain and neck. More recently, the CyberKnife system has been cleared in the United States to treat tumors anywhere in the body where radiation is indicated, and our future growth is dependent in large part on continued growth in full body use of the system. Currently, however, there are a limited number of peer-reviewed medical journal publications regarding the safety and efficacy of the CyberKnife system for treatment of tumors outside the brain or spine. If later studies show that the CyberKnife system is less effective or less safe with respect to particular types of solid tumors, or in the event clinical studies do not achieve the results anticipated at the outset of the study, use of the CyberKnife system could fail to increase or could decrease and our growth and operatin g results would therefore be harmed.

Table of Contents

International sales of the CyberKnife system account for a significant portion of our revenue, which exposes us to risks inherent in international operations.

Our international sales have increased over the last four fiscal years. To accommodate our international sales, we have invested significant financial and management resources to develop an international infrastructure that will meet the needs of our customers. We anticipate that a significant portion of our revenue will continue to be derived from sales of the CyberKnife system in foreign markets and that the percentage of our overall revenue that is derived from these markets will continue to increase. This revenue and related operations will therefore continue to be subject to the risks associated with international operations, including:

- Economic or political instability;
- Shipping delays;
- Changes in foreign regulatory laws governing the clearance, approval and sales of medical devices;
- Difficulties in enforcing agreements with and collecting receivables from customers outside the United States;
- Longer payment cycles associated with many customers outside the United States;
- Adequate reimbursement for the CyberKnife procedure outside the United States;
- Failure of local laws to provide the same degree of protection against infringement of our intellectual property;
- Protectionist laws and business practices that favor local competitors;
- The possibility that foreign countries may impose additional taxes, tariffs or other restrictions on foreign trade;

- Failure of Accuray employees or distributors to comply with export laws and requirements which may result in civil or criminal penalties and restrictions on our ability to export our products;
- The expense of establishing facilities and operations in new foreign markets;
- Building an organization capable of supporting geographically dispersed operations;
- Risks relating to foreign currency; and
- Contractual provisions governed by foreign laws and various trade restrictions, including U.S. prohibitions and restrictions on exports of certain products and technologies to certain nations.

Our international operations are also subject to United States laws regarding the conduct of business overseas by U.S. companies. In particular, the U.S. Foreign Corrupt Practices Act, or FCPA, prohibits the provision of illegal or improper inducements to foreign government officials in connection with the obtaining of business overseas. Violations of the FCPA by us or any of our employees, executive officers or distributors could subject us or the individuals involved to criminal or civil liability and could therefore materially harm our business.

In addition, future imposition of, or significant increases in, the level of customs duties, export quotas, regulatory restrictions or trade restrictions could materially harm our business.

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

Currently, the majority of our international sales are denominated in U.S. dollars. As a result, an increase in the value of the U.S. dollar relative to foreign currencies could require us to reduce our sales price or make our products less competitive in international markets. Also, as our international sales increase, we may enter into a greater number of transactions denominated in non-U.S. dollars, which would expose us to foreign currency risks, including changes in currency exchange rates. If we are unable to address these risks and challenges effectively, our international operations may not be successful and our business would be materially harmed.

We depend on third-party distributors to market and distribute the CyberKnife system in international markets. If our distributors fail to successfully market and distribute the CyberKnife system, our business will be materially harmed.

We depend on a limited number of distributors in our international markets. We cannot control the efforts and resources our third-party distributors will devote to marketing the CyberKnife system. Our distributors may not be able to successfully market and

Table of Contents

sell the CyberKnife system, may not devote sufficient time and resources to support the marketing and selling efforts and may not market the CyberKnife system at prices that will permit 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. For example, our regulatory approval in Japan was suspended for a period of twelve months during 2003 as a result of a failure of our former distributor to coordinate product modifications and obtain necessary regulatory clearances in a timely manner. As a result, the CyberKnife system was recalled in Japan and our former Japanese distributor was told to stop selling the CyberKnife system. In response, we retained a regulatory consultant who was not affiliated with our former Japanese distributor and worked with the Japanese M inistry of Health, Labor and Welfare and applied for, and received, approval to sell an updated version of the CyberKnife system under the name of CyberKnife II in Japan. By working with a new distributor, Chiyoda Technol Corporation, we were able to begin distributing the CyberKnife II system in 2004 with no probationary period. In addition, if a distributor is terminated by us or goes out of business, it may take us a period of time to locate an alternative distributor, to seek appropriate regulatory approvals and to train its personnel to market the CyberKnife system, and our ability to sell and service the CyberKnife system in the region formerly serviced by such terminated distributor could be materially adversely affected. Any of these factors could materially adversely affect our revenue from international markets, increase our costs in those markets or damage our reputation. If we are unable to attract additional international distributors, our international revenue may not grow. If our distributors experience difficulties, do not actively market the CyberKnife system or do not otherwise perform under our distribution agreements, our potential for revenue and gross margins from international markets may be dramatically reduced, and our business could be harmed.

We have limited experience and capability in manufacturing. If we encounter manufacturing problems, or if our manufacturing facilities do not continue to meet federal, state or foreign manufacturing standards, we may be required to temporarily cease all or part of our manufacturing operations, which would result in delays and lost revenue.

The CyberKnife system is complex, and requires the integration of a number of components from several sources of supply. We must manufacture and assemble these complex systems in commercial quantities in compliance with strictly enforced regulatory requirements and at an acceptable cost. We have a limited history of manufacturing commercial quantities of the CyberKnife system. In particular, we manufacture compact linacs as a component of the CyberKnife system. Our linac components are extremely complex devices and require significant expertise to manufacture, and as a result of our limited manufacturing experience we may have difficulty producing needed materials in a commercially viable manner. We may encounter difficulties in scaling up production of the CyberKnife system, including problems with quality control and assurance, component supply shortages, increased costs, shortages of qualifi ed personnel and/or difficulties associated with compliance with local, state, federal and foreign regulatory requirements. If our manufacturing capacity does not keep pace with product demand, we will not be able to fulfill orders in a timely manner which in turn may have a negative effect on our financial results and overall business. Conversely, if demand for our products decreases, the fixed costs associated with excess manufacturing capacity may adversely affect our financial results.

Our manufacturing processes and the manufacturing processes of our third-party suppliers are required to comply with the FDA's Quality System Regulation, or QSR. The QSR is a complex regulatory scheme that covers the methods and documentation of the design, testing, production processes, controls, manufacturing, labeling, quality assurance, packaging, storage and shipping of our products. We are also subject to state requirements and licenses applicable to manufacturers of medical devices, and we are required to comply with International Organization for Standardization, or ISO, quality system standards in order to produce products for sale in Europe. Because our manufacturing processes include diagnostic and therapeutic X-ray equipment and laser

equipment, we are subject to the electronic product radiation control provisions of the Federal Food, Drug and Cosmetic Act, which requires that we file reports with the FDA, applicable states and our customers regarding the distribution, manufacturing and installation of these types of equipment. The FDA enforces the QSR and the electronic product radiation control provisions through periodic inspections, some of which may be unannounced. We have been, and anticipate in the future to be, subject to such inspections. Our failure or the failure of a third-party supplier to pass a QSR inspection or to comply with these, ISO and other applicable regulatory requirements could result in disruption of our operations and manufacturing delays. Our failure to take prompt and satisfactory corrective action in response to an adverse inspection or our failure to comply with applicable standards could result in enforcement actions, including a public warning letter, a shutdown of our manufacturing operations, a recall of our products, civil or criminal penalties, or other sanctions, which would cause our sales and business to suffer. We cannot assure you tha t the FDA or other governmental authorities would agree with our interpretation of applicable regulatory requirements or that we or our third-party suppliers have in all instances fully complied with all applicable requirements.

If we cannot achieve the required level and quality of production, we may need to outsource production or rely on licensing and other arrangements with third parties who possess sufficient manufacturing facilities and capabilities in compliance with regulatory requirements. Even if we could outsource needed production or enter into licensing or other third party arrangements, this could reduce our gross margin and expose us to the risks inherent in relying on others. We also cannot assure you that our suppliers will deliver an adequate supply of required components on a timely basis or that they will adequately comply with the QSR. Failure to obtain these components on a timely basis would disrupt our manufacturing processes and increase our costs, which would harm our operating results.

Table of Contents

We depend on key employees, the loss of whom would adversely affect our business. If we fail to attract and retain employees with the expertise required for our business, we may be unable to continue to grow our business.

We are highly dependent on the members of our senior management, operations and research and development staff. Our future success will depend in part on our ability to retain these key employees and to identify, hire and retain additional personnel. Competition for qualified personnel in the medical device industry, particularly in northern California, is intense, and finding and retaining qualified personnel with experience in our industry is very difficult. We believe there are only a limited number of individuals with the requisite skills to serve in many of our key positions and we compete for key personnel with other medical equipment and software manufacturers and technology companies, as well as universities and research institutions. It is increasingly difficult to hire and retain these persons, and we may be unable to replace key persons if they leave or fill new positions requiring k ey persons with appropriate experience. A significant portion of our compensation to our key employees is in the form of stock option grants. A prolonged depression in our stock price could make it difficult for us to retain our employees and recruit additional qualified personnel. We do not maintain, and do not currently intend to obtain, key employee life insurance on any of our personnel. If we fail to hire and retain personnel in key positions, we may be unable to continue to grow our business successfully.

If we do not effectively manage our growth, our business may be significantly harmed.

The number of our employees increased from 194 as of June 30, 2005 to 457 as of December 31, 2010. In order to implement our business strategy, we expect continued growth in our employee and infrastructure requirements, particularly as we expand our manufacturing and research and development capacities. To manage our growth, we must expand our facilities, augment our management, operational and financial systems, hire and train additional qualified personnel, scale-up our manufacturing capacity and expand our marketing and distribution capabilities. Our manufacturing, assembly and installation process is complex and occurs over many months, and we must effectively scale this entire process to satisfy customer expectations and changes in demand. We also expect to increase the number of sales and marketing personnel as we expand our business. Further, to accommodate our growth a nd compete effectively, we will be required to improve our information systems. We cannot be certain that our personnel, systems, procedures and internal controls will be adequate to support our future operations. If we cannot manage our growth effectively, our business will suffer.

Any failure in our physician training efforts could result in lower than expected product sales and potential liabilities.

A critical component of our sales and marketing efforts is the training of a sufficient number of physicians to properly utilize the CyberKnife system. We rely on physicians to devote adequate time to learn to use our products. If physicians are not properly trained, they may misuse or ineffectively use our products. This may result in unsatisfactory patient outcomes, patient injury and related liability or negative publicity which could have an adverse effect on our product sales.

Changes in interpretation or application of generally accepted accounting principles may adversely affect our operating results.

We prepare our financial statements to conform with GAAP. These principles are subject to interpretation by the Financial Accounting Standards Board, American Institute of Certified Public Accountants, the Public Company Accounting Oversight Board, the Securities and Exchange Commission and various other regulatory or accounting bodies. A change in interpretations of, or our application of, these principles can have a significant effect on our reported results and may even affect our reporting of transactions completed before a change is announced. Additionally, as we are required to adopt new accounting standards, our methods of accounting for certain items may change, which could cause our results of operations to fluctuate from period to period. For example, due to the significance of the software component of the CyberKnife system, we are currently bound by the software revenue recognition rules for a portion of our business. We adopted ASU 2009-13 and ASU 2009-14 in the first quarter of fiscal 2011 and the impact of the adoption of ASU 2009-13 and ASU 2009-14 on our condensed consolidated financial statements has been assessed at “Note 2, Summary of Significant Accounting Policies.” The application of different types of accounting principles and related potential changes may make it more difficult to compare our financial results from quarter to quarter, and the trading price of our common stock could suffer or become more volatile as a result.

As a strategy to assist our sales efforts, we may offer extended payment terms, which may potentially result in higher DSO and greater payment defaults.

We offer longer or extended payment terms for qualified customers in some circumstances. As of December 31, 2010, customer contracts with extended payment terms of more than one year amounted to less than 5% of our accounts receivable balance. While we qualify customers to whom we offer longer or extended payment terms, their financial positions may change adversely over the longer time period given for payment. This may result in an increase in payment defaults, which would affect our net earnings. Also, longer or extended payment terms have and may in the future result in an increase in our days sales outstanding, or DSO.

Our ability to raise capital in the future may be limited, and our failure to raise capital when needed could prevent us from executing our growth strategy.

While we believe that our existing cash and short-term and long-term investments will be sufficient to meet our anticipated cash needs for at least the next 12 months, the timing and amount of our working capital and capital expenditure requirements may vary significantly depending on numerous factors, including:

Table of Contents

- Market acceptance of our products;
- The need to adapt to changing technologies and technical requirements;
- The existence of opportunities for expansion; and
- Access to and availability of sufficient management, technical, marketing and financial personnel.

If our capital resources are insufficient to satisfy our liquidity requirements, we may seek to sell additional equity securities or debt securities or obtain other debt financing, which could be difficult or impossible in the current economic and capital markets environments. The sale of additional equity securities or convertible debt securities would result in additional dilution to our stockholders. We have not made arrangements to obtain additional financing, and we cannot assure that financing, if required, will be available in amounts or on terms acceptable to us, if at all.

We may attempt to acquire new businesses, products or technologies, or enter into collaborations or strategic alliances, and if we are unable to successfully complete these acquisitions or to integrate acquired businesses, products, technologies or employees, we may fail to realize expected benefits or harm our existing business.

Our success will depend, in part, on our ability to expand our product offerings and grow our business in response to changing technologies, customer demands and competitive pressures. In some circumstances, we may determine to do so through the acquisition of complementary businesses, products or technologies, or through collaborating with complementary businesses, rather than through internal development. The identification of suitable acquisition or alliance candidates can be difficult, time consuming and costly, and we may not be able to successfully complete identified acquisitions or alliances. Other companies may compete with us for these strategic opportunities. Furthermore, even if we successfully complete an acquisition or alliance, we may not be able to successfully integrate newly acquired organizations, products or technologies into our operations, and the process of integration co uld be expensive, time consuming and may strain our resources, and we may not realize the expected benefits of any acquisition, collaboration or strategic alliance. Furthermore, the products and technologies that we acquire or with respect to which we collaborate may not be successful, or may require significantly greater resources and investments than we originally anticipated. In addition, we may be unable to retain employees of acquired companies, or retain the acquired company's customers, suppliers, distributors or other partners who are our competitors or who have close relationships with our competitors. Consequently, we may not achieve anticipated benefits of the acquisitions or alliances which could harm our existing business. In addition, future acquisitions or alliances could result in potentially dilutive issuances of equity securities or the incurrence of debt, contingent liabilities or expenses, or other charges such as in-process research and development, any of which could harm our busin ess and affect our financial results or cause a reduction in the price of our common stock.

Our liquidity could be adversely impacted by adverse conditions in the financial markets.

At December 31, 2010, we had $151.9 million in cash, cash equivalents and marketable securities. The available cash and cash equivalents are held in accounts managed by third party financial institutions and consist of invested cash and cash in our operating accounts. The invested cash is invested in interest bearing funds managed by third party financial institutions. These funds invest in direct obligations of the government of the United States. To date, we have experienced no loss or lack of access to our invested cash or cash equivalents; however, we can provide no assurances that access to our invested cash and cash equivalents will not be impacted by adverse conditions in the financial markets.

At any point in time, we also have funds in our operating accounts that are with third party financial institutions that exceed the Federal Deposit Insurance Corporation, or FDIC insurance limits. While we monitor daily the cash balances in our operating accounts and adjust the cash balances as appropriate, these cash balances could be impacted if the underlying financial institutions fail or become subject to other adverse conditions in the financial markets. To date, we have experienced no loss or lack of access to cash in our operating accounts.

Our operations are vulnerable to interruption or loss due to natural disasters, epidemics, terrorist acts and other events beyond our control, which would adversely affect our business.

Our manufacturing facility is located in a single location in Sunnyvale, California. We do not maintain a backup manufacturing facility, so we depend on our current facility for the continued operation of our business. In addition, we conduct a significant portion of other activities including administration and data processing at facilities located in the State of California which has experienced major earthquakes in the past, as well as other natural disasters. We do not carry earthquake insurance. In the event of a major earthquake or other disaster affecting our facilities, it could significantly disrupt our operations, delay or prevent product manufacture and shipment for the time required to repair, rebuild or replace our manufacturing facilities, which could be lengthy, and result in large expenses to repair or replace the facilities. Likewise, events such as widespread blackouts could h ave similar negative impacts.

Table of Contents

Risks Related to the Regulation of our Products and Business

Healthcare reform legislation could adversely affect demand for our products, our revenue and our financial condition.

Healthcare costs have risen significantly over the past decade. There have been and continue to be proposals by legislators, regulators, and third-party payors to keep these costs down. Certain proposals, if passed, may impose limitations on the amounts of reimbursement available for our products from

governmental agencies or third-party payors. These limitations could have a negative impact on the demand for our products and services, and therefore on our financial position and results of operations and a material adverse effect on our financial position and results of operations.

On March 23, 2010, the Patient Protection and Affordable Care Act was signed into law, and on March 30, 2010, the Health Care and Education Reconciliation Act of 2010 was signed into law. Together, the two measures make the most sweeping and fundamental changes to the U.S. health care system since the creation of Medicare and Medicaid. The Health Care Reform laws include a large number of health-related provisions to take effect over the next four years, including expanding Medicaid eligibility, requiring most individuals to have health insurance, establishing new regulations on health plans, establishing health insurance exchanges, requiring manufacturers to report payments or other transfers of value made to physicians and teaching hospitals, modifying certain payment systems to encourage more cost-effective care and a reduction of inefficiencies and waste and including new tools to address fraud and abuse. Effective in 2013, there will be a 2.3% excise tax on the sale of certain medical devices.

In addition, various healthcare reform proposals have also emerged at the state level. We cannot predict the exact effect newly enacted laws or any future legislation or regulation will have on us. However, the implementation of new legislation and regulation may lower reimbursements for our products, reduce medical procedure volumes and adversely affect our business, possibly materially. In addition, the enacted excise tax may materially and adversely affect our operating expenses and results of operations.

Modifications, upgrades and future products related to the CyberKnife system or new indications may require new FDA 510(k) clearances or premarket approvals, and such modifications, or any defects in design, manufacture or labeling may require us to recall or cease marketing the CyberKnife system until approvals or clearances are obtained.

The CyberKnife system is a medical device that is subject to extensive regulation in the United States by local, state and the federal government, including by the FDA. The FDA regulates virtually all aspects of a medical device's design, development, testing manufacturing, labeling, storage, record keeping, adverse event, reporting, sale, promotion, distribution and shipping. Before a new medical device, or a new use of or claim for an existing product, can be marketed in the United States, it must first receive either premarket approval or 510(k) clearance from the FDA, unless an exemption exists. Either process can be expensive and lengthy. The FDA's 510(k) clearance process generally takes from three to twelve months, but it can last longer. The process of obtaining premarket approval is much more costly and uncertain than the 510(k) clearance process and it general ly takes from one to three years, or even longer, from the time the application is filed with the FDA. Despite the time, effort and cost, there can be no assurance that a particular device will be approved or cleared by the FDA through either the premarket approval process or 510(k) clearance process. Even if we are granted regulatory clearances or approvals, they may include significant limitations on the indicated uses of the product, which may limit the market for those products.

Medical devices may be marketed only for the indications for which they are approved or cleared. The FDA also may change its policies, adopt additional regulations, or revise existing regulations, each of which could prevent or delay premarket approval or 510(k) clearance of our device, or could impact our ability to market our currently cleared device. We are also subject to medical device reporting regulations which require us to report to the FDA if our products cause or contribute to a death or a serious injury, or malfunction in a way that would likely cause or contribute to a death or a serious injury. We also are subject to Quality System regulations. Our products are also subject to state regulations and various worldwide laws and regulations.

A component of our strategy is to continue to upgrade the CyberKnife system. Upgrades previously released by us required 510(k) clearance before we were able to offer them for sale. We expect our future upgrades will similarly require 510(k) clearance; however, future upgrades may be subject to the substantially more time consuming and uncertain premarket approval process. If we were required to use the premarket approval process for future products or product modifications, it could delay or prevent release of the proposed products or modifications, which could harm our business.

The FDA requires device manufacturers to make their own determination of whether or not a modification requires an approval or clearance; however, the FDA can review a manufacturer's decision not to submit for additional approvals or clearances. Any modification to an FDA approved or cleared device that would significantly affect its safety or efficacy or that would constitute a major change in its intended use would require a new premarket approval or 510(k) clearance. We cannot assure you that the FDA will agree with our decisions not to seek approvals or clearances for particular device modifications or that we will be successful in obtaining 510(k) clearances for modifications.

We have obtained 510(k) clearances for the CyberKnife system for the treatment of tumors anywhere in the body where radiation is indicated. We have made modifications to the CyberKnife system in the past and may make additional modifications in the future that we believe do not or will not require additional approvals or clearances. If the FDA disagrees and requires us to obtain additional premarket approvals or 510(k) clearances for any modifications to the CyberKnife system and we fail to obtain such

Table of Contents

approvals or clearances or fail to secure approvals or clearances in a timely manner, we may be required to cease manufacturing and marketing the modified device or to recall such modified device until we obtain FDA approval or clearance and we may be subject to significant regulatory fines or penalties.

In addition, even if the CyberKnife system is not modified, the FDA and similar governmental authorities in other countries in which we market and sell our products have the authority to require the recall of our products in the event of material deficiencies or defects in design, manufacture or labeling. A government mandated recall, or a voluntary recall by us, could occur as a result of component failures, manufacturing errors or design defects, including defects in labeling and user manuals. Accuray submitted one recall report to the FDA during the fiscal quarter ended December 31, 2010, relating to evaluation of treatment plans generated on the CyberKnife system. Accuray's user manuals have been revised to include additional warnings and instructions, and letters were issued to all existing users to provide such additional warnings and instructions. The costs associat ed with this recall were immaterial. We cannot ensure that the FDA will not require that we take additional actions to address problems that resulted in previous recalls. Any recall could divert management's attention, cause us to incur significant expenses, harm our reputation with customers, negatively affect our future sales and business, require redesign of the CyberKnife system, and harm our operating results. In these circumstances, we may also be subject to significant enforcement action. If any of these events were to occur, our ability to introduce new or enhanced products in a timely manner would be adversely affected, which in turn would harm our future growth.

We must obtain and maintain regulatory approvals in international markets in which we sell, or seek to sell, our products. If we do not obtain and maintain the necessary international regulatory approvals, we will not be able to market and sell our products in foreign countries.

In order for us to market and sell the CyberKnife system internationally, either through direct sales personnel or through distributors, we must obtain and maintain regulatory clearances applicable to the countries and regions in which we are selling, or are seeking to sell, our products. These regulatory approvals and clearances, and the process required to obtain and maintain them, vary substantially among international jurisdictions, and can be time consuming, expensive and uncertain, which can delay our ability to market products in those countries. In some jurisdictions, we rely on our distributors to manage the regulatory process and we are dependent on their ability to do so effectively. For example, our regulatory approval in Japan was suspended for a period of twelve months during 2003 as a result of a failure of our former distributor to coordinate product modifications and obtain nec essary regulatory clearances in a timely manner. As a result, the CyberKnife system was recalled in Japan and our former Japanese distributor was told to stop selling the CyberKnife system. In response, we retained a regulatory consultant who was not affiliated with our former Japanese distributor and worked with the Japanese Ministry of Health, Labor and Welfare and applied for, and received, approval to sell an updated version of the CyberKnife system under the name of CyberKnife II in Japan. By working with a new distributor, Chiyoda Technol Corporation, we were able to begin distributing the CyberKnife II system in 2004 with no probationary period. In the event that we are unable to obtain and maintain, or are unduly delayed in obtaining, regulatory clearances for the CyberKnife system, including new clearances for system upgrades and use of the system anywhere in the body, in international markets we have entered or desire to enter, or if a clearance or approval includes significant limitations on the i ndicated uses of the product, our international sales could fail to grow or decline.

Within the European Union, we are required under Medical Device Directive to affix the Conformité Européene, or CE, mark on our products in order to sell the products in member countries of the EU. This conformity to the applicable directives is done through self declaration and is verified by an independent certification body, called a Notified Body, before the CE mark can be placed on the device. Once the CE mark is affixed to the device, the Notified body will regularly audit us to ensure that we remain in compliance with the applicable European laws or directives. CE marking demonstrates that our products comply with the laws and regulations required by the European Union countries to allow free movement of trade within those countries. If we cannot support our performance claims and/or demonstrate compliance with the applicable European laws and directives, we lose our CE mark, w hich would prevent us from selling our products within the European Union.

Under the Pharmaceutical Affairs Law in Japan, an import approval, or *shonin*, must be obtained from the Ministry of Health, Labor and Welfare, or MHLW, for our products. Before issuing approvals, MHLW examines the application in detail with regard to the quality, efficacy, and safety of the proposed medical device. The *shonin* is granted once MHLW is content with the safety and effectiveness of the medical device. The time required for approval varies. A delay in approval could prevent us from selling our products in Japan, which could impact our ability to generate revenue and harm our business.

In addition, we are subject to a variety of environmental laws regulating our manufacturing operations and the handling, storage, transport and disposal of hazardous materials, which laws impose compliance costs on our business and can also result in liability. For example, we are in the process of updating the way our products are built such that they will be compliant with the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2008, or the RoHS Regulations, upon their effectiveness. The RoHS Regulations implement EU Directive 2002/95 which bans the placing on the EU market of new electrical and electronic equipment containing more than agreed levels of lead, cadmium, mercury, hexavalent chromium, polybrominated biphenyl (PBB) and polybrominated diphenyl ether (PBDE) flame retardants.

Table of Contents

Future legislative or regulatory changes to the healthcare system may affect our business.

Even if third-party payors provide adequate coverage and reimbursement for the CyberKnife procedure, adverse changes in third-party payors' general policies toward reimbursement could preclude market acceptance for our products and materially harm our sales and revenue growth. In the United States, there have been, and we expect there will continue to be, a number of legislative and regulatory changes and proposals to change the healthcare system, and some could involve changes that significantly affect our business. In addition, certain federal regulatory changes occur at least annually.

In April 2008, at the time CMS published final 2009 Medicare inpatient reimbursement rates, CMS issued final rules implementing significant amendments to the regulations under the federal Ethics in Patient Referrals Act, which is more commonly known as the Stark Law, with an effective date of October 1, 2009. These regulations, among other things, impose additional limitations on the ability of physicians to refer patients to medical facilities in which the physician has an ownership interest for treatment. Among other things, the regulations provide that leases of equipment between physician owners that may refer patients and hospitals must be on a fixed rate, rather than a per use, basis. Physician owned entities have increasingly become involved in the acquisition of medical technologies, including the CyberKnife system. In many cases, these entities enter into arrangements wi th hospitals that bill Medicare for the furnishing of medical services, and the physician owners are among the physicians who refer patients to the entity for services. The regulations limit these arrangements and could require the restructuring of existing arrangements between physicians owned entities and hospitals and may also discourage physicians from participating in the acquisition and ownership of medical technologies. As a result of the finalization of these regulations, some existing CyberKnife system operators may have to modify or restructure their corporate or organizational structures. In addition, certain existing customers that planned to open CyberKnife centers in the United States involving physician ownership could also have to restructure. Accordingly, these regulations could reduce the attractiveness of medical technology acquisitions, including CyberKnife system purchases, by physician-owned joint ventures or similar entities. As a result, these regulations could have an adverse impact on our product sales and therefore on our business and results of operations.

On August 3, 2010, the FDA released for public comment two internal working group reports with numerous recommendations (1) to improve the 510(k) process and (2) to utilize science in regulatory decision making in ways that encourage innovation yet maintain predictability. The public comment period closed in early October 2010 and the FDA is targeting the implementation of or setting timelines for the implementation of "non-controversial" recommendations by early 2011. At the same time, the FDA acknowledges that the recommendations are preliminary and no decisions have been made on specific changes to pursue. Nevertheless, we anticipate significant changes will result in the way 510(k) programs will operate and the increased data requirements, including clinical data, to obtain 510(k) clearance or PMA approval. We cannot predict what effect these ref orms will have on our ability to obtain 510(k) clearances or PMA approvals in a timely manner or the effect on our business.

On June 9 and 10, 2010, the FDA held a public meeting entitled "Device Improvements to Reduce the Number of Under-doses, Over-doses, and Misaligned Exposures from Therapeutic Radiation." The expressed purpose of the meeting was to discuss steps that could be taken by manufacturers of radiation therapy devices to help reduce misadministration and misaligned exposures that have been recently reported in the press. In advance of and at the meeting, the FDA requested comments in the following areas: features that should be incorporated into radiation therapy devices and their related software, user training, and quality assurance measures. It is likely that the FDA will use the information gleaned at this meeting to significantly revise the standards and requirements for designing, manufacturing and marketing devices such as ours, creating uncertainty in the current regulatory enviro nment around our current products and development of future products. Future legislative or policy initiatives directed at reducing costs could be introduced at either the federal

or state level. We cannot predict what healthcare reform legislation or regulations, if any, will be enacted in the United States or elsewhere, what impact any legislation or regulations related to the healthcare system that may be enacted or adopted in the future might have on our business, or the effect of ongoing uncertainty or public perception about these matters will have on the purchasing decisions of our customers.

We are required to comply with federal and state "fraud and abuse" laws, and if we are unable to comply with such laws, we could face substantial penalties and we could be excluded from government healthcare programs, which would adversely affect our business, financial condition and results of operations.

We are directly or indirectly through our customers, subject to various federal, state and foreign laws pertaining to healthcare fraud and abuse. These laws which directly or indirectly affect our ability to operate our business primarily include, but are not limited to, the following:

- The federal Anti-Kickback Statute, which prohibits persons from 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 under federal healthcare programs such as Medicare and Medicaid;

- State law equivalents to the Anti-Kickback Statute, which may not be limited to government reimbursed items;

- The Ethics in Patient Referral Act of 1989, also known as the Stark Law, which prohibits, subject to certain exceptions, physician referrals of Medicare and Medicaid patients to an entity providing certain "designated health services" if the physician or an immediate family member has any financial relationship with the entity. The Stark Law also prohibits the entity receiving the referral from billing for any good or service furnished pursuant to an unlawful referral;

Table of Contents

- State law equivalents to the Stark Law, which may provide even broader restrictions and require greater disclosures than the federal law;

- The federal False Claims Act, which prohibits the knowing filing or causing the filing of a false claim or the knowing use of false statements to obtain payment from the federal government; and

- Similar laws in foreign countries where we conduct business.

The following arrangements with purchasers and their agents have been identified by the Office of the Inspector General of the Department of Health and Human Services as ones raising potential risk of violation of the federal Anti-Kickback Statute:

- Discount and free good arrangements that are not properly disclosed or accurately reported to federal healthcare programs;

- Product support services, including billing assistance, reimbursement consultation and other services specifically tied to support of the purchased product, offered in tandem with another service or program (such as reimbursement guarantee) that confers a benefit to the purchaser;

- Educational grants conditioned in whole or in part on the purchase of equipment, or otherwise inappropriately influenced by sales and marketing considerations;

- Research funding arrangements, particularly post-market research activities, that are linked directly or indirectly to the purchase of products, or otherwise inappropriately influenced by sales and marketing considerations; and

- Other offers of remuneration to purchasers that is expressly or impliedly related to a sale or sales volume, such as "prebates" and "upfront payment," other free or reduced-price goods or services, and payments to cover costs of "converting" from a competitor's products, particularly where the selection criteria for such offers vary with the volume or value of business generated.

We have various arrangements with physicians, hospitals and other entities which implicate these laws. For example, physicians who own our stock also provide medical advisory and other consulting and personal services. Similarly, we have a variety of different types of arrangements with our customers. For example, our shared ownership program entails the provision of our CyberKnife system to our customers under a deferred payment program, where we generally receive the greater of a fixed minimum payment or a portion of the revenues of services. Included in the fee we charge for the placement and shared ownership program are a variety of services, including physician training, educational and marketing support, general reimbursement guidance and technical support. In the past, we have also provided loans to our customers. We also provide research grants to customers to support customer studies r elated to, among other things, our CyberKnife systems. Certain of these arrangements do not meet Anti-Kickback Statute safe harbor protections, which may result in increased scrutiny by government authorities having responsibility for enforcing these laws.

If our past or present operations are found to be in violation of any of the laws described above or other similar governmental regulations to which we or our customers are subject, we may be subject to the applicable penalty associated with the violation, including significant civil and criminal penalties, damages, fines, imprisonment and exclusion from the Medicare and Medicaid programs. The impact of any such violations may lead to curtailment or restructuring of our operations, which could adversely affect our ability to operate our business and our financial results. The risk of our being found in violation of these laws is increased by the fact that many of these laws are open to a variety of interpretations. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses, divert our management's attenti on from the operation of our business and damage our reputation. If enforcement action were to occur, our reputation and our business and financial condition may be harmed, even if we were to prevail or settle the action. Similarly, if the physicians or other providers or entities with which we do business are found to be non-compliant with applicable laws, they may be subject to sanctions, which could also have a negative impact on our business.

If we are found to have violated laws protecting the confidentiality of patient health information, we could be subject to civil or criminal penalties, which could increase our liabilities and harm our reputation or our business.

There are a number of federal and state laws protecting the confidentiality of certain patient health information, including patient records, and restricting the use and disclosure of that protected information. In particular, the U.S. Department of Health and Human Services has promulgated patient

privacy rules under the Health Insurance Portability and Accountability Act of 1996, or HIPAA. These privacy rules protect medical records and other personal health information by limiting their use and disclosure, giving individuals the right to access, amend and seek accounting of their own health information and limiting most uses and disclosures of

Table of Contents

health information to the minimum amount reasonably necessary to accomplish the intended purpose. Although we are not a covered entity under HIPAA, we have entered into agreements with certain covered entities under which we are considered to be a "business associate" under HIPAA. As a business associate, we are required to implement policies, procedures and reasonable and appropriate security measures to protect individually identifiable health information we receive from covered entities. Our failure to protect health information received from customers could subject us to liability to both the government and the covered entity, adverse publicity, and could harm our business and impair our ability to attract new customers.

The HIPAA privacy standard was recently amended by the Health Information Technology for Economic and Clinical Health Act (HITECH), enacted as part of the American Recovery and Reinvestment Act of 2009. HITECH significantly increases the civil money penalties for violations of patient privacy rights protected under HIPAA. Furthermore, as of February 2010, Business Associates who have access to patient health information provided by hospitals and healthcare providers are now directly subject to HIPAA, including a new enforcement scheme and inspection requirements.

Certain governmental agencies, such as the U.S. Department of Health and Human Services and the Federal Trade Commission, have the authority to protect against the misuse of consumer information by targeting companies that collect, disseminate or maintain personal information in an unfair or deceptive manner. We are also subject to the laws of those foreign jurisdictions in which we sell the CyberKnife system, some of which currently have more protective privacy laws. If we fail to comply with applicable regulations in this area, our business and prospects could be harmed.

Risks Related to Our Common Stock

The price of our common stock is volatile and may continue to fluctuate significantly, which could lead to losses for stockholders.

The trading prices of the stock of smaller high-technology companies can experience extreme price and volume fluctuations. These fluctuations often have been unrelated or out of proportion to the operating performance of these companies. Our stock price has experienced periods of volatility. Broad market fluctuations may also harm our stock price. Any negative change in the public's perception of the prospects of companies that employ similar technology or sell into similar markets could also depress our stock price, regardless of our actual results.

In addition to the other factors described in this *Part II, Item 1A,* factors affecting the trading price of our common stock include:

- Regulatory developments related to manufacturing, marketing or sale of the CyberKnife system;
- Economic changes and overall market volatility;
- Political uncertainties;
- Changes in product pricing policies;
- Variations in our operating results;
- Changes in our operating results as a result of problems with our internal controls;
- Announcements of technological innovations, new services or service enhancements, strategic alliances or significant agreements by us or by our competitors;
- Recruitment or departure of key personnel;
- Changes in the estimates of our operating results or changes in recommendations by any securities analyst that elects to follow our common stock;
- Market conditions in our industry, the industries of our customers and the economy as a whole;
- Sales of large blocks of our common stock; and
- Changes in accounting principles or changes in interpretations of existing principles, which could affect our financial results.

Table of Contents

Substantial sales of our common stock by our stockholders, including sales pursuant to 10b5-1 plans, could depress our stock price regardless of our operating results.

If our existing stockholders sell a large number of shares of our common stock or the public market perceives that existing stockholders might sell shares of common stock, including sales pursuant to 10b5-1 plans, the market price of our common stock could decline significantly. These sales might also make it more difficult for us to sell equity securities at a time and price that we deem appropriate.

Our directors, executive officers and major stockholders own approximately 32.1% of our outstanding common stock as of January 24, 2011, which could limit our ability to influence the outcome of key transactions, including changes of control.

As of January 24, 2011, our directors, executive officers, and current holders of 5% or more of our outstanding common stock, held, in the aggregate, approximately 32.1% of our outstanding common stock. This concentration of ownership may delay, deter or prevent a change of control of our company and will make some transactions more difficult or impossible without the support of these stockholders.

We have implemented anti-takeover provisions that could discourage or prevent a takeover, even if an acquisition would be beneficial in the opinion of our stockholders.

Provisions of our certificate of incorporation and bylaws could make it more difficult for a third party to acquire us, even if doing so would be beneficial in the opinion of our stockholders. These provisions include:

- Authorizing the issuance of "blank check" preferred stock that could be issued by our board of directors to increase the number of outstanding shares and thwart a takeover attempt;
- Establishing a classified board of directors, which could discourage a takeover attempt;
- Prohibiting cumulative voting in the election of directors, which would limit the ability of less than a majority of stockholders to elect director candidates;
- Limiting the ability of stockholders to call special meetings of stockholders;
- Prohibiting stockholder action by written consent and requiring that all stockholder actions be taken at a meeting of our stockholders; and
- Establishing advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted upon by stockholders at stockholder meetings.

In addition, Section 203 of the Delaware General Corporation Law may discourage, delay or prevent a change of control of our company. Generally, Section 203 prohibits stockholders who, alone or together with their affiliates and associates, own more than 15% of the subject company from engaging in certain business combinations for a period of three years following the date that the stockholder became an interested stockholder of such subject company without approval of the board or 66$^{2}/_{3}$% of the independent stockholders. The existence of these provisions could adversely affect the voting power of holders of common stock and limit the price th at investors might be willing to pay in the future for shares of our common stock.

We have not paid dividends in the past and do not expect to pay dividends in the future.

We have never declared or paid cash dividends on our capital stock. We currently intend to retain all future earnings for the operation and expansion of our business and, therefore, do not anticipate declaring or paying cash dividends in the foreseeable future. The payment of dividends will be at the discretion of our board of directors and will depend on our results of operations, capital requirements, financial condition, prospects, contractual arrangements, and other factors our board of directors may deem relevant. If we do not pay dividends, a return on a stockholders' investment will only occur if our stock price appreciates.

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

(a) *Sales of Unregistered Securities*

None.

(b) *Use of Proceeds from Public Offering of Common Stock*

None.

(c) *Purchases of Equity Securities by the Issuer and Affiliated Purchasers*

None.

Table of Contents

Item 3. Defaults Upon Senior Securities

None.

Item 4. (Removed and Reserved)

Item 5. Other Information

None.

Item 6. Exhibits

Exhibit Number	Description
10.1*	General Release and Separation Agreement dated October 1, 2010 by and between the Company and Eric Lindquist.
10.2*	Amended and Restated Employment Terms Letter dated October 1, 2010 by and between the Company and Theresa L. Dadone.
10.3†	License Agreement dated December 10, 2010 by and between the Company and CyberHeart, Inc.

10.4†	Patent License dated December 10, 2010 by and between the Company and CyberHeart, Inc.
31.1	Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Chief Executive Officer and Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

* Management contract or compensatory plan or arrangement.

† Portions of the exhibit have been omitted pursuant to a request for confidential treatment. The omitted information has been filed separately with the Securities and Exchange Commission.

Table of Contents

SIGNATURE

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

ACCURAY INCORPORATED

By: /s/ Euan S. Thomson
Euan S. Thomson, Ph.D.
President and Chief Executive Officer

By: /s/ Derek Bertocci
Derek Bertocci
Senior Vice President and Chief Financial Officer

Date: January 27, 2011

GENERAL RELEASE AND SEPARATION AGREEMENT

This General Release and Separation Agreement (hereafter "Agreement") is entered into between Eric Lindquist (the "Executive"), and Accuray Incorporated (the "Company"), effective on the eighth calendar day following the Executive's signature (the "Effective Date"), unless he revokes his acceptance in accordance with the terms of Section 6(b), below.

WHEREAS, the Executive was Senior Vice President, Chief Marketing Officer of the Company, pursuant to the terms of the original employment offer letter dated October 11, 2004 and as amended on October 22, 2008 (the "Employment Agreement");

WHEREAS, the Executive resigned effective September 2, 2010; and

WHEREAS, the Company and the Executive now wish to document the termination of their employment relationship and fully and finally to resolve all matters between them;

THEREFORE, in exchange for the good and valuable consideration set forth herein, the adequacy of which is specifically acknowledged, the Executive and the Company hereby agree as follows:

1. Resignation of Employment. The Executive confirms his resignation of his employment and of his position as an officer of the Company effective September 2, 2010 (the "Resignation Date"). The parties hereby acknowledge and agree that the Executive's resignation of employment constitutes a "separation from service" from the Company within the meaning of Section 409A(a)(2)(A)(i) of the Internal Revenue Code of 1986, as amended (the "Code"), and Treasury Regulation Section 1.409A-1(h) (a "Separation from Service"). As of the Resignation Date, the Employment Agreement shall automatically terminate and be of no further force and effect, and neither the Company nor the Executive shall have any further obligations thereunder, except as expressly provided herein. Notwithstanding the foregoing, the Company shall be obligated to Executive for severance payments and continuation of benefits as contemplated by Section 7 of the Employment Agreement and as set forth in Section 3 below.

2. Payment of Accrued Wages and Expenses. The Executive acknowledges receipt, on the Resignation Date, of an amount equal to all accrued wages through the Resignation Date, including accrued, unused vacation and/or paid time off, less applicable taxes and other authorized withholding (apart from the Executive's bonus for the 2010 fiscal year, which will be paid in accordance with the regular terms of the FY10 Company Bonus Plan). The Executive shall also be promptly reimbursed for all expenses incurred by him on behalf of the Company, so long as they are submitted on or before November 1, 2010 for reimbursement and they are in accordance with the Company's expense reimbursement policies.

3. Cash Severance Benefits and COBRA Premiums. The Executive agrees that, except as set forth in this Agreement, he is entitled to no additional pay or benefits in conjunction with the termination of his employment. Subject to Section 22(b) of this Agreement, the Company shall pay to the Executive, in a lump-sum, cash severance in the gross amount of **$383,926.01** (the "Severance Payment"), which the parties acknowledge and agree represents the amount of the "Severance Payment" calculated under, and as defined in, Section 6(a) of the Employment Agreement, consisting of:

1. Eight months' base salary: **$210,833.33**
2. Your 2011 fiscal year target annual bonus (65%×$316,250 = $205,562.50) pro-rated by the number of days elapsed in the current fiscal year: (64/365×$205,562) = **$36,044.16**
3. 66.6% of your 2011 fiscal year target annual bonus: ($205,562×66.6%) = **$137,048.52**

The Severance Payment shall be paid net of applicable taxes and other authorized withholding. In addition, in the event that the Executive elects to continue healthcare coverage pursuant to the Consolidated Omnibus Budget and Reconciliation Act ("COBRA") for himself, his spouse and his children, as applicable and to the extent eligible, the Company shall pay the Executive's COBRA premiums for the period commencing on the date on which the Executive's Company-sponsored healthcare coverage would otherwise terminate (absent COBRA) and ending on the earlier to occur of the eight (8) month anniversary of such date or the expiration of the period during which the Executive would be entitled to continuation coverage under COBRA absent this provision.

4. Stock Options and Restricted Stock Units. The Executive acknowledges that as of the Resignation Date, the Executive was vested in Stock Options and Restricted Stock Units ("RSUs") as reflected in the report attached as Exhibit A hereto. The Executive further acknowledges that vesting in the Stock Options and RSUs ceased on the Resignation Date, and all Stock Options and RSUs not then vested were cancelled and forfeited as of that date. Except as specifically set forth herein, the Execut ive's rights with respect to Stock Options and RSUs issued to him are governed by the Stock Option and Restricted Stock Unit Agreements entered into between the Executive and the Company, and the applicable Company equity incentive plan(s) and Notice(s) of Grant.

5. Outplacement Assistance. The Company will pay for outplacement assistance for the Executive in an amount not to exceed $10,000 (ten thousand dollars), provided that the Executive begins such outplacement assistance with Accuray's outplacement provider on or before February 1, 2011. Accuray's outplacement service provider will bill Accuray directly and there is no cash value to this benefit.

6. General Release of Claims by the Executive.

(a) The Executive, on behalf of himself and his executors, heirs, administrators, representatives and assigns, hereby agrees to release and forever discharge the Company and all predecessors, successors and their respective parent corporations, affiliates, related, and/or subsidiary entities, and all of their past and present investors, directors, shareholders, officers, general or limited partners, executives, attorneys, agents and representatives, and executive benefit plans in which the Executive is or has been a participant by virtue of his employment with the Company, from any and all claims, debts, d emands, accounts, judgments, rights, causes of action, equitable relief, damages, costs, charges, complaints, obligations, promises, agreements, controversies, suits, expenses, compensation, responsibility and liability of every kind and character whatsoever (including attorneys' fees and costs), whether in law or equity, known or unknown, asserted or unasserted, suspected or unsuspected (collectively, "Claims"), which the Executive has or may have had against such

entities based on any events or circumstances arising or occurring on or prior to the date hereof or on or prior to the Resignation Date, arising directly or indirectly out of, relating to, or in any other way involving in any manner whatsoever the Executive's employment by the Company or the separation thereof, and any and all claims arising under federal, state, or local laws relating to employment, including without limitation claims of wrongful discharge, breach of express or implied contract, fraud, misrepresentatio n, defamation, or liability in tort, claims of any kind that may be brought in any court or administrative agency, any claims arising under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Fair Labor Standards Act, the Executive Retirement Income Security Act, the Family and Medical Leave Act, and similar state or local statutes, ordinances, and regulations, including, without limitation, the California Family Rights Act, the California Fair Employment and Housing Act and the California Labor Code.

Notwithstanding the generality of the foregoing, the Executive does not release the following claims and rights:

(i) Claims for unemployment compensation or any state disability insurance benefits pursuant to the terms of applicable state law;

(ii) Claims to continued participation in certain of the Company's group benefit plans pursuant to the terms and conditions of the federal law known as COBRA;

(iii) The Executive's right to bring to the attention of the Equal Employment Opportunity Commission claims of discrimination; provided, however, that the Executive does release his right to secure damages for any alleged discriminatory treatment;

(iv) The Executive's rights under the Indemnification Agreement between Company and Executive and under applicable law (including California Labor Code Section 2802), the General Corporation Law of Delaware and the Company's D&O policy to seek indemnity for acts committed, or omissions, within the course and scope of the Executive's employment duties; and

(v) Claims for breach of this Separation Agreement.

(b) In accordance with the Older Workers Benefit Protection Act of 1990, the Executive acknowledges that he is aware of the following:

(i) This Section and this Agreement are written in a manner calculated to be understood by the Executive.

(ii) The waiver and release of claims under the ADEA contained in this Agreement does not cover rights or claims that may arise after the date on which the Executive signs this Agreement.

(iii) This Agreement provides for consideration in addition to anything of value to which the Executive is already entitled.

(iv) The Executive has been advised to consult an attorney before signing this Agreement.

(v) The Executive has been granted forty-five (45) days after he is presented with this Agreement to decide whether or not to sign this Agreement. If the Executive executes this Agreement prior to Monday October 18, 2010 he does so voluntarily and after having had the opportunity to consult with an attorney, and hereby waives the remainder of the period.

(vi) The Executive has the right to revoke this general release within seven (7) days of signing this Agreement. In the event this general release is revoked, this Agreement will be null and void in its entirety, and the Executive will not receive the benefits of this Agreement.

If the Executive wishes to revoke this agreement, he must deliver written notice stating that intent to revoke, in accordance with the notice provisions of Section 17 of this Agreement, on or before 5:00 p.m.

on the seventh (7^{th}) day after the date on which the Executive signs this Agreement.

7. The Company's Release of Claims. Nothing herein shall release or discharge any Claim by the Company against the Executive, or the right of the Company to bring any action, legal or otherwise, against the Executive as a result of any failure by him to perform his obligations under this Agreement, or as a result of any acts of intentional misconduct or recklessness (including, but not limited to, fraud, embezzlement, misappropriation, or other malfeasance).

8. Waiver of Rights Under California Civil Code Section 1542. The Company and the Executive acknowledge that they have been advised of and are familiar with the provisions of California Civil Code Section 1542, which provides as follows:

"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."

Being aware of said code section, the Company and the Executive hereby expressly waive any rights they may have thereunder, as well as under any other statutes or common law principles of similar effect; provided, however, that such waiver is not intended to affect claims expressly preserved under the terms of the parties' respective releases.

9. Nondisparagement. The Executive agrees that neither he nor anyone acting by, through, under or in concert with him shall disparage or otherwise communicate negative statements or opinions about the Company, its Board members, officers, executives or business. The Company agrees that neither its Board members nor executive officers shall disparage or otherwise communicate negative statements or opinions about the Executive.

10. Restrictive Covenants. The Executive acknowledges his continuing obligations, pursuant to Section 8(a), (b) and (d) of the Employment Agreement.

11. Cooperation. The Executive agrees to give reasonable cooperation, at the Company's request, in any pending or future litigation or arbitration brought against the Company and in any investigation that the Company or any government entity may conduct. The Company shall reimburse the Executive for all out of pocket expenses reasonably incurred by him in compliance with this Section 11. For his part, Executive agrees to submit a reimbursement for such out of pocket expenses within thirty (30) days after they have been incurred.

12. Executive's Representations and Warranties. The Executive represents and warrants that:

(a) He has been paid all wages owed to him by the Company, including all accrued, unused vacation and/or paid time off, as of the date of execution of this Agreement (apart from the regular payment of the FY10 bonus which will be paid in accordance with the terms of the FY10 Company Bonus Plan);

(b) As of the date of execution of this Agreement, he has not sustained any injuries for which he might be entitled to compensation pursuant to California's Workers Compensation law;

(c) The Executive has not initiated any adversarial proceedings of any kind against the Company or against any other person or entity released herein, nor will he do so in the future, except as specifically allowed by this Agreement.

13. Confidential Information; Return of Company Property.

(a) The Executive hereby expressly confirms his continuing obligations to the Company pursuant to Section 8(a) of the Employment Agreement, and pursuant to the Employee Invention Assignment and Confidentiality Agreement executed by the Executive, a copy of which is attached as Exhibit B and incorporated herein by reference.

(b) The Executive shall deliver to the Company within five days of the Resignation Date, all originals and copies of correspondence, drawings, manuals, letters, notes, notebooks, reports, programs, plans, proposals, financial documents, or any other documents concerning the Company and its customers', business plans, marketing strategies, products, processes or business of any kind, and all originals and copies of documents that contain proprietary information or trade secrets of the Company that are in the possession or control of the Executive or his agents or representatives.

(c) The Executive shall return to the Company within five days of the Resignation Date all equipment of the Company in his possession or control. The Executive may however keep his Company issued laptop computer and cellular phone. Accuray will remove all Company licensed software and Confidential information before delivering possession.

14. Taxes. To the extent any taxes may be payable by the Executive for the benefits provided to him by this Agreement beyond those withheld by the Company, the Executive agrees to pay them himself and to indemnify and hold the Company and the other entities released herein harmless for any tax claims or penalties, and associated attorneys' fees and costs, resulting from any failure by him to make required payments.

15. In the Event of a Claimed Breach. All controversies, claims and disputes arising out of or relating to this Agreement, including without limitation any alleged violation of its terms, shall be resolved by final and binding arbitration before a single neutral arbitrator in San Jose, California, in accordance with the applicable dispute resolution rules of the Judicial Arbitration and Mediation Service ("JAMS"). The arbitration shall be commenced by filing a demand for arbitration with JAMS within 60 (sixty) days after the filing party has g iven notice of such breach to the other party. The arbitrator shall have authority to award the prevailing party attorneys' fees and expert fees, if any. Notwithstanding the foregoing, it is acknowledged that it will be impossible to measure in money the damages that would be suffered if the parties fail to comply with any of the obligations imposed on them under Sections 13(a) and (b) hereof, and that in the event of any such failure, an aggrieved person will be irreparably damaged and will not have an adequate remedy at law. Any such person shall, therefore, be entitled to injunctive relief, including specific performance, to enforce such obligations, and if any action shall be brought in equity to enforce any of the provisions of Sections 13(a) and (b) of this Agreement, neither of the parties hereto shall raise the defense that there is an adequate remedy at law.

16. Choice of Law. This Agreement shall in all respects be governed and construed in accordance with the laws of the State of California, including all matters of construction, validity and performance, without regard to conflicts of law principles.

17. Notices. All notices, demands or other communications regarding this Agreement shall be in writing and shall be sufficiently given if either personally delivered or sent by facsimile or overnight courier, addressed as follows:

(a) If to the Company:

Accuray Incorporated
Attn: Darren J. Milliken, General Counsel
1310 Chesapeake Terrace
Sunnyvale, CA 94089
Phone: 408-716-4600
Fax: 408-716-4747

(b) If to the Executive:

Eric Lindquist

18. Severability. Except as otherwise specified below, should any portion of this Agreement be found void or unenforceable for any reason by a court of competent jurisdiction, the parties intend that such provision be limited or modified so as to make it enforceable, and if such provision cannot be modified to be enforceable, the unenforceable portion shall be deemed severed from the remaining portions of this Agreement, which shall otherwise remain in full force and effect. If any portion of this Agreement is so found to be void or unenforceable for any reas on in regard to any one or more persons, entities, or subject matters, such portion shall remain in full force and effect with respect to all other persons, entities, and subject matters. This paragraph shall not operate, however, to sever the Executive's obligation to provide the binding release to all entities intended to be released hereunder.

19. Understanding and Authority. The parties understand and agree that all terms of this Agreement are contractual and are not a mere recital, and represent and warrant that they are competent to covenant and agree as herein provided.

20. Integration Clause. This Agreement, the Employment Agreement, and the Employee Invention Assignment and Confidentiality Agreement contain the entire agreement of the parties with regard to the matters referenced herein and supersede any prior agreements as to such matters. This Agreement may not be changed or modified, in whole or in part, except by an instrument in writing signed by the Executive and the Chief Executive Officer of the Company. The Indemnification Agreement between the Company and the Executive shall not be affected by the existence of th is Agreement, including this Section 20 hereof, and shall remain in full force and effect.

21. Execution in Counterparts. This Agreement may be executed in counterparts with the same force and effectiveness as though executed in a single document.

22. Section 409A of the Code.

(a) The payments and benefits under this Agreement are intended to be exempt from the application of Section 409A of the Code. To the extent applicable, this Agreement shall be interpreted in accordance with Section 409A of the Code and Department of Treasury Regulations and other interpretive guidance issued thereunder. Notwithstanding any provision of this Agreement to the contrary, if the Company determines that any such compensation or benefits payable under this Agreement may be subject to Section 409A of the Code and related Department of Treasury guidance, the Company may, with the Executive's prior written consent, adopt such amendments to this Agreement or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, that the Company determines are necessary or appropriate to (i) exempt

the compensation and benefits payable under this Agreement from Section 409A of the Code and/or preserve the intended tax treatment of such compensation and benefits, or (ii) comply with the requirements of Section 409A of the Code and related Department of Treasury guidance.

(b) Notwithstanding anything to the contrary in this Agreement, no payment or benefits, including without limitation the amount payable under Section 3 hereof, shall be paid to the Executive during the six (6) month period following the Executive's Separation from Service if the Company determines that paying such amount at the time or times indicated in this Agreement would be a prohibited distribution under Section 409A(a)(2)(B)(i) of the Code. If the payment of any such amount is delayed as a result of the previous sentence, then on the first business day following the end of su ch six (6) month period (or such earlier date upon which such amount can be paid under Section 409A of the Code without resulting in a prohibited distribution, including as a result of the Executive's death), the Company shall pay the Executive a lump-sum amount equal to the cumulative amount that would have otherwise been payable to the Executive during such period.

(c) To the extent permitted under Section 409A of the Code, any separate payment or benefit under this Agreement or otherwise shall not be deemed "nonqualified deferred compensation" subject to Section 409A and the six (6) month delay requirement under 409A(a)(2)(B)(i) of the Code to the extent provided in the exceptions in Treasury Regulation Section 1.409A-1(b)(4), Section 1.409A-1(b)(9) or any other applicable exception or provision of Section 409A of the Code.

(d) To the extent that any reimbursements or corresponding in-kind benefits provided to the Executive under this Agreement, including, without limitation under Section 2 or Section 11 hereof, are deemed to constitute compensation to the Executive, such amounts shall be paid or reimbursed reasonably promptly, but not later than December 31 of the year following the year in which the expense was incurred. The amount of any such payments or expense reimbursements in one year shall not affect the expenses or in-kind benefits eligible for payment or reimbursement in any other taxable year, and th e Executive's right to such payments or reimbursement of any such expenses shall not be subject to liquidation or exchange for any other benefit.

The parties have carefully read this Agreement in its entirety; fully understand and agree to its terms and provisions; and intend and agree that it is final and binding on all parties.

IN WITNESS WHEREOF, and intending to be legally bound, the parties have executed the foregoing on the dates shown below.

ERIC LINDQUIST	ACCURAY INCORPORATED
/s/ Eric Lindquist	/s/ Euan Thomson
Eric Lindquist	Euan Thomson Title: President and Chief Executive Officer
Date 10/1/10	Date 10/1/10

/s/ Darren J. Milliken

Darren J. Milliken
Senior Vice President, General Counsel
Accuray Incorporated
10/1/10

October 1, 2010

Theresa L. Dadone

Re: AMENDED AND RESTATED EMPLOYMENT TERMS

Dear Theresa,

Accuray Incorporated (the "**Company**") is pleased to offer continued employment as the Senior Vice President, Human Resources of the Company on the terms and conditions set forth in this agreement, effective as of October 1, 2010 (the "**Effective Date**"). This letter amends and restates in its entirety that certain employment letter, dated as of October 22, 2008 between you and the Company (the "**Employment Letter**"). You and the Company mutually agree to amend and restate the provisions of the Employment Letter as follows:

1. **TERM**. The employment relationship between you and the Company will be at-will. You and the Company will have the right to terminate the employment relationship at any time and for any reason whatsoever, with or without cause, and without any liability or obligation except as may be expressly provided herein.

   The term of this agreement (the "**Term**") shall be two (2) years, measured from the Effective Date. Upon the expiration of this Agreement the provisions contained herein, with the exception of Change of Control provisions, shall have no further force or effect and your employment, if extended at the sole discretion of the Company, will continue to be at-will and any terms associated with such employment shall be embodied in a written employment agreement signed by both parties.

2. **POSITION, DUTIES AND RESPONSIBILITIES**. During the Term of this agreement, the Company will employ you, and you agree to be employed by the Company, as the Senior Vice President, Human Resources of the Company. In the capacity of Senior Vice President, Human Resources, you will have such duties and responsibilities as are normally associated with such position and will devote your full business time and attention serving the Company in such position. Your duties may be changed from time to time by the Company, consistent with your position. You will dual l ine report to the Chief Executive Officer (the "**CEO**") and the Chief Financial Officer (the "**CFO**") of the Company, and will work full-time at our principal offices located at 1310 Chesapeake Terrace, Sunnyvale, California 94089 (or such other location in the greater San Jose area as the Company may utilize as its principal offices), except for travel to other locations as may be necessary to fulfill your responsibilities.

---

3. **BASE COMPENSATION**. During the Term, the Company will pay you a base salary of two hundred thirty five thousand dollars ($235,000) per year, it being understood that such salary may be adjusted from time to time at the discretion of the Compensation Committee of the Board of Directors. The next anticipated salary adjustment will be effective on October 1, 2010 for the 2011 Fiscal Year. Your salary will be less payroll deductions and all required withholdings, payable in accordance with the Company's normal payroll practices and prorated for any partial month of em ployment. Your base salary may be subject to increase pursuant to the Company's policies as in effect from time to time.

4. **ANNUAL BONUS**. In addition to the base salary set forth above, during the Term, you will be eligible to participate in the Company's executive bonus plan applicable to similarly situated executives of the Company. The amount of your annual bonus will be based on the attainment of performance criteria established and evaluated by the Company in accordance with the terms of such bonus plan as in effect from time to time, provided that, subject to the terms of such bonus plan, your target (but not necessarily maximum) annual bonus shall be fifty percent (50%) of you r base salary actually paid for such year. In accordance with the terms of such bonus plan, payment of each bonus shall be made in a single lump-sum cash payment not later than the last day of the applicable two and one-half (2 ½) month short-term deferral period with respect to such bonus payment, within the meaning of Treasury Regulation Section 1.409A-1(b)(4).

5. **STOCK OPTIONS.** Upon hire, you were granted the option to purchase 65,000 shares of Accuray common stock (the "**Initial Option**") at a per share exercise price equal to the fair market value of a share of our common stock on the date of the grant (the "**Grant Date**"), as determined in accordance with the Accuray Incorporated 2007 Incentive Award Plan (the "**Incentive Plan**"). This Initial Option and all subsequent option grants to date (collectively "**Options**") are listed on Exhibit B, attached hereto. All Op tions are subject to and conditioned on approval of the grant and its terms by the Compensation Committee. Subject to your continued employment, the Options vest with respect to 25% of the shares subject thereto on the first anniversary of the Grant Date, and with respect to an additional 1/48th of the shares subject thereto on each monthly anniversary thereafter, such that the entire Option would be vested on the fourth anniversary of the Grant Date. All Options are subject to the terms and conditions of the Incentive Plan and a stock option agreement in a form prescribed by Accuray (the "**Option Agreement**"), which you will be required to sign as a condition to receiving the Option.

6. **RESTRICTED STOCK UNITS**. Upon hire, you were granted 8,000 restricted stock units ("**Initial RSU Grant**") under the terms of the Incentive Plan. This Initial RSU Grant and all subsequent RSU Grants to date (collectively "**RSUs**") are listed on Exhibit B, attached hereto. All RSUs are subject to and conditioned upon the approval of the Compensation Committee. Subject to the your continued service as an Employee through the applicable vesting date, twenty-five percent (25%) of the RSUs shall vest on the first anniversary of the Grant D ate and an additional twenty-five percent (25%) of the RSUs shall vest on each of the second, third and fourth anniversaries of the Grant Date.

   Payment in respect of any RSUs that vest in accordance with the grant agreement will be made to you in whole shares of our common stock as soon as practicable after the applicable vesting date, but in no event later than 60 days after such vesting date. The RSUs will be subject to the terms and conditions of the Incentive Plan and a restricted stock unit grant agreement in a form prescribed by Accuray (the "**RSU Agreement**"), which you will be required to sign as a condition to receiving the RSUs.

7. **BENEFITS AND PAID TIME OFF**. During the Term, you will be eligible to participate in all incentive, savings and retirement plans, practices, policies and programs maintained or sponsored by the Company from time to time which are applicable to other similarly situated executives of the Company, subject to the terms and conditions thereof. During the Term, you will also be eligible for standard benefits, such as medical, vision and dental insurance, paid time off, and holidays to the extent applicable generally to other similarly situated executives of the Company, sub ject to the terms and conditions of the applicable Company plans or policies. The benefits described in this Section 7 will be subject to change from time to time as deemed appropriate and necessary by the Company.

8. TERMINATION OF EMPLOYMENT.

(a) If during the Term of this agreement, you incur a "separation from service" (within the meaning of Section 409A(a)(2)(A)(i) of the Internal Revenue Code of 1986, as amended (the "**Code**"), and Treasury Regulation Section 1.409A-1(h)) ("**Separation from Service**") by reason of (i) a termination of your employment by the Company other than for Cause (as defined below), death or disability, or (ii) a termination of your employment by you for Good Reason (as defined below), and provided that you execute a general release of claims in a form prescribed by the Company (the "**Release**") within twenty-one (21) days (or, if required by applicab le law, forty-five (45) days) after the date of such Separation from Service (the "**Separation Date**") and you do not revoke such Release, and further subject to Section 16(b) below, then, in addition to any other accrued amounts payable to you through the Separation Date (including any earned but unpaid bonus), (1) the Company will, no later than thirty (30) days after the Separation Date, pay you a lump-sum severance payment (the "**Severance Payment**") in an amount equal to six (6) months of your annual base salary as in effect immediately prior to the Separation Date, additionally provided that you properly elect COBRA continuation coverage, the Company will pay the COBRA premium for health care coverage for you and your partner and children, as applicable and to the extent eligible (the "**Severance Benefits**"), for the six (6) month period immediately following the Separation Date, but in no event longer than the period of time during which you would be entitled to continuation coverage under Section 4980B of the Code absent this provision. The Company will also provide you with outplacement assistance in accordance with its then current policies and practices with respect to outplacement assistance for other similarly situated executives of the Company.

(b) If a Change in Control (as defined in Exhibit A hereto) occurs during the Term of this agreement and if within the three (3) months before and the twelve (12) months after the effective date of the Change in Control, you incur a Separation from Service by reason of (i) a termination of your employment by the Company other than for Cause, death or disability, or (ii) a termination of your employment by you for Good Reason, then, subject to Section 16(b) below, and provided that you execute a general release of claims in a form prescribed by the Company (the "**Release**") within twenty-one (21) days (or, if required by applicable law, forty-five (45) days) after the date of such Separation from Service (the "**Separation Date**") and you do not revoke such Release, and further subject to Section 16(b) below, then, in addition to any other accrued amounts payable to you through the Separation Date (including any earned but unpaid bonus), (1) the Company will, no later than thirty (30) days after the Separation Date, pay you a lump-sum severance payment (the "**Severance Payment**") in an amount

equal to the sum of (x) twelve (12) months of your annual base salary as in effect immediately prior to the Separation Date plus (y) 100% of your target annual bonus for the fiscal year of the Company in which such Separation from Service occurs, and (2) provided that you properly elect COBRA continuation coverage, the Company will pay the COBRA premium for health care coverage for you and your spouse and children, as applicable and to the extent eligible (the "**Severance Benefits**"), for the twelve (12) month period immediately following the Separation Date, but in no event longer than the period of time during which you would be entitled to continuation coverage under Section 4980B of the Code absent this provision. In addition to the amounts payable to you pursuant to this paragraph (b) of this Section 8, each of your then outstanding options to purcha se shares of the Company's common stock, (including without limitation, the Options) shall become fully vested and exercisable immediately prior to the Separation Date and each of your then outstanding restricted stock units covering the Company's common stock (including without limitation, the RSUs) shall become fully vested immediately prior to the Separation Date.

The Company will also provide you with outplacement assistance in accordance with its then current policies and practices with respect to outplacement assistance for other similarly situated executives of the Company. For clarity, under Change of Control this paragraph (b) shall be in lieu of any similar payments or benefits described above in paragraph (a) of this Section 8.

(c) Notwithstanding the foregoing, your right to receive the payments and benefits set forth in this Section 8 is conditioned on and subject to your execution and non-revocation of the Release. In no event shall you or your estate or beneficiaries be entitled to any of the payments or benefits set forth in this Section 8 upon any termination of your employment by reason of your total and permanent disability or your death.

(d) For purposes of this letter:

i) "**Cause**" shall mean (i) your commission of a felony, (ii) your commission of a crime involving moral turpitude or your commission of any other act or omission involving dishonesty, disloyalty, breach of fiduciary duty or fraud with respect to the Company or any of its subsidiaries or any of their customers or suppliers, or (iii) your failure to perform the normal and customary duties of your position with the Company as reasonably directed by the Company, provided, that any of the acts or omissions described in the foregoing clauses (i), (ii) or (iii) are not cured to the Company's reasonable satisfaction within thirty (30) days after written notice thereof is given to you; a nd

ii) **"Good Reason"** shall mean the occurrence of any one or more of the following events without your prior written consent: (i) a material diminution by the Company of your duties and responsibilities hereunder; (ii) a material change in the geographic location at which you must perform services under this letter, provided that in no event will a change to a location within a 35 mile radius of the Company's Sunnyvale corporate headquarters be deemed material for purposes of this clause; or (iii) a material diminution by the Company of your annual base salary, each as in effect on the date hereof or as the same may be increased from time to time; provided, however, that a termination of your employment by you shall only constitute a termination for "Good Reason" hereunder if (a) you provide

the Company with written notice setting forth the specific facts or circumstances constituting Good Reason within thirty (30) days after the initial existence of such facts or circumstances, (b) the Company has failed to cure such facts or circumstances within thirty (30) days after

receipt of such written notice, and (c) the Separation Date occurs no later than seventy-five (75) days after the initial occurrence of the event constituting Good Reason.

9. **CODE SECTION 280G**.

(a) In the event it shall be determined that any payment or distribution to you or for your benefit which is in the nature of compensation and is contingent on a change in the ownership or effective control of the Company or the ownership of a substantial portion of the assets of the Company (within the meaning of Section 280G(b)(2) of the Code), whether paid or payable pursuant to this letter or otherwise (a "**Payment**"), would constitute a "parachute payment" under Section 280G(b)(2) of the Code and would be subject to the excise tax imposed by Section 4999 of the Code (together with any interest or penalties imposed with respect to such excise tax, the "**Exci se Tax**"), then the Payments shall be reduced to the extent necessary so that no portion thereof shall be subject to the excise tax imposed by Section 4999 of the Code but only if, by reason of such reduction, the net after-tax benefit received by you shall exceed the net after-tax benefit received by you if no such reduction was made. The specific Payments that shall be reduced and the order of such reduction shall be determined so as to achieve the most favorable economic benefit to you, and to the extent economically equivalent, the Payments shall be reduced pro rata, all as determined by the Company in its sole discretion. For purposes of this Section 9(a), "net after-tax benefit" shall mean (i) the Payments which you receive or are then entitled to receive from the Company that would constitute "parachute payments" within the meaning of Section 280G of the Code, less (ii) the amount of all federal, state and local income taxes payable with respect to the Payments calculated at the maximum marginal income tax rate for each year in which the Payments shall be paid to you (based on the rate in effect for such year as set forth in the Code as in effect at the time of the first payment of the foregoing), less (iii) the amount of Excise Taxes imposed with respect to the Payments.

(b) All determinations required to be made under this Section 9 shall be made by such nationally recognized accounting firm as may be selected by the Audit Committee of the Board of Directors of the Company as constituted immediately prior to the change in control transaction (the "**Accounting Firm**"), provided, that the Accounting Firm's determination shall be made based upon "substantial authority" within the meaning of Section 6662 of the Code. The Accounting Firm shall provide its determination, together with detailed supporting calculations and documentation, to you and the Company within 15 business days following the date of termination of your employment, if applicable, or such other time as requested by you (provided that you reasonably believe that any of the Payments may be subject to the Excise Tax) or the Company. All fees and expenses of the Accounting Firm shall be borne solely by the Company.

10. **RESTRICTIVE COVENANTS**.

(a) As a condition of your employment with the Company, you agree that during the Term and thereafter, you will not directly or indirectly disclose or appropriate to your own

use, or the use of any third party, any trade secret or confidential information concerning the Company or its subsidiaries or affiliates (collectively, the "**Company Group**") or their businesses, whether or not developed by you, except as it is required in connection with your services rendered for the Company. You further agree that, upon termination of your employment, you will not receive or remove from the files or offices of the Company Group any originals or copies of documents or other materials maintained in the ordinary course of business of the Company Group, and that you will return any such documents or materials otherwise in your possession. You further agree that, upon termination of your employment, you will maintain in strict confidence the projects in which any member of the Company Group is involved or contemplating.

(b) You further agree that during the Term and continuing through the first anniversary of the date of termination of your employment, you will not directly or indirectly solicit, induce, or encourage any employee, consultant, agent, customer, vendor, or other parties doing business with any member of the Company Group to terminate their employment, agency, or other relationship with the Company Group or such member or to render services for or transfer their business from the Company Group or such member and you will not initiate discussion with any such person for any such purpose or authorize or knowingly cooperate with the taking of any such actions by any other individual or entity.

(c) While employed by the Company, you agree that you will not engage in any business activity in competition with any member of the Company Group nor make preparations to do so.

(d) Upon the termination of your relationship with the Company, you agree that you will promptly return to the Company, and will not take with you or use, all items of any nature that belong to the Company, and all materials (in any form, format, or medium) containing or relating to the Company's business.

(e) In recognition of the facts that irreparable injury will result to the Company in the event of a breach by you of your obligations under Sections 10(a), (b), (c) or (d) above, that monetary damages for such breach would not be readily calculable, and that the Company would not have an adequate remedy at law therefore, you acknowledge, consent and agree that in the event of such breach, or the threat thereof, the Company shall be entitled, in addition to any other legal remedies and damages available, to specific performance thereof and to temporary and permanent injunctive relief (without the necessity of posting a bond) to restrain the violation or threatened violation of such obligations by you.

11. **COMPANY RULES AND REGULATIONS**. As an employee of the Company, you agree to abide by the Company's Code of Conduct and Ethics and all other Company policies, procedures, rules and regulations as set forth in the Company's Employee Handbook or as otherwise promulgated. In addition, as a condition of your employment, you will be required to complete, sign, return, and abide by the Employee Confidentiality and Inventions Agreement.

12. **WITHHOLDING**. The Company may withhold from any amounts payable under this letter such federal, state, local or foreign taxes as shall be required to be withheld pursuant to any applicable law or regulation.

13. **ARBITRATION**. Except as set forth in Section 10(e) above, any disagreement, dispute, controversy or claim arising out of or relating to this letter or the interpretation of this letter or any arrangements relating to this letter or contemplated in this letter or the breach, termination or invalidity thereof shall be settled by final and binding arbitration administered by JAMS/Endispute in Santa Clara County, California in accordance with the then existing JAMS/Endispute Arbitration Rules and Procedures for Employment Disputes. Except as provided herein, the Federal Arbitration Act shall govern the interpretation, enforcement and all proceedings. The arbitrator shall apply the substantive law (and the law of remedies, if applicable) of the state of California, or federal law, or both, as applicable, and the arbitrator is without jurisdiction to apply any different substantive law. The arbitrator shall have the authority to entertain a motion to dismiss and/or a motion for summary judgment by any party and shall apply the standards governing such motions under the Federal Rules of Civil Procedure. Judgment upon the award may be entered in any court having jurisdiction thereof. Each party shall pay his or its own attorneys' fees and expenses associated with such arbitration to the extent permitted by applicable law.

14. **ENTIRE AGREEMENT**. As of the Effective Date, this letter constitutes the final, complete and exclusive agreement between you and the Company with respect to the subject matter hereof and replaces and supersedes any and all other agreements, offers or promises, whether oral or written, made to you by any member of the company group, including without limitation your Original Offer Letter and any previously amended and restated Employment Letters.

15. **SEVERABILITY**. Whenever possible, each provision of this letter will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this letter is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision of this letter, but such invalid, illegal or unenforceable provision will be reformed, construed and enforced so as to render it valid, legal, and enforceable consistent with the intent of the parties insofar as possible.

16. **ACKNOWLEDGEMENT**. You hereby acknowledge (a) that you have consulted with or have had the opportunity to consult with independent counsel of your own choice concerning this letter, and have been advised to do so by the Company, and (b) that you have read and understand this letter, are fully aware of its legal effect, and have entered into it freely based on your own judgment.

17. **SECTION 409A OF THE CODE**.

(a) The compensation and benefits payable under this letter are not intended to constitute "nonqualified deferred compensation" within the meaning of Section 409A of the Code. Notwithstanding any provision of this letter to the contrary, in the event that the Company determines that any payments or benefits payable hereunder may be subject to Section 409A of the Code, the Company may (without any obligation to do so or to indemnify you for failure to do so) adopt such amendments to this letter or take any other actions that the Company determines are necessary or appropriate to (a) exempt such payments and benefits from Section 409A of the Code in order to preserve the intended tax treatment of such payments or benefits, or (b) comply with the requirements of Section 409A of the Code and thereby avoid the application of penalty taxes thereunder. To the extent that any payments or benefits under this letter are

deemed to be subject to Section 409A of the Code, this letter will be interpreted in accordance with Section 409A of the Code and Department of Treasury Regulations and other interpretive guidance issued thereunder.

(b) Notwithstanding anything to the contrary in this letter, no compensation or benefits, including without limitation any severance payments or benefits payable under Section 8 above, shall be paid to you during the six (6)-month period following your Separation from Service to the extent that paying such amounts at the time or times indicated in this letter would result in a prohibited distribution under Section 409A(a)(2)(b)(i) of the Code. If the payment of any such amounts is delayed as a result of the previous sentence, then on the first business day following the end of such six (6)-month period (or such earlier date upon which such amount can be paid under Section 409A of the Code without r esulting in a prohibited distribution, including as a result of your death), the Company shall pay you a lump-sum amount equal to the cumulative amount that would have otherwise been payable to you during such six-month period.

(c) To the extent that any reimbursements or corresponding in-kind benefits provided to you under this letter are deemed to constitute compensation to you, such amounts will be paid or reimbursed reasonably promptly, but not later than December 31 of the year following the year in which the expense was incurred. The amount of any such payments or expense reimbursements in one year will not affect the expenses or in-kind benefits eligible for payment or reimbursement in any other taxable year, and your right to such payments or reimbursement of any such expenses will not be subject to liquidation or exchange for any other benefit.

[*SIGNATURE PAGE FOLLOWS*]

Please confirm your agreement to the foregoing by signing and dating the enclosed duplicate original of this letter in the space provided below for your signature and returning it to us in the enclosed, self-addressed stamped envelope. Please retain one fully-executed original for your files.

Sincerely,

ACCURAY INCORPORATED,
a Delaware Corporation

By: /s/ Euan Thomson
Name: Euan Thomson, Ph.D.
Title: President & Chief Executive Officer

By: /s/ Darren J. Milliken

Name: Darren J. Milliken
Title: Senior Vice President, General Counsel
10-1-10

Accepted and Agreed,
October 1, 2010.

By: /s/ Theresa Dadone
Theresa Dadone

EXHIBIT A

For purposes of this letter, "**Change in Control**" means and includes each of the following:

(a) A transaction or series of transactions (other than an offering of the Company's common stock to the general public through a registration statement filed with the Securities and Exchange Commission) whereby any "person" or related "group" of "persons" (as such terms are used in Sections 13(d) and 14(d)(2) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**")) (other than the Company, any of its subsidiaries, an employee benefit plan maintained by the Company or any of its subsidiaries or a "person" that, prior to such transaction, directly or indirectly controls, is controlled by, or is under common control with, the Company) directly or indirectly acquires beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of securitie s of the Company possessing more than 50% of the total combined voting power of the Company's securities outstanding immediately after such acquisition; or

(b) During any period of two consecutive years, individuals who, at the beginning of such period, constitute the Board together with any new director(s) (other than a director designated by a person who shall have entered into an agreement with the Company to effect a transaction described in clause (a) or clause (c) hereof) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the two-year period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof; or

(c) The consummation by the Company (whether directly involving the Company or indirectly involving the Company through one or more intermediaries) of (x) a merger, consolidation, reorganization, or business combination or (y) a sale or other disposition of all or substantially all of the Company's assets in any single transaction or series of related transactions or (z) the acquisition of assets or stock of another entity, in each case other than a transaction:

(i) Which results in the Company's voting securities outstanding immediately before the transaction continuing to represent (either by remaining outstanding or by being converted into voting securities of the Company or the person that, as a result of the transaction, controls, directly or indirectly, the Company or owns, directly or indirectly, all or substantially all of the Company's assets or otherwise succeeds to the business of the Company (the Company or such person, the "**Successor Entity**")) directly or indirectly, at least a majority of the combined voting power of the Successor Entity's outstanding voting securities immediately after the transaction, and

(ii) After which no person or group beneficially owns voting securities representing 50% or more of the combined voting power of the Successor Entity; *provided, however,* that no person or group shall be treated for purposes of this clause (c)(ii) as beneficially owning 50% or more of combined voting power of the Successor Entity solely as a result of the voting power held in the Company prior to the consummation of the transaction; or

(d) The Company's stockholders approve a liquidation or dissolution of the Company.

EXHIBIT B

AS OF 9/8/2010

Theresa Dadone

RSU AWARDS

Number	Grant Date	Plan	Type	Granted	Price	Released	Vested	Cancelled	Unvested	Deferred	Next Deferral Release Date
00001553	7/20/2007	2007	RSU	8,000.00	$ 0.00000	6,000.00	6,000.00	0.00	2,000.00	0.00	
00002063	2/29/2008	2007	RSU	5,000.00	$ 0.00000	2,500.00	2,500.00	0.00	2,500.00	0.00	
00002185	8/29/2008	2007	RSU	2,500.00	$ 0.00000	1,250.00	1,250.00	0.00	1,250.00	0.00	
00003034 *	8/31/2010	2007	RSU	10,000.00	$ 0.00000	0.00	0.00	0.00	10,000.00	0.00	
				25,500.00		9,750.00	9,750.00	0.00	15,750.00	0.00	

STOCK OPTIONS

Number	Grant Date	Plan	Type	Granted	Price	Exercised	Vested	Cancelled	Unvested	Outstanding	Exercisable
00001555	7/20/2007	2007	NQ	65,000.00	$ 18.40000	0.00	51,458.00	0.00	13,542.00	65,000.00	51,458.00
00002049	2/29/2008	2007	NQ	30,000.00	$ 10.36000	0.00	20,000.00	0.00	10,000.00	30,000.00	20,000.00
00002183	8/29/2008	2007	NQ	30,000.00	$ 8.25000	0.00	16,250.00	0.00	13,750.00	30,000.00	16,250.00
00002627	8/31/2009	2007	NQ	25,000.00	$ 6.41000	0.00	5,612.00	0.00	19,388.00	25,000.00	5,612.00
00003033 *	8/31/2010	2007	NQ	30,000.00	$ 6.58000	0.00	0.00	0.00	30,000.00	30,000.00	0.00
				180,000.00		0.00	93,320.00	0.00	86,680.00	180,000.00	93,320.00

PURSUANT TO 17 C.F.R. § 240.24B-2, CONFIDENTIAL INFORMATION (INDICATED BY {***}) HAS BEEN OMITTED FROM THIS DOCUMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO A CONFIDENTIAL TREATMENT APPLICATION FILED WITH THE COMMISSION**

License Agreement

This License Agreement (the "Agreement") is entered into on December 10, 2010, with an effective date as of the Effective Date (as that term is defined below in Article 1) by and between **Accuray Incorporated**, a Delaware corporation, with its principal place of business at 1310 Chesapeake Terrace, Sunnyvale, CA 94089 ("Accuray"), and **CyberHeart, Inc.**, a Delaware corporation, with its principal place of business at 3282 Alpine Road, Portola Valley, CA 94028 ("CyberHeart"). In this Agreement, Accuray and CyberHeart may be referred to each individually as a "Party" or collectively as "Parties."

WHEREAS, Accuray owns or controls certain devices and technology used for performing radiation treatments;

WHEREAS, CyberHeart owns or controls software that enables such Accuray devices and technology to be used for certain human cardiovascular indications; and

WHEREAS, Accuray and CyberHeart wish to cooperate in making the Accuray devices integrated with CyberHeart software for use in treating certain cardiovascular indications in humans.

NOW THEREFORE, the Parties hereto, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, agree as follows:

1. DEFINITIONS.

The following terms, as used in this Agreement, shall have the meanings set forth below:

1.1. "Accuray Competitors" means each of the Persons set forth in Exhibit A.

1.2. "Accuray Field" means radiation treatments, including without limitation radiotherapy and radiosurgery, and treatment of tumors anywhere in the body where radiation treatment is indicated.

1.3. "Affiliate" means, with respect to any Party, any Person that Controls, is Controlled by, or is under common Control with such Party, only so long as such Control exists. As used in this Section 1.3, "Control" (and its derivatives) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity through ownership of fifty percent (50%) or more of the securities entitled to elect the board of directors (or in the case of an entity that is not a corporation, the corresponding managing authority); provided that, for a Person established in a jurisdiction where a Party cannot, as a matter of law, have such ownership interest, Control shall mean the maximum ownership interest permitted by law.

1.4. "Applicable Law" means all laws, ordinances, rules and regulations applicable to this Agreement, or other activities under or pursuant to this Agreement, including

without limitation: (a) all applicable federal, state, provincial, and local laws and regulations; (b) regulations and guidelines of the U.S. Food and Drug Administration ("FDA") and other Regulatory Agencies and the International Conference on Harmonization ("ICH"**)** guidelines; and (c) current Good Manufacturing Practices and other regulations promulgated by the FDA, ICH and other Regulatory Agencies.

1.5. "Change of Control of CyberHeart" means:

(a) the sale, transfer, or other disposition to an Accuray Competitor of all or substantially all of the assets of CyberHeart relating to the CyberHeart Products, CyberHeart Technology and CyberHeart Software by means of any transaction or series of related transactions;

(b) the acquisition of CyberHeart by an Accuray Competitor by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger, or consolidation), unless CyberHeart's stockholders of record immediately prior to such transaction or series of related transactions hold (by virtue of the securities issued as consideration in such transaction(s)) greater than fifty percent (50%) of the total voting power of the su rviving or acquiring person or entity immediately following such transaction(s);

(c) the exclusive license, subject to Section 2.3, to an Accuray Competitor of all or substantially all of the Intellectual Property Rights of CyberHeart by means of any transaction or series of related transactions; or

(d) the sale to an Accuray Competitor of more than 50% of the capital stock of CyberHeart by means of any transaction or series of related transactions.

1.6. "Confidential Information" has the meaning assigned to such term in Article 10.

1.7. "CyberHeart Field" means any and all non-tumor applications involving or relating to the heart, the coronary arteries (including without limitation the epicardial coronary arteries), the cardiac veins, the structure or function of any of the foregoing, or related conditions, including without limitation all diseases and conditions of the conduction system, the coronary, arterial and/or venous systems, heart valves or chambers, wall anomalies affection, ejection fraction and/or conduction, but excluding arterio venous malformations outside the heart and not within 2cm of the heart wall.

1.8. "CyberHeart Probe" means a stereotactic radiosurgery adjunct that is designed or developed by or on behalf of CyberHeart or its Affiliates (but which may include components purchased or licensed from third party suppliers that are not designed by or on behalf of CyberHeart) solely for

use in applications in the CyberHeart Field. By way of example, but not limitation, a CyberHeart Probe includes a stereotactic radiosurgery adjunct such as a catheter, heart fiducial tracking device, motion detector, target locator, and the like, external or internal, that may use differing energies for detection and transmission of target location or treatment effect.

1.9. "CyberHeart Product" means a CyberHeart Probe that communicates with a radiation system using, at least in part, CyberHeart Software and CyberHeart Technology (but which may include components purchased or licensed from third party suppliers that are not designed by or on behalf of CyberHeart), and any related computer hardware, that are sold, delivered, or otherwise provided as an integrated product by CyberHeart or its Affiliates, solely for use in applications in the CyberHeart Field.

1.10. "CyberHeart Software" means the object code version of software developed by or on behalf of CyberHeart or its Affiliates to functionally interface between a CyberHeart Probe and a radiation system for use in the CyberHeart Field, and any Updates thereof, whether or not combined with computer hardware.

1.11. "CyberHeart Technology" mean all Technology developed by or for CyberHeart or its Affiliates: (i) disclosed or provided to Accuray by CyberHeart under this Agreement or any other agreement between the Parties; and (ii) all Intellectual Property Rights related thereto, other than Patents; provided that CyberHeart Technology does not include any Accuray Technology or any Technology or Intellectual Property Rights conceived or created by or on behalf of Accuray.

1.12. "CyberHeart Upgrade" means any modifications to the CyberHeart Software that adds to, enhances, or modifies the functionality of the CyberHeart Software, and for which CyberHeart charges a fee.

1.13. "CyberKnife Documentation" means technical specifications, user manuals, and other documentation developed by or on behalf of Accuray, relating to the use of the CyberKnife System or the Accuray Technology or requested by CyberHeart to enable development, improvement, modification, addition, patches, fixes, or creation of derivative works of or to the CyberHeart Software.

1.14. "CyberKnife Software" means the object code and source code versions of any software, firmware, and other code, including CyberKnife Updates, that may be developed by or for Accuray or any Accuray Affiliate, and to which Accuray has the rights to license hereunder, that is incorporated into, integral with, or otherwise necessary for the CyberKnife System to function in accordance with published or represented specification, exclusive of CyberHeart Technology.

1.15. "CyberKnife System" means any stereotactic radiosurgery system designed or developed by or on behalf of Accuray or any Accuray Affiliate (and which may include components purchased or licensed from third party suppliers that are not designed by or on behalf of Accuray), including CyberKnife Software and CyberKnife Documentation.

1.16. "CyberKnife Treatment Planning System" means the software system that is owned or controlled by Accuray that is necessary for creating treatment delivery plans using the CyberKnife System.

1.17. "CyberKnife Updates" means any software fixes, patches, updates, upgrades, versions, and releases, (whether or not such fixes, patches, updates, versions, and

releases add to or enhance the functionality of the CyberKnife System), developed by or on behalf of Accuray, that are to be released or are released to customers.

1.18. "Effective Date" means the date of FIM by CyberHeart of the CyberHeart Software or CyberHeart Product.

1.19. "Fees" means the amounts to be paid by the Parties under Article 5.

1.20. "FIM" means the first date of human clinical treatment by CyberHeart using CyberHeart Software or CyberHeart Product together with a CyberKnife System to affect cardiac tissue ablation, with the goal of achieving a therapeutic effect.

1.21. "Intellectual Property Rights" means the U.S. and foreign rights associated with the following: (i) Patents, solely to the extent that any are expressly licensed under this Agreement; (ii) copyrights, copyright registrations, and applications therefor ("Copyrights"); (iii) trade-secret rights and all other trade secret or similar proprietary rights in confidential business or technical information ("Trade Secret Rights"); and (iv) any similar, corresponding or equivalent rights to any of the foregoing anywhere in the world. For purposes of this Agreement, Intellectual Prop erty Rights excludes any U.S. and foreign rights associated with logos, trademarks, trade names, and similar insignia of origin or quality.

1.22. "Interface Technology" means the software interface that is owned or controlled by Accuray and that is necessary for the CyberHeart Product to communicate with the CyberKnife Treatment Planning System or that is used by CyberHeart in the development of CyberHeart Products (as such is determined by CyberHeart or Accuray), including Accuray Intellectual Property Rights to such software interface.

1.23. "Patents" means any and all: (i) pending and issued U.S., foreign, international, and regional patents, patent applications, certificates of invention, patents of addition or substitution, utility model, design registration, and other governmental grants for the protection of inventions, or industrial designs anywhere in the world; (ii) provisional, continuations, continuations-in-part, substitutions divisional, continued prosecution, and other applications thereof; (iii) patents issuing on any of the foregoing; (iv) renewal, reissues, re-examinations, and extensions of any such patents or patent applications; and (v) foreign counterparts or equivalents of any of the foregoing in any country or jurisdiction.

1.24. "Person" shall be broadly interpreted to include an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a governmental entity or any department, agency, or political

subdivision thereof.

1.25. "Prior Agreement" means that License and Development Agreement entered into by the Parties on April 27, 2007.

1.26. "Reasonable Commercial Efforts" means: (i) with respect to the efforts to be expended by any Person—with respect to any objective—reasonable, diligent, good faith efforts to accomplish such objective as such Person would use or has used in the ordinary course of business to accomplish a similar objective under similar circumstances for its own business;

and (ii) with respect to the efforts to be expended by any Person with respect to research, development, manufacture, supply, installation, service, support, and commercialization of a product, efforts and resources normally used or which have been used by such Person with respect to a medical device product owned by such Person which is of similar market potential at a similar stage in the development or life of such product, taking into account issues of safety, efficacy, product profile, the competitiveness of the marketplace, the proprietary position of the product, the regulatory structure involved, profitability of the product and other relevant commercial factors.

1.27. "Regulatory Agency" means any national (e.g., the FDA), supra-national (e.g., the European Commission, the Council of the European Union), or other governmental entity with authority over the development, manufacture, use, marketing, sale, or pricing of any CyberHeart Product or CyberKnife System in any jurisdiction.

1.28. "Regulatory Approval" means the national or multinational approval necessary to market, use, or sell a new medical device product to the public at large in a particular country or multi-national group of countries including without limitation throughout the European Union.

1.29. "Regulatory Filing" means any application or notification required to be filed with a Regulatory Agency in order to gain Regulatory Approval in a country, including without limitation a premarket approval application or premarket notification filed under section 515 or section 510(k) of the U.S. Federal Food, Drug and Cosmetic Act, 21, U.S.C. §§ 360e, 360(k), respectively, as amended or its supranational equivalent.

1.30. "Technology" means any and all technology, technical information, Confidential Information, software, works of authorship, know-how, inventions, processes, procedures, compositions, methods, formulae, protocols, techniques, designs, drawings, data, and other technical subject matter, documents, and materials.

1.31. "Term" has the meaning assigned to such term under Section 7.1.

2. GRANT OF RIGHTS, SUBLICENSING, RETAINED RIGHTS.

2.1. Grant. Subject to the terms and conditions of this Agreement, Accuray hereby grants to CyberHeart, under Accuray's Intellectual Property Rights, a non-exclusive right and license, without the right to authorize or grant sublicenses (except as set forth in Section 2.2), to: (i) use, reproduce, produce derivative works of, transmit, display, perform, and distribute the Interface Technology (and derivative works thereof, including CyberHeart Software) solely as necessary to develop, make, use, sell, offer to sell, market, import, and otherwise exploit a nd commercialize the CyberHeart Product solely in the CyberHeart Field (subject to obligations of confidentiality and non-use no less restrictive than those set forth in Article 10); provided, however, that CyberHeart shall not have the right to transmit or distribute the Interface Technology separately from the CyberHeart Product.

2.2. Sublicensing.

2.2.1. The license granted to CyberHeart in Section 2.1 includes the right for CyberHeart to grant and authorize sublicenses to final end-users, without Accuray's consent, to use only (but no other right other than use) the CyberHeart Product with the CyberKnife System on commercially reasonable terms. Such sublicense by CyberHeart shall contain prohibitions against reverse engineering of the CyberHeart Software and hardware that comprises a CyberHeart Product, subject to Applicable Law and obligations of confidential ity no less restrictive than those set forth in Article 10.

2.2.2. Each such sublicense shall require the sublicensee to agree in writing to be bound by terms and conditions materially as protective of Accuray as of the provisions of this Agreement, and all sublicenses under this Section 2.2 shall terminate upon termination or expiration of this Agreement except to the extent otherwise agreed by the Parties in writing. Notwithstanding this Section 2.2, above, CyberHeart may grant sublicenses of the object code form of Accuray's software included in the Interface Technology without perm ission from, or review of the sublicense by, Accuray solely to contractors and may use contractors to develop hardware and software, in each case provided that such use of contractors otherwise complies with Section 2.2.

2.2.3. CyberHeart has the right to use contractors to exercise its rights under this Agreement (including without limitation, under Section 2.1), provided that the contractor is bound by terms and conditions as protective of Accuray, Accuray's Intellectual Property Rights, and Accuray's Confidential Information, as the terms and conditions of this Agreement.

2.3 License to Accuray. Concurrently herewith, the parties are executing and delivering the Patent License Agreement attached hereto as Exhibit B (the "Patent License Agreement"). Accuray agrees that the license granted to it by CyberHeart under the Patent License Agreement will be exercisable only after the occurrence of any of the following four events (the "Trigger Events"):

Event 1: Change of Control, which means a Change of Control of CyberHeart; or

Event 2: Prior Sale by Third Party, which means prior to first sale by CyberHeart of a CyberHeart Product in the CyberHeart Field, commercial shipment by CyberHeart or by a CyberHeart licensee or customer of a Competing System. The term "Competing System" is defined, for purposes of this Agreement, as a product in the CyberHeart Field that interfaces with a third party radiation platform.

Event 3: Cessation of Commercially Reasonable Efforts, which means CyberHeart has begun the development of a Competing System and CyberHeart is not then using commercially reasonable efforts to develop and sell the CyberHeart Product for use with the CyberKnife System (it being acknowledged that, even though the Prior Sale by Third Party constitutes a Trigger Event hereunder, unless Cessation of Commercially Reasonable Efforts also constitutes

a Trigger Event hereunder, Accuray could be deprived of the benefits intended to be conferred hereunder as a result of CyberHeart (i) abandoning all further development and marketing efforts with respect to the CyberHeart Product after a minimal number of sales of a CyberHeart Product in the CyberHeart Field prior to any commercial shipment of a Competing System or (ii) working exclusively or primarily on the development of a Competing Platform until the occurrence of a Prior Sale by Third Party, thereby giving the third party for which the Competing Platform is being developed a substantial time-to-market advantage). A Trigger Event pursuant to this Event 3 will not be deemed to occur unless and until Accuray has provided written notice to CyberHeart that a Trigger Event under this Event 3 has occurred and either (x) CyberHeart has not fully cured within thirty (30) days of such notice the actions or circumstances described in this paragraph resulting in such Trigger Event or (y) the actions or circumstances described in this paragraph resulting in such Trigger Event are not capable of being cured within such thirty (30) day period.

Event 4: CyberHeart Termination Event, which means that Accuray has terminated this Agreement for cause under Section 7.2 or CyberHeart has terminated this Agreement for convenience pursuant to Section 7.3.

2.4 Retained Rights; No Other Rights. Accuray expressly reserves and retains all right, title, and interest in, to, and under Accuray's Intellectual Property Rights all rights of Accuray not expressly granted to CyberHeart by Accuray under this Agreement. Similarly, CyberHeart expressly reserves and retains all right, title, and interest in, to, and under CyberHeart's Intellectual Property Rights and all rights of CyberHeart not expressly granted to Accuray by CyberHeart under this Agreement, including without limitation under Section&n bsp;2.3. No other rights, licenses, or interest are granted by a Party to the other Party by implication, estoppel, or otherwise, under such Party's Intellectual Property Rights other than as expressly granted by this Agreement.

2.5 No Restrictions. For the avoidance of doubt, nothing herein restricts or limits in any way the right of either party or its Affiliates to develop, make or sell any products in any field, subject to any intellectual property rights of any Person.

2.6 First Application. CyberHeart agrees to work primarily to develop a commercially-ready CyberHeart Product for use with the CyberKnife System in the CyberHeart Field, and to file an application for Regulatory Approval of such commercially-ready CyberHeart Product; provided, however, that Accuray provides commercially reasonable support that CyberHeart may require in support of such development (as set forth in Article 3 and Section 4.2.1) and filing (as set forth in Section 4.3). Further, CyberHeart agrees that aft er such first filing, CyberHeart will use its commercially reasonable efforts to further develop, gain regulatory approval in additional markets as is commercially reasonable, market, and support the CyberHeart Product for use on the CyberKnife System in the CyberHeart Field, and will not abandon development, marketing or support of the CyberHeart Product on the CyberKnife System in the CyberHeart Field; provided, however, that Accuray provides commercially reasonable support that CyberHeart may require in support of such development (as set forth in Article 3, and Section 4.2.1) and filing (as set forth in Section 4.3).

3. UPDATES

Subject to the provisions of this Article 3, Accuray agrees that the Interface Technology on all future versions of the CyberKnife System, beginning with version 7.0 and thereafter, whether currently installed with customers or offered for sale to prospective customers, shall be compatible with the CyberHeart Product. In the event that Accuray plans to develop and introduce any modifications to the Interface Technology (an "Update"), Accuray will deliver to CyberHeart such Update at least ninety (90) days before commercial shipment of such Update to a customer that is using the CyberHeart Product. If: (a) an Update is installed on a CyberKnife System for a customer that is using the CyberHeart Product; (b) as a result of such Update the CyberHeart Product that previously was compatible with the CyberKnife System no longer is compatible; (c) Accuray has not delivered such Update to CyberHeart at least ninety (90) days prior to the commercial shipment of such Update to a customer; and (d) CyberHeart requests Accuray in writing to restore the CyberHeart Product to full compatibility, then Accuray shall cure any such failure to deliver and corresponding breach by restoring the CyberHeart Product to full compatibility with such customer's CyberKnife System within five (5) days from receipt by Accuray of such written request from CyberHeart. Failure by Accuray to make such delivery twice in a calendar year will be considered a material breach of this Agreement under Section 7.2, without limiting either Party's rights under Section 7.2. For avoidance of doubt, although Accuray has certain obligations, subject to the provisions of this Article 3, to have the Interface Technology on future versions of CyberKnife Systems be compatible with the CyberHeart Product, Accuray shall not be obligated (but may, in its sole disc retion, agree): (x) to change the Interface Technology to cause it to be compatible with any CyberHeart Product if the incompatibility is due to changes made by CyberHeart to such CyberHeart Product without the approval of Accuray, and (y) to provide or make available to CyberHeart, or cause any CyberHeart Product to be compatible with, any new fuctionalities added to such future versions of CyberKnife Systems beyond the version commercially available as of the Effective Date, so long as any such new functionality does not affect the compatibility of the CyberHeart Product with the CyberKnife System.

4. CLINICAL TRIALS AND REGULATORY MATTERS.

4.1. Accuray Pre-Clinical Studies and Clinical Trials. As between the Parties, Accuray shall be solely responsible, at its expense, for any and all pre-clinical studies and clinical trials, and have the exclusive right to communicate with Regulatory Agencies and seek and obtain Regulatory Approvals, with respect to CyberKnife Systems in the Accuray Field in any and all jurisdictions.

4.2. CyberHeart Pre-Clinical Studies and Clinical Trials. CyberHeart shall be responsible, at its expense, for any and all pre-clinical studies and clinical trials, and have the exclusive right to communicate with Regulatory Agencies and seek and obtain Regulatory Approvals, with respect to CyberHeart Products in the CyberHeart Field in any and all jurisdictions. CyberHeart agrees that it shall keep Accuray reasonably informed regarding its pre-

clinical studies and clinical trials of such CyberHeart Products. CyberHeart also shall design and conduct pre-clin ical studies and clinical trials for CyberHeart Products considering feedback

and information provided by Accuray. CyberHeart may enter into an agreement with an Accuray customer for pre-clinical or clinical studies; provided, however, that any activities between CyberHeart and such customer will not negatively impact any revenue of Accuray under its shared ownership or placement programs for its CyberKnife System.

4.2.1. CyberKnife System Access. Subject to the provisions of Section 4.2.2, Accuray shall make available to CyberHeart, at no charge, a CyberKnife System for use in pre-clinical research and development. Access under this Section 4.2.1 shall made by Accuray: (i) within twenty-one (21) working days of the date of a Notice of Access by CyberHeart; (ii) at a mutually agreed site; and (iii) for a duration reasonably related to such research, and developm ent. The "Notice of Access" shall include, at a minimum: (a) the date on which availability of a CyberKnife System is required by CyberHeart, but in no event less than ten (10) working days from the date of such Notice of Access; (b) designation of at least one access location preferred or requested by CyberHeart, which location is not binding upon Accuray but which shall be given priority consideration by Accuray; and (c) requested dates and hours of availability to the CyberKnife System, which dates and hours will be limited to a reasonable number of weekends and the evening hours (i.e., 16:00 - 8:00), not to exceed forty (40) hours per quarter spread reasonably throughout the quarter, unless otherwise mutually agreed. Failure to include items (b) and (c) shall not defeat the Notice of Access under this Section 4.2.1, but reasonable terms will be inserted therefor. The parties acknowledge that access to a CyberKnife System pursuant to th is Section 4.2.1 is a material term of this Agreement and that a breach by Accuray may have adverse consequences to CyberHeart.

4.2.2. Access and Forecast. Each CyberHeart employee, consultant, or other representative who has access to a CyberKnife System shall be appropriately trained in radiation safety and shall be accompanied at the facility by an Accuray escort. At the end of any session using a CyberKnife System, CyberHeart shall return the CyberKnife System to the condition in which it was first made available to CyberHeart, subject to reasonable wear. Prior to the first day of each month during the Term, CyberHeart shall provide to Accuray a non-binding rolling three-month forecast of CyberHeart's requirements for access to a CyberKnife System pursuant to this Section 4.2.1.

4.2.3. Additional Requirements for CyberKnife System. If CyberHeart reasonably determines that it requires additional access to and use of a CyberKnife System beyond that which Accuray is obligated to provide pursuant to this Section 4.2, then CyberHeart shall notify Accuray of such requirement, and Accuray and CyberHeart will negotiate in good faith an arrangement to provide a dedicated CyberKnife System for CyberHeart's use at a facility that arranged by CyberHeart. 0; Such arrangement shall be on commercially reasonable terms.

4.2.4. Animal Studies. No CyberKnife System shall be made available for animal studies by CyberHeart at a facility owned, controlled, or used by Accuray, or to which Accuray has access or rights to use ("Accuray Facility"). The Parties acknowledge that CyberHeart is free to continue to use a CyberKnife System under any agreement in effect as of the date hereof and to negotiate access to any CyberKnife System located at a facility that is not an Accuray Facili ty for the purpose of conducting animal studies and Accuray agrees to provide reasonable support and not to object to any arrangements made by CyberHeart with a third party for such access.

4.3. Regulatory Matters. CyberHeart shall have the exclusive right to prepare, file, prosecute, and maintain all Regulatory Filings necessary for commercialization of any CyberHeart Product. Accuray shall have the exclusive right to prepare, file, prosecute, and maintain all Regulatory Filings necessary for commercialization of any CyberKnife System in the Accuray Field. Each Party shall provide reasonable assistance to the other Party in such efforts, including without limitation, at no charge, allowing the other Party to reference such Party's own Regulatory Fili ngs or incorporate sections of such Party's Regulatory Filings with the other Party's Regulatory Filings, provided, however, that each Party shall provide the other with copies of all correspondence with FDA and other Regulatory Agencies, in advance, where possible; provided, further, that each Party shall have the right to comment in a timely fashion on any Regulatory Filings where such Party's own Regulatory Filings are referenced or incorporated with the other's Regulatory Filings.

5. PAYMENTS, AUDITS, REASONABLE EFFORTS.

5.1. Royalty Payment. Within thirty (30) days after the end of each calendar quarter, CyberHeart shall pay a royalty to Accuray equal to the sum of (a) {*****} recognized by CyberHeart and its Affiliates, in accordance with the accounting policies of CyberHeart and its Affiliates (as applicable) and generally accepted accounting principles, from the sale, lease, license, use or other distribution of CyberHeart Product, CyberHeart Software, CyberHeart Upgrades, CyberHeart Probe Consumables and CyberHeart Technology, in each case relating to a CyberKnife System, plus (b)& nbsp;{*****} recognized by CyberHeart and its Affiliates, in accordance with the accounting policies of CyberHeart and its Affiliates (as applicable) and generally accepted accounting principles, from the sale, lease, license, use or other distribution of CyberHeart Product, CyberHeart Software, CyberHeart Upgrades, CyberHeart Probe Consumables and CyberHeart Technology, in each case relating to a radiation system other than a CyberKnife System (each item described in either clause (a) or (b) above, a "CyberHeart Royalty Bearing Product"). For purposes of this Section 5.1, "CyberHeart Probe Consumables" means components of the CyberHeart Probe that are separately priced, sold, and invoiced by CyberHeart. All payments under this Section 5.1 shall be collected in compliance with all federal fraud and abuse laws.

5.2. Bundled Products. In the event that a CyberHeart Royalty-Bearing Product is sold in a combination package or bundled by or on behalf of CyberHeart or any Affiliate thereof with any other products or systems (including without limitation, as a component of a system in which other components or products are integrated), then the CyberHeart {*****}, for purposes of determining royalty under Section 5.1, shall be calculated by {*****}. In the event that {*****}, then {*****}, as determined by CyberHeart in good faith, shall be used in place of {*****}. For example , if CyberHeart sells for {*****} a CyberHeart Product with a {*****} and another product with a {*****}, the CyberHeart {*****} for purposes of the royalty payable under Section 5.1 would be determined by {*****}.

5.3. Foreign Sales. For purposes of computing royalty payments under Section 5.1 based on transactions made in a currency other than United States dollars, royalty payments will be determined in the foreign funds for the country in which the CyberHeart Royalty-Bearing Products are sold, leased, licensed, used or otherwise provided and then

converted into equivalent United States dollars at the rate of exchange for selling funds as published by the Wall Street Journal (U.S., Western Edition) for the last business day of each quarter.

5.4. Right to Sell. The Parties agree and understand that this Agreement is intended to enable CyberHeart to sell CyberHeart Products. In addition to other rights retained by Accuray under this Agreement, Accuray shall retain the sole and exclusive right under its Intellectual Property Rights to market and sell, install, and service CyberKnife Systems.

5.5. Audit Rights.

5.5.1. Accuray Audits. CyberHeart shall keep or cause to be kept such records as are required to determine, in a manner consistent with Generally Accepted Accounting Principles (GAAP) and this Agreement, the sums due under this Agreement, including, but not limited to, sales, leases, licenses or other distribution of CyberHeart Products, CyberHeart Upgrades, CyberHeart Consumables and CyberHeart Software. At the request (and expense) of Accuray, CyberHeart and its Affiliates and sublicensees shall permit an independent certified public accountant appointed by Accuray and reasonably acceptable to CyberHeart, at reasonable times and upo n reasonable notice, to examine only those records as may be necessary to determine, with respect to any calendar year ending not more than three (3) calendar years prior to the beginning of the calendar year in which such audit occurs, for records to be kept as provided in this Section 5.5.1 prior to Accuray's request, the correctness or completeness of any report or payment made under this Agreement. Results of any such examination shall be: (a) limited to information relating to CyberHeart Products; (b) made available to both Parties, and (c) deemed the Confidential Information of CyberHeart subject to Article 10. Accuray shall bear the full cost of the performance of any such audit, unless such audit discloses a variance to the detriment of Accuray of more than five percent (5%) of the amount of the original report, royalty or payment calculation. In such case, CyberHeart shall bear the full cost of the performance of such audit.

5.6. Payment Terms. All amounts paid hereunder shall be in U.S. dollars. CyberHeart shall pay all amounts that have become due and payable hereunder within thirty (30) days of each calendar quarter, consistent with Section 5.1. If CyberHeart fails to make any payment required under this Agreement within thirty (30) days after the date on which such payment becomes due and payable, then Accuray may, at its option and sole discretion and in addition to any other remedies it may have at law or equity, assess a late fee in the amount equal to one percent (1%) of the un paid balance for each month after payment is due until the invoice is paid in full, or if less, the maximum allowable by law. For purposes of clarity, failure to make any payment when due pursuant to the terms of this Agreement shall constitute a material breach of this Agreement under Section 7.2, without limiting Accuray's rights under Section 7.2 or otherwise.

5.7. Sole Remuneration. The payments set out in this Section 5 represent Accuray's sole remuneration for all rights and licenses granted under this Agreement.

5.8. Reasonable Commercial Efforts. Each Party shall use Reasonable Commercial Efforts to operate in good standing with local, state, and federal government

agencies, including without limitation the FDA, and will not knowingly materially violate any local, state, or federal law or knowingly continue any such violation previously unknown that as a consequence of such violation, may harm the goodwill and reputation of the other Party.

5.9. Taxes. Each Party shall bear its respective tax obligations arising out of this Agreement.

6. INTELLECTUAL PROPERTY OWNERSHIP.

6.1. Ownership. Each Party shall retain and own all right, title, and interest in and to all Intellectual Property Rights conceived or created solely by such Party. The Parties shall jointly own all right, title, and interest in and to all Intellectual Property Rights conceived or created jointly by the Parties, and neither Party shall have any duty to account or obtain the consent of the other Party in order to exploit or license such Intellectual Property Rights. Inventorship and authorship of any invention or work of authorship conceived or created by either Party, or joi ntly by the Parties, shall follow the rules of the U.S. Patent and Trademark Office and the laws of the United States (without reference to any conflict of law principles).

6.2. Notification. Each Party shall promptly notify the other Party in writing (and provide a reasonable description) of any suspected infringement or misappropriation by a third party of any Intellectual Property Rights owned by Accuray or Intellectual Property Rights owned by CyberHeart (a "Third-Party Infringement"), of which it becomes aware. The obligations under this Section 6.2 do not create any affirmative obligation on the part of one Party to police, review, or otherwise investigate any potential Third Party Infringement.

7. TERM AND TERMINATION.

7.1. Term. This Agreement shall become effective on the Effective Date and shall remain in effect for a period of fifteen (15) years thereafter. This Agreement shall automatically renew for additional five (5) year terms at the end of each term thereafter. Either Party may elect not to renew by providing written notice to the other Party no later than twenty-four (24) months prior to the end of the initial Term or the end of any then-current renewal term. This Agreement shall not otherwise be terminated, except in accordance with Section 7.2, Section 7.3, or Section 7.4. The initial 15-year term and any renewal term are referred to herein as the "Term".

7.1.1 Termination of Prior Agreement. The Parties agree and acknowledge that on the Effective Date of this Agreement the Prior Agreement shall immediately be terminated, and that this Agreement cancels and replaces the Prior Agreement.

7.2. Termination for Cause. In the event of a material breach of this Agreement, including, without limitation material breach of Article 3, Sections 4.2.1, and Section 5.6, the non-breaching Party shall be entitled to terminate this Agreement by written notice to the breaching Party, if such breach is not cured within thirty (30) days after written notice is given by the non-breaching Party to the breaching Party specifying the breach.

7.3. Termination for Convenience by CyberHeart. CyberHeart shall have the right to terminate this Agreement, in whole or in part, for convenience upon thirty (30) days prior written notice to Accuray.

7.4. Effect of Termination or Expiration.

7.4.1. Generally. In the event of termination of this Agreement by either Party pursuant to Section 7.2, Section 7.3, Section 7.4, or expiration of this Agreement pursuant to Section 7.1, all rights and licenses granted by one Party to the other pursuant to Article 2 as of the effective date of termination hereunder, shall continue in full force and effect, provided that:

7.4.1.1. no rights of, or licenses to, CyberHeart shall survive, or have further force or effect, if the Agreement is terminated by CyberHeart under Section 7.3; and

7.4.1.2. no rights of, or licenses to, CyberHeart shall survive, or have further force or effect, if the Agreement is terminated by Accuray under Section 7.2.

7.4.2 Subject to Section 7.4.1, if the Agreement is terminated by Accuray, CyberHeart's licenses under Article 2, to the extent any such rights survive, shall not include any license to any Interface Technology (or any Intellectual Property Rights) that are conceived or created by Accuray after the effective date of such termination.

7.4.3 In addition, each Party shall be entitled to retain, and shall be deemed to have a right and license to continue to use and disclose in accordance with this Agreement, to the same extent then existing, any Confidential Information of the other Party disclosed during the Term to the extent such Party's rights and licenses under the Interface Technology survive. Upon each Party's decision to terminate use and disclosure of such Confidential Information of the other Party, such Party shall return, or at the instruction of the disclosing Party, destroy, the disclosing Party's retained Confidential Information;

7.4.4 For avoidance of doubt, no termination or expiration of this Agreement shall be deemed to terminate or otherwise extinguish any rights of any customers of a CyberKnife System under their then-current contracts for use of such CyberKnife System, and no termination or expiration of this Agreement shall terminate or otherwise affect or extinguish the rights or licenses of any customer for any CyberHeart Products. If a customer of a CyberHeart Product materially breaches its user agreement with CyberHeart, or any agreement with Accuray related to such CyberHeart Product, through no fault of CyberHeart, whether by inducement or otherwise, then any licenses to CyberHeart under this Agreement shall not be extinguished due to such customer breach;

7.4.5 No termination by any Party or the expiration of this Agreement shall relieve either Party of any liability accrued hereunder prior to its termination.

7.5 Survival. The following provisions shall survive any termination or expiration of this Agreement: (i) Articles 1, and 5 (solely for (a) amounts owed with respect to the Term but not paid and (b) amounts payable by CyberHeart to Accuray pursuant to clause (b)

of Section 5.1 following the Term), 6, 8, 9, 10, 12, and 13; (ii) Sections 4.1, 4.2 (but not 4.2.1, 4.2.2 and 4.2.3), 4.3, 7.4, 7.5, 11.1 (but only to the extent licenses under Article 2 survive pursuant to Section 7.4), 11.2, 11.3, 11.4, 11.5, and 11.6; and (iii) clause (b) of Section 5.1. Except as set forth in Sections 7.4 and 7.5, all other terms and conditions of this Agreement shall terminate and have no further force or effect, upon any termination or expiration of this Agreement.

8. BANKRUPTCY.

All rights and licenses granted to each Party pursuant to this Agreement are, and shall otherwise be deemed to be, for purposes of Section 365(n) of Title 11 of the U.S. Code (the "Bankruptcy Code"), licenses to rights of "intellectual property" as such term is used thereunder. Notwithstanding any provision contained herein to the contrary, if either Party is under any proceeding under the Bankruptcy Code and the trustee in bankruptcy of such Party, or such Party as a debtor in possession, rightfully elects to reject this Agreement, the other may, pursuant to Sections 365(n)(1) and (2) of the Bankruptcy Code, retain any and all of their respective rights hereunder, to the maximum extent permitted by law, subject to making the payments specified herein, if any.

9. LIMITATION OF LIABILITY.

EXCEPT FOR EITHER PARTY'S BREACH OF THE REPRESENTATIONS AND WARRANTIES UNDER SECTION 11.1, OR BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER SECTION 10, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, HOWEVER CAUSED, AND ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION LOSS OF ANTICIPATED PROFITS, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THIS ARTICLE 9, NOTHING IN THIS AGREEMENT SHALL EXCLUDE LIABILITY TO THE EXTENT THAT SUCH LIABILITY MAY NOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW.

10. CONFIDENTIALITY.

10.1. Confidential Information. "Confidential Information" shall mean any trade secrets, confidential data or other confidential information that is disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party"), which: (i) if disclosed in writing, is marked "Confidential," "Proprietary," or in some other manner to indicate its confidential nature; (ii) if disclosed orally, is designated as confidential at the time of

disclosure and confirmed in writing as confidential within thirty (30) days after its oral disclosure, whic h confirmation is marked in a manner to indicate its confidential nature and delivered to the Receiving Party within such thirty (30) day period; or (iii) given the contents thereof or circumstances

surrounding its disclosure, would reasonably be considered by an objective third party to be the other Party's Confidential Information.

10.2. Exclusions. Notwithstanding the foregoing, Confidential Information shall not include any information which the Receiving Party can establish: (i) was publicly known or made available in the public domain prior to the time of disclosure by the Disclosing Party; (ii) becomes publicly known or made available after disclosure to the Receiving Party through no action or inaction of the Receiving Party; (iii) is in the possession of the Receiving Party, without confidentiality restrictions, at the time of disclosure by the Disclosing Party as shown by the Receiving Party's files and records immediately prior to the time of disclosure; (iv) disclosed to the Receiving Party without restriction by a third party who had a right to disclose and was not under an obligation of confidence to the Disclosing Party; or (v) is independently developed by the Receiving Party without use of or reference to the Confidential Information of the Disclosing Party.

10.3. Non-Use and Non-Disclosure. Each Party agrees to use the Confidential Information of the other Party solely for the purposes of exercising its rights or performing its obligations under this Agreement. Each Party further agrees not to disclose any Confidential Information of the other Party to any third parties other than those third parties who are bound, prior to receiving any Confidential Information, by confidentiality obligations at least as protective as those in this Agreement.

10.4. Maintenance of Confidentiality. Each Party agrees that it shall take reasonable measures to protect the secrecy of and avoid unauthorized disclosure and unauthorized use of the Confidential Information of the other Party. Without limiting the foregoing, each Party shall take at least those measures that such Party takes to protect its own confidential information of a similar nature, but in no event less than reasonable measures. Each Party shall reproduce the other Party's proprietary rights notices on all copies, in the same manner in which such notices were set forth in or on the original. E ach Party shall immediately notify the other Party in the event of any unauthorized use or disclosure of the Confidential Information of the Disclosing Party.

10.5. Non-Disclosure of Terms. Each Party agrees not to disclose to any third party the terms of this Agreement (including without limitation all Exhibits) without the prior written consent of the other Party, except to such Party's attorneys, advisors, investors, potential investors, and others on a need to know basis under circumstances that reasonably ensure the confidentiality thereof, or in connection with financing activities, securities filings, mergers, acquisitions, or the like.

10.6. Permitted Disclosures. Nothing in this Agreement shall be deemed to prohibit the Receiving Party from disclosing any Confidential Information to the extent: (i) required by law; or (ii) pursuant to the written consent of the Disclosing Party; provided, however, that in the event of such requirement, prior to disclosing any Confidential Information, the Receiving Party shall notify the Disclosing Party of the scope and source of such legal requirement and shall, to the extent reasonably possible, give the Disclosing Party the opportunity to challenge the need to disclose and/or limit the scope of disclosed i nformation.

11. REPRESENTATIONS, WARRANTIES, INDEMNIFICATION, AND INSURANCE.

11.1. Representations and Warranties.

11.1.1. General. Each Party hereby represents and warrants that it has the full right and authority to enter into this Agreement; that the consummation of the transactions contemplated hereunder do not violate or breach the terms of any other agreement with any third party; and it has not previously made, and during the Term shall not make, any commitment or grant or authorization of rights which are in conflict in any material way with the rights, licenses, or exclusivity granted to the other Party herein.

11.1.2 Intellectual Property Rights. Accuray hereby represents and warrants that: (i) it is the sole and exclusive owner of Interface Technology, and has the right with respect thereto to grant the rights and licenses thereto to CyberHeart as set forth herein; (ii) upon execution of this Agreement, to its actual knowledge, the rights and licenses granted by Accuray to CyberHeart in this Agreement shall be fully valid and enforceable in accordance with their terms, including without limitation with respect to Accuray Intellectual Property Rights granted hereunder; (iii) is not aware of any Intellectual Property Rights, that are necessary or use ful for CyberHeart Products in the CyberHeart Field for operation on the CyberKnife System that are owned by Accuary, its Affiliates, or other licensees of the Interface Software that are not licensed to CyberHeart under this Agreement.

11.2. Accuray Indemnification.

11.2.1. Scope. Accuray shall: (i) at its sole option and expense, defend CyberHeart, its Affiliates, and their respective agents, employees, and officers (each, a "CyberHeart Indemnitee") against, or settle, any suit, complaint, demand, or action by a third party (a "CyberHeart Suit") against any CyberHeart Indemnitee arising out of: (a) a claim by a third party that the use, disclosure or other exploitation by or under authority of either Party of the Interface Technology delivered by Accuray hereunder (including without limitation as part of any CyberHeart Product) violates, infringes, or otherwise misappropriates the Intellectua l Property Rights of a third party (an "Accuray Infringement Claim"); (b) any breach of its representations and warranties under Section 11.1; (c) the acts or omissions of any Affiliate or Subcontractor used to exercise Accuray's rights or fulfill its obligations hereunder or any negligent or reckless acts or omissions, or willful misconduct, of Accuray or its Affiliates; (d) any malfunction of a CyberKnife System or Interface Technology or failure of any such item to perform in accordance with its published specifications, or any CyberKnife System, or Interface Technology that is the proximate cause of any CyberHeart Product or CyberHeart Software malfunction or non-performance in accordance with its specifications where such CyberHeart Product or Software malfunction or non-performance is a proximate cause of an injury to the third party ((b), (c), and (d) referred to as an "Accuray General Claim," and, together with an Accuray Infringement Cl aim, each an "Accuray Claim"); and (ii) indemnify each CyberHeart Indemnitee against any and all damages, cost, expenses, losses, and liabilities, including without limitation reasonable attorneys' fees, which are awarded in connection with, or which are included in any settlement amounts of, any such Accuray Claim; provided, however, that Accuray indemnification obligations shall not apply to the extent that: (1) such Accuray Claim

arises out of any breach by CyberHeart of any of its representations, warranties, or covenants in this Agreement; or (2) such Accuray Claim arises out of the negligence, recklessness or willful misconduct of CyberHeart or its Affiliate.

11.2.2. Requirements. Accuray's indemnity obligations above shall be relieved to the extent that CyberHeart fails to: (i) give Accuray written notice of the CyberHeart Suit and such failure prejudices Accuray's ability to defend the Accuray Claim; or (ii) provide Accuray, at Accuray's expense, with necessary information, cooperation, and assistance in connection with such Accuray Claim. CyberHeart shall have the right to participate, at its option and at its own expense, in any such Accuray Claim. No settlement of an Accuray Infringement Claim that involves a remedy other than payment of money by Accuray shall be agreed to and entered into witho ut the consent of CyberHeart, whose consent shall not be unreasonably withheld or delayed. Accuray shall not be responsible under this Section 11.2 for any cost, expenses, or settlements incurred without Accuray's prior written consent, such consent not to be unreasonably withheld or delayed.

11.2.3. IP Remedies. Without limiting the indemnification obligation set forth in Section 11.2.1, if it is determined, or if Accuray reasonably believes, that any Interface Technology, or any portion thereof, infringes any third party Intellectual Property Rights, then Accuray shall, at its option and expense: (i) procure for CyberHeart the right to continue using such Interface Technology, or portion thereof, in accordance with this Agreement; (ii) replace the Interface Technology or portion thereof with a substantially similar non-infringing alternative; or (iii) modify such Interface Technology with an at least functionally equivalent modification so th at CyberHeart's licensed use hereunder becomes non-infringing.

11.2.4. Exclusions. Accuray shall have no liability under Section 11.2.1 for any Accuray Claim to the extent the Accuray Claim is solely and exclusively based on: (i) any Technology developed by CyberHeart, and not by Accuray or its Affiliates; or (ii) any portion of any Technology developed by CyberHeart, and not by Accuray or its Affiliates, that is not based on, and which does not incorporate, any Interface Technology, or any portion thereof.

11.3. CyberHeart Indemnification.

11.3.1. Scope. CyberHeart shall: (i) at its sole option and expense, defend Accuray, its Affiliates, and their respective agents, employees, and officers (each an "Accuray Indemnitee") against, or settle, any suit, complaint, demand, or action by a third party (an "Accuray Suit") against any Accuray Indemnitee arising out of: (a) a claim by a third party that any Technology conceived or created by CyberHeart, and not Interface Technology conceived or created by Accuray or its Affiliates, or any portion of any such Technology not based on, and which does not incorporate any Interface Technology, as delivered to Accuray hereunder viol ates, infringes or otherwise misappropriates the Intellectual Property Rights of a third party ("CyberHeart Infringement Claim"); (b) the disclosure, use, or exploitation of any Interface Technology outside of the CyberHeart Field by CyberHeart or any party receiving rights thereunder directly or indirectly from CyberHeart; (c) any use of a CyberHeart Product in the CyberHeart Field; (d) any malfunction of a CyberHeart Product, CyberHeart Software or CyberHeart Technology or failure of any such item to perform in accordance with its published specifications, or any CyberHeart Product, CyberHeart Software or CyberHeart Technology that

is the proximate cause of a CyberKnife System malfunction or non-performance in accordance with its specifications where such CyberKnife System malfunction or non-performance is a proximate cause of an injury to the third party; or (e) any breach of its representations and warranties under Section 11.1 or the negligence, recklessness, or willful misconduct of CyberHeart or its Affiliate (each of (a), (b), (c), (d) and (e), a "CyberHeart Claim"); and (ii) indemnify each Accuray Indemnitee against any and all damages, cost, expenses, losses, and liabilities, including without limitation reasonable attorneys' fees, which are awarded in connection with, or which are included in any settlement amounts of, any such CyberHeart Claim; provided, however, that CyberHeart's indemnification obligations shall not apply to the extent that: (1) such CyberHeart Claim arises out of any breach by Accuray of any of its representations, warranties, or covenants in this Agreement; or (2) such CyberHeart Claim arises out of the negligence, recklessness or willful misconduct of Accuray, its Affiliates, or otherwise out of the acts or omissions of Affiliates and contractors for which Accuray is responsible in Section 11.1.

11.3.2. Requirements. CyberHeart's indemnity obligations above shall be relieved to the extent that any Accuray Indemnitee fails to: (i) give CyberHeart written notice of an Accuray Suit and such failure prejudices CyberHeart's ability to defend the CyberHeart Claim; or (ii) provide CyberHeart, at CyberHeart's expense, with information, cooperation, and assistance in connection with such CyberHeart Claim. Any Accuray Indemnitee shall have the right to participate, at its option and at its own expense, in any such CyberHeart Claim. No settlement of a CyberHeart Infringement Claim that involves a remedy other than payment of money by CyberHeart sh all be agreed to and entered into without the consent of Accuray, whose consent shall not be unreasonably withheld or delayed. CyberHeart shall not be responsible under this Section 11.3 for any cost, expenses, or settlements incurred without CyberHeart's prior written consent, such consent not to be unreasonably withheld or delayed.

11.3.3. IP Remedies. Without limiting the indemnification obligation set forth in Section 11.3, if it is determined, or if CyberHeart reasonably believes, that any CyberHeart Technology, or any portion thereof, infringes any third party Intellectual Property Rights, then CyberHeart shall have the right, at its option and expense to modify such CyberHeart Technology with an at least functionally equivalent modification so that Accuray's licensed use hereunder is non-infringing.

11.3.4. Exclusions. CyberHeart shall have no liability under Section 11.3 for any CyberHeart Claim to the extent that the CyberHeart Claim is solely and exclusively based on: (i) any portion of any Technology to the extent conceived or created by or on behalf of Accuray or its Affiliates and not by CyberHeart or its Affiliates; or (ii) any portion of any Technology invented by Accuray or its Affiliates, and not by CyberHeart or its Affiliates, that is not based on, and which does not incorporate, any CyberHeart Technology, or any portion thereof.

11.4. SOLE REMEDY. SECTIONS 11.2 AND 11.3 STATE EACH PARTY'S SOLE AND EXCLUSIVE OBLIGATION AND EACH PARTY'S SOLE AND EXCLUSIVE REMEDY FOR ANY ACCURAY CLAIMS THAT ARE THE SUBJECT OF SECTION 11.2 OR ANY CYBERHEART CLAIMS THAT ARE THE SUBJECT OF SECTION 11.3.

11.5. Insurance. CyberHeart shall procure and maintain insurance, including without limitation product liability and other appropriate insurance, adequate to cover its obligations hereunder in a manner which is consistent with normal business practices of prudent companies similarly situated at all times during which any CyberHeart Product is being clinically tested in human subjects or commercially distributed or sold. For clarity, such insurance shall not be construed to create a limit of CyberHeart's liability with respect to its indemnification obligations under this Article 11. CyberHeart shall provide Accuray with written evidence of such insurance upon request. CyberHeart shall provide Accuray with written notice at least thirty (30) days prior to the cancellation, non-renewal or material change in such insurance or self-insurance which materially adversely affects the rights of Accuray hereunder.

11.6. WARRANTY DISCLAIMER. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, BY STATUTE, OR OTHERWISE, IN CONNECTION WITH THIS AGREEMENT, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, AND NONINFRINGEMENT.

12. DISPUTE RESOLUTION.

12.1 Prior to the initiation by either Party of any arbitration or other proceeding, any dispute between the Parties regarding interpretation of or breach of a term or condition of this Agreement shall first be discussed between the Chief Executive Officers of each of the Parties in good faith in an effort to achieve a reasonable resolution. If the dispute is not resolved by the CEO's within fifteen (15) days after either Party notified the other in writing of such dispute and desire to seek dispute resolution, then each Party shall have the right to have the matter resolved in accordance with Section 12.2.

12.2 With respect to disputes regarding interpretation of or breach of a term or condition of this Agreement only, either Party may seek to resolve the dispute through binding arbitration in accordance with the Rules of Arbitration of the American Arbitration Association ("AAA") by one (1) arbitrator jointly selected by the Parties and qualified to settle disputes in the medical device industry and appointed in accordance with such rules and applying a Reasonable Commercial Efforts standard. If the arbitrator has not been agreed upon by the parties within ten (10) business days after either Party's request for arbitra tion, the arbitrator shall be selected in accordance with the Rules of the AAA (or if the Rules to not provide selection procedures, by the chief executive of the AAA located in New York). The place of arbitration shall be Santa Clara County, California. Any decision by the arbitrator shall be final and binding upon the Parties and may be entered as a final judgment in any court of competent jurisdiction. The costs of such arbitration shall be shared equally by the Parties, and each Party shall bear its own expenses in connection with the arbitration.

13. GENERAL PROVISIONS.

13.1. Notices. All notices called for under this Agreement shall be made in writing and shall be sent by personal delivery, reputable overnight courier service, or registered or certified mail, return receipt requested, addressed to the other Party at the address set forth in the first paragraph of this Agreement. The date of such notice shall be deemed to be the day it is delivered, if hand delivered, or five (5) days after deposit, if mailed.

13.2. Assignment. This Agreement, and the rights and obligations hereunder, shall not be assigned or transferred in whole by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, provided that either Party may assign this agreement in whole to any Affiliate or to any successor in interest to all or substantially all of the business or assets of such Party to which this Agreement pertains, whether by operation of law, merger, purchase, or otherwise. Any attempted assignment in violation of the foregoing shall be null and void and of no effect. Subjec t to the foregoing, this Agreement shall be binding and inure to the benefit of the respective Parties and their successors and permitted assigns, and the name of the Party appearing herein shall be deemed to change to the names of such Party's successors and permitted assigns upon such a transfer.

13.3. Non-Solicitation. Neither Party shall solicit during the Term any of the employees of the other Party to this Agreement without the prior consent of the President or Chief Executive Officer of the other Party. Notwithstanding anything in this Section 13.3 to the contrary, the Parties hereby acknowledge and agree that each Party shall not be restricted from hiring any employee of the other Party if such employee seeks employment and was not initially solicited or induced.

13.4. Governing Law. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of California, without reference to any principles of conflicts of law that would result in the application of the laws of any State other than the State of California. Except as set forth in Article 12, any and all disputes arising under or in connection with this Agreement shall be submitted exclusively in the state or federal courts located in Santa Clara County, California, the personal jurisdiction of which each of the Parties hereby irrevocably submits.

13.5. Severability. If any term of this Agreement is held to be invalid or unenforceable for any reason, the remainder of the provisions shall continue in full force and effect, and the Parties shall substitute a valid provision with the same intent and economic effect as nearly as possible.

13.6. Non-Waiver. The failure of either Party at any time to require performance by the other Party of any provision hereof shall not affect in any way, or act as a waiver of, the right to require the other Party to perform in accordance with this Agreement at any other time, nor shall the waiver of either Party of a breach of a provision of this Agreement be held or taken to be a waiver of the provision itself.

13.7. Relationship of Parties. Nothing in this Agreement shall be construed to create a relationship of employer and employee, principal and agent, joint venture, partnership or

association between the Parties, and neither Party shall have the power to obligate or bind the other in any manner whatsoever.

13.8. Interpretation. This Agreement is to be deemed to have been drafted jointly by the Parties and any uncertainty or ambiguity shall not be construed for or against either Party based on attribution of drafting to either Party. The captions and headings to this Agreement are for convenience

only, and are to be of no force or effect in construing or interpreting any of the provisions of this Agreement. Unless specified to the contrary, references to Articles, Sections or Exhibits mean the particular Articles, Sections or Exhibits to this Agreement and references to this Agreement include all Exhibit s hereto. Unless context otherwise clearly requires, whenever used in this Agreement, the words "include" or "including" shall be construed as incorporating, also, "but not limited to" or "without limitation."

13.9. Headings. The paragraph headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such paragraph, or in any way affect such agreements.

13.10. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be considered an original, but all of which together shall constitute one and the same instrument. Faxed signatures shall have the same legal effect as original signatures.

13.11. Entire Agreement. This Agreement contains the Parties' entire understanding with respect to the matters contained herein and supersedes all prior oral or written understandings with respect to the subject matter hereof. There are no promises, covenants or undertakings other than those set forth herein, and neither Party is relying upon any representations or warranties except as set forth herein. This Agreement may not be modified except by a writing signed by both Parties.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement.

ACCURAY, INC.		**CYBERHEART, INC.**	
By:	/s/ Euan Thomson	By:	/s/ Patrick J. Maguire
Name:	Euan Thomson	Name:	Patrick J. Maguire
Title:	President and Chief Executive Officer 12-10-10	Title:	President & CEO
By:	/s/ Darren J. Milliken		
Name:	Darren J. Milliken		
Title:	Senior Vice President, General Counsel 12-9-2010		

Exhibit A

Accuray Competitors

AccuThera and Affiliates

BrainLAB AG and Affiliates

Elekta AB and Affiliates

Mitsubishi Heavy Industries and Affiliates

Integra Radionics, Integra LifeSciences Corporation, Radionics and Affiliates

Philips and Affiliates

Siemens AG and Affiliates

Still River Systems and Affiliates

TomoTherapy Incorporated and Affiliates

Toshiba and Affiliates

Varian, Varian Medical Systems, and Affiliates

View Ray and Affiliates

Accuray Competitor includes any company or other entity that ships a radiation system during the Term of this Agreement.

Exhibit B

PATENT LICENSE

PURSUANT TO 17 C.F.R. § 240.24B-2, CONFIDENTIAL INFORMATION (INDICATED BY {***}) HAS BEEN OMITTED FROM THIS DOCUMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO A CONFIDENTIAL TREATMENT APPLICATION FILED WITH THE COMMISSION**

Patent License Agreement

This Patent License Agreement (the "Agreement") is entered into as of December 10, 2010 ("Effective Date"), by and between **CyberHeart, Inc.**, a Delaware corporation, with its principal place of business at 3282 Alpine Road, Portola Valley, CA 94028 ("Licensor"), and **Accuray Incorporated**, a Delaware corporation, with its principal place of business at 1310 Chesapeake Terrace, Sunnyvale, CA 94089 ("Licensee"). In this Agreement, Licensor and Licensee may be referred to each individually as a "Party" or collectively as "Parties."

WHEREAS, Licensor is the sole and exclusive owner, except for any existing licenses thereunder, of all the right, title, and interest in and to the Letters Patent of the United States No. 6,889,695 and Letters Patent of the United States No. 7,645,276;

WHEREAS, Licensee is desirous of obtaining a non-exclusive worldwide license to manufacture and sell certain products embodying and employing the inventions of the aforesaid Letters Patents, and of any reissues or reexaminations thereof; and

WHEREAS, concurrently herewith, the Parties are entering into the License Agreement effective as of the effective date specified therein (the "License Agreement").

NOW THEREFORE, the Parties hereto, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, agree as follows:

1. DEFINITIONS.

The following terms, as used in this Agreement, shall have the meanings set forth below:

1.1. "Affiliate" means, with respect to any Party, any Person that Controls, is Controlled by, or is under common Control with such Party, only so long as such Control exists. As used in this Section 1.1 "Control" (and its derivatives) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity through ownership of fifty percent (50%) or more of the securities entitled to elect the board of directors (or in the case of an entity that is not a corporation, the corresponding managing authority); provided that, for a Person established in a jurisdiction where a Party cannot, as a matter of law, have such ownership interest, Control shall mean the maximum ownership interest permitted by law.

1.2. "CyberHeart Field" means any and all non-tumor applications involving or relating to the heart, the coronary arteries (including without limitation the epicardial coronary arteries), the cardiac veins, the structure or function of any of the foregoing, or related conditions, including without limitation all diseases and conditions of the conduction system, the coronary, arterial and/or venous systems, heart valves or chambers, wall anomalies affection, ejection fraction and/or conduction, but excluding arterio venous malformations outside the heart and not within 2cm of the heart wall.

1.3. "License Agreement" shall have the meaning set forth in the recitals.

1.4. "Licensed Patents" means Letters Patent of the United States No. 6,889,695 and Letters Patent of the United States No. 7,645,276, and all foreign equivalents, continuations, continuations-in-part, divisionals, reissues, and reexaminations thereof.

1.5. "Licensed Products" means any software, hardware or other product that is owned by Licensee, and that is covered by one or more claims of the Licensed Patents, regardless of whether such product is combined with any Licensee technology or any third party technology, but excluding any CyberKnife System (as defined in the License Agreement) or any other product or component that contains functionality in addition to that required to implement the claims of the Licensed Patents.

1.6. "Person" shall be broadly interpreted to include an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a governmental entity or any department, agency, or political subdivision thereof.

1.7. "Term" has the meaning assigned to such term under Section 6.1.

2. GRANT OF RIGHTS, SUBLICENSING, RETAINED RIGHTS.

2.1. Grant. Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee a non-exclusive, worldwide, non-transferable (except as provided in Section 10.2), perpetual (subject to the provisions of Article 6 hereto), royalty-bearing right and license under the Licensed Patents, with the right to authorize or grant sublicenses (solely as set forth in Section 2.2), to make, have made, use, sell, have sold, offer to sell, market, have marketed, import, export, and otherwise exploit and commercialize the Licensed Products solely in the CyberHeart Field; provided, however, that Licensee agrees not to exercise any rights under the license granted under this Section 2.1, or any rights under this Agreement, prior to the occurrence of a Trigger Event as provided in Section 2.3 of the License Agreement.

2.2. Sublicensing. The license granted in Section 2.1 includes the right for Licensee, without Licensor's consent, to grant and authorize sublicenses to any Affiliate of Licensee and to customers and final end-users to use only (but no other right other than use) the Licensed Products solely in the CyberHeart Field, on commercially reasonable terms.

2.3 Retained Rights; No Other Rights. Licensor expressly reserves and retains all right, title, and interest in, to, and under Licensed Patents all rights of Licensor not expressly granted to Licensee under this Agreement. No other rights, licenses, or interest are granted by a Party to the other Party by implication, estoppel, or otherwise, other than as expressly granted by this Agreement.

3. PAYMENTS, AUDITS, REASONABLE EFFORTS.

3.1. Royalty. Within thirty (30) days after the end of each calendar quarter, Licensee shall pay to Licensor a royalty equal to {*****} recognized by Licensee, in accordance

with Licensee's accounting policies and generally accepted accounting principles, from the sale, license, lease, use, or other distribution ("Sale") of Licensed Products.

3.1.1 Bundled Products. In the event that a Licensed Product under this Agreement is sold in a combination package or bundled by or on behalf of Licensee or any Licensee Affiliate with any other products, components or systems that contain functionality in addition to that required to implement the claims of the Licensed Patents (including without limitation, as a component of a system in which other components or products are integrated), then Licensee {*****}, for purposes of determining royalty under Section 3.1, shall be calculated by {*****}. In the event that {*****}, then {*****}, as det ermined by Licensor in good faith, shall be used in place of {*****}. For example, if Licensee sells for {*****} a Licensed Product with a {*****} and another product with a {*****}, the Licensee {*****} for purposes of the royalty payable under Section 3.1 would be determined by {*****}.

3.1.2 Unpriced Products. In the event that a Licensed Product under this Agreement is provided (other than part of a combination or bundle, which is covered under Section 3.1.1) by or on behalf of Licensee or its Affiliate to any third party receiving below-market or no payment by such third party, then Licensee {*****}, for purposes of determining royalty under Section 3.1, shall be calculated {*****}.

3.2. Foreign Sales. For purposes of computing royalty payments under Section 3.1 based on transactions made in a currency other than United States dollars, royalty payments will be determined in the foreign funds for the country in which the Licensed Products are sold, leased or otherwise distributed and then converted into equivalent United States dollars at the rate of exchange for selling funds as published by the Wall Street Journal (U.S., Western Edition) for the last business day of each quarter.

3.3. Audit Rights. Licensee shall keep or cause to be kept such records as are required to determine, in a manner consistent with Generally Accepted Accounting Principles (GAAP) and this Agreement, the sums due under this Agreement, including, but not limited to, sales of Licensed Products. At the request (and expense) of Licensor, Licensee and its Affiliates and sublicensees shall permit an independent certified public accountant appointed by Licensor and reasonably acceptable to Licensee, at reasonable times and upon reasonable notice, to examine only those reco rds as may be necessary to determine, with respect to any calendar year ending not more than three (3) calendar years prior to the beginning of the calendar year in which such audit occurs, for records to be kept as provided in this Section 3.3 prior to Licensor's request, the correctness or completeness of any report or payment made under this Agreement. Results of any such examination shall be: (a) limited to information relating to Licensed Products; (b) made available to both Parties, and (c) deemed the Confidential Information of Licensee subject to Article 5. Licensor shall bear the full cost of the performance of any such audit, unless such audit discloses a variance to the detriment of Licensor of more than five percent (5%) of the amount of the original report, royalty or payment calculation. In such case, Licensee shall bear the full cost of the performance of such audit.

3.4. Payment Terms. All amounts paid hereunder shall be in U.S. dollars. Licensee shall pay all amounts that have become due and payable hereunder within thirty (30) days of each calendar quarter. If Licensee fails to make any payment required under this

Agreement within thirty (30) days after the date on which such payment becomes due and payable, then Licensor may, at its option and sole discretion and in addition to any other remedies it may have at law or equity, assess a late fee in the amount equal to one percent (1%) of the unpaid balance for each month after payment is due until the invoice is paid in full, or if less, the maximum allowable by law. For purposes of clarity, failure to make any payment when due pursuant to the terms of this Agreement shall constitute a material breach of this Agreement under Section 6.2, without limiting Licensor's rights under Section 6.2 or otherwise.

3.5. Sole Remuneration. The payments set out in this Section 3 represent Licensor's sole remuneration for all rights and licenses granted under this Agreement.

4. INTELLECTUAL PROPERTY OWNERSHIP.

4.1. Notification. Licensee shall promptly notify Licensor in writing (and provide a reasonable description) of any suspected infringement or misappropriation by a third party of any Licensed Patents (a "Third-Party Infringement"), of which it becomes aware. The obligations under this Section 4.1 do not create any affirmative obligation on the part of one Party to police, review, or otherwise investigate any potential Third Party Infringement.

4.2. Enforcement of Licensed Patents. Licensor shall have the first right, but not the obligation, to file and pursue any suit or action for any third-party infringement of the Licensed Patents. Licensee agrees to provide reasonable assistance, as may be requested by Licensor, and will reasonably cooperate with Licensor's enforcement of the Licensed Patents. Licensor shall bear the reasonable expenses incurred by Licensee in providing assistance and cooperation pursuant to this Section 4.2 as requested by Licensor.

4.3. Indemnification. Licensor shall: (i) at its sole option and expense, defend Licensee, its Affiliates, and their respective agents, employees, and officers (each an "Licensee Indemnitee") against, or settle, any suit, complaint, demand, or action by a third party against any Licensee Indemnitee arising out of a claim by a third party that one or more claims of an enforceable patent owned by or exclusively licensed to such third party and that issued prior to the date on which the Parties enter into this Agreement, are infringed as a direc t result of Licensee exercising the rights granted to it under Section 2.1 ("Infringement Claim"); and (ii) indemnify each Licensee Indemnitee against any and all damages, cost, expenses, losses, and liabilities, including without limitation reasonable attorneys' fees, which are awarded in connection with, or which are included in any settlement amounts of, any such Infringement Claim. Notwithstanding any provision contained herein to the contrary, in no event shall Licensor's liability under this Section 4.3 exceed the aggregate amount of royalty payments made or to be made by Licensee to Licensor under Section 3.1. At such time as the liability incurred by Licensor

under this Section 4.3 equals at least the aggregate amount of royalty payments theretofore made by Licensee to Licensor under Section 3.1, Licensor's obligation to indemnify Licensee pursuant to Section 4.3 shall be suspended; provided that, to the extent that Licens ee has then incurred or thereafter incurs damages, costs, expenses, losses and liabilities that are subject to indemnification by Licensor under this Section 4.3 for which Licensee has not been fully indemnified in accordance with the terms of this Section 4.3 ("Indemnifiable Losses"), Licensee may withhold any other royalty payments that are then or that thereafter

become payable by Licensee to Licensor pursuant to Section 3.1 and irrevocably offset and credit all such payments against any and all Indemnifiable Losses incurred by Licensee that have not previously been paid or reimbursed by Licensor.

5. CONFIDENTIALITY.

5.1. Confidential Information. "Confidential Information" shall mean any trade secrets, confidential data or other confidential information that is disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party"), which: (i) if disclosed in writing, is marked "Confidential," "Proprietary," or in some other manner to indicate its confidential nature; (ii) if disclosed orally, is designated as confidential at the time of disclosure and confirmed in writing as confidential wi thin thirty (30) days after its oral disclosure, which confirmation is marked in a manner to indicate its confidential nature and delivered to the Receiving Party within such thirty (30) day period; or (iii) given the contents thereof or circumstances surrounding its disclosure, would reasonably be considered by an objective third party to be the other Party's Confidential Information.

5.2. Exclusions. Notwithstanding the foregoing, Confidential Information shall not include any information which the Receiving Party can establish: (i) was publicly known or made available in the public domain prior to the time of disclosure by the Disclosing Party; (ii) becomes publicly known or made available after disclosure to the Receiving Party through no action or inaction of the Receiving Party; (iii) is in the possession of the Receiving Party, without confidentiality restrictions, at the time of disclosure by the Disclosing Party as shown by the Receiving Party's files and records immediately prior to the time of disclosure; (iv) disclosed to the Receiving Party without restriction by a third party who had a right to disclose and was not under an obligation of confidence to the Disclosing Party; or (v) is independently developed by the Receiving Party without use of or reference to the Confidential Information of the Disclosing Party.

5.3. Non-Use and Non-Disclosure. Each Party agrees to use the Confidential Information of the other Party solely for the purposes of exercising its rights or performing its obligations under this Agreement. Each Party further agrees not to disclose any Confidential Information of the other Party to any third parties other than those third parties who are bound, prior to receiving any Confidential Information, by confidentiality obligations at least as protective as those in this Agreement.

5.4. Maintenance of Confidentiality. Each Party agrees that it shall take reasonable measures to protect the secrecy of and avoid unauthorized disclosure and unauthorized use of the Confidential Information of the other Party. Without limiting the foregoing, each Party shall take at least those measures that such Party takes to protect its own confidential information of a similar nature, but in no event less than reasonable measures. Each Party shall reproduce the other Party's proprietary rights notices on all copies, in the same manner in which such notices were set forth in or on the original. Each Party shall immediately notify the other Party in the event of any unauthorized use or disclosure of the Confidential Information of the Disclosing Party.

5.5. Non-Disclosure of Terms. Each Party agrees not to disclose to any third party the terms of this Agreement (including without limitation all Exhibits) without the prior written consent of the other Party, except to such Party's attorneys, advisors, investors, potential investors, and others on a need to know basis under circumstances that reasonably ensure the confidentiality thereof, or in connection with financing activities, securities filings, mergers, acquisitions, or the like.

5.6. Permitted Disclosures. Nothing in this Agreement shall be deemed to prohibit the Receiving Party from disclosing any Confidential Information to the extent: (i) required by law; or (ii) pursuant to the written consent of the Disclosing Party; provided, however, that in the event of such requirement, prior to disclosing any Confidential Information, the Receiving Party shall notify the Disclosing Party of the scope and source of such legal requirement and shall, to the extent reasonably possible, give the Disclosing Party the opportunity to challenge the n eed to disclose and/or limit the scope of disclosed information.

6. TERM AND TERMINATION.

6.1. Term. This Agreement shall become effective on the Effective Date and shall remain in effect until the expiration of the last to expire of the Licensed Patents, unless earlier terminated as provided Section 6.2 or Section 6.3 (such period of effectiveness, the "Term").

6.2. Termination for Cause. Either Party shall have the right to terminate this Agreement following bankruptcy or insolvency of the other party, or any material breach or default in performance under this Agreement by the other Party with sixty (60) days prior written notice to the breaching party specifying the nature of the breach or default. Unless the breaching party has cured the breach or default prior to the expiration of the sixty (60) day period, the non-breaching party, at its sole option, may terminate this Agreement upon written notice to the breaching party. Termination of this Agreement shall become effective upon receipt by the breaching party of such second notice.

6.3. Effect of Termination or Expiration. Subject to the provisions of Section 6.6 upon termination of this Agreement by Licensor under Section 6.2 : (i) the license granted under Section 2.1, and any sublicense granted pursuant to Section 2.2, terminates; (ii) all rights and obligations of each party terminate, except with respect to any rights or obligations that accrued prior to such termination; and (iii) each party shall return to the other party all copies of any and all materials, including any Confidential Information, re ceived by the other Party during the term of this Agreement. In the event of termination of this Agreement by Licensee, the license granted under Section 2.1 shall become perpetual and royalty-free, and Licensor shall return to Licensee all copies of any materials, including any Confidential Information, received from Licensee during the term of this Agreement.

6.4. Effect on Customers. For avoidance of doubt, no termination or expiration of this Agreement shall be deemed to terminate or otherwise extinguish any rights of any customers of a Licensed Product under their then-current contracts for use of such Licensed Product.

6.5. Survival. The following provisions shall survive any termination or expiration of this Agreement: Articles 1 (Definitions), 5 (Confidentiality), 7 (Bankruptcy), 8 (Limitation of Liability), 10 (Dispute Resolution), and 11 (General Provisions); and Sections 2.3 (Reservation of Rights), 3.1 (to the extent outstanding amounts are due and payable), 3.3 (Audit Rights), 3.5 (Sole Remuneration), 4.3 (Indemnification); 6.3 (Effect of Termination); 6.4 (Effect on Customers); and 6.5 (Survival).

7. BANKRUPTCY.

All rights and licenses granted pursuant to this Agreement are, and shall otherwise be deemed to be, for purposes of Section 365(n) of Title 11 of the U.S. Code (the "Bankruptcy Code"), licenses to rights of "intellectual property" as such term is used thereunder. Notwithstanding any provision contained herein to the contrary, if either Party is under any proceeding under the Bankruptcy Code and the trustee in bankruptcy of such Party, or such Party as a debtor in possession, rightfully elects to reject this Agreement, the other may, pursuant to Sections 365(n)(1) and (2) of the Bankruptcy Code, retain any and all of their respective rights hereunder, to the maximum extent permitted by law, subject to making the payments specified herein, if any.

8. LIMITATION OF LIABILITY.

EXCEPT FOR EITHER PARTY'S BREACH OF THE REPRESENTATIONS AND WARRANTIES UNDER SECTION 9 OR BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER SECTION 5, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, HOWEVER CAUSED, AND ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION LOSS OF ANTICIPATED PROFITS, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THIS ARTICLE 8, NOTHING IN THIS AGREEMENT SHALL EXCLUDE LIABILITY TO THE EXTENT THAT SUCH LIABILITY MAY NOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW.

9. REPRESENTATIONS, AND WARRANTIES

9.1. Representations and Warranties.

9.1.1. General. Each Party hereby represents and warrants that: (i) it has the full right and authority to enter into this Agreement; (ii) the execution, delivery and performance by such Party does not violate or breach the terms of any other agreement with any third party; and (iii) it has not previously made, and during the Term shall not make, any commitment or grant or authorization of rights which are in conflict in any material way with the rights or licenses granted herein.

9.2. Intellectual Property Rights. Licensor hereby represents and warrants that, to the best of Licensor's knowledge: (i) it is the sole and exclusive owner of the Licensed Patents, and has the right with respect thereto to grant the rights and licenses thereto to Licensee as set forth herein; (ii) upon execution of this Agreement by both Parties, the rights and licenses granted hereunder shall be fully valid and enforceable in accordance with their terms.

9.3. WARRANTY DISCLAIMER. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, BY STATUTE, OR OTHERWISE, IN CONNECTION WITH THIS AGREEMENT, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, AND NONINFRINGEMENT.

10. DISPUTE RESOLUTION

Prior to the initiation by either Party of any lawsuit or other proceeding, any dispute between the Parties regarding interpretation of or breach of a term or condition of this Agreement shall be discussed between the Chief Executive Officers ("CEO") of each of the Parties in good faith in an effort to achieve a reasonable resolution. If the dispute is not resolved by the CEO's within fifteen (15) days after either Party notified the other of a dispute and its desire to trigger the dispute resolution provisions of this Article 10, then each Party shall have the right to initiate a lawsuit or other proceeding.

11. GENERAL PROVISIONS.

11.1. Notices. All notices called for under this Agreement shall be made in writing and shall be sent by personal delivery, reputable overnight courier service, or registered or certified mail, return receipt requested, addressed to the other Party at the address set forth in the first paragraph of this Agreement. The date of such notice shall be deemed to be the day it is delivered, if hand delivered, or five (5) days after deposit, if mailed.

11.2. Assignment. This Agreement, and the rights and obligations hereunder, shall not be assigned or transferred in whole by Licensee without the prior written consent of the Licensor, which consent shall not be unreasonably withheld; provided, however, that either Party may assign this agreement in whole to any Affiliate or to any successor in interest to all or substantially all of the business or assets of such Party to which this Agreement pertains, whether by operation of law, merger, purchase, or otherwise. Any attempted assignment in violation of the foregoing shall be null and void and of no effect. Subject to the foregoing, this Agreement shall be binding and inure to the benefit of the respective Parties and their successors and permitted assigns, and the name of the Party appearing herein shall be deemed to change to the names of such Party's successors and permitted assigns upon such a transfer.

11.3. Governing Law. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of California, without reference to any principles of conflicts of law that would result in the application of the laws of any State other than the State of California. Any and all disputes arising under or in connection with this Agreement shall be submitted exclusively in the state or federal courts located in Santa Clara County, California, the personal jurisdiction of which each of the Parties hereby irrevocably submits.

11.4. Severability. If any term of this Agreement is held to be invalid or unenforceable for any reason, the remainder of the provisions shall continue in full force and effect, and the Parties shall substitute a valid provision with the same intent and economic effect as nearly as possible.

11.5. Non-Waiver. The failure of either Party at any time to require performance by the other Party of any provision hereof shall not affect in any way, or act as a waiver of, the right to require the other Party to perform in accordance with this Agreement at any other time, nor shall the waiver of either Party of a breach of a provision of this Agreement be held or taken to be a waiver of the provision itself.

11.6. Relationship of Parties. Nothing in this Agreement shall be construed to create a relationship of employer and employee, principal and agent, joint venture, partnership or association between the Parties, and neither Party shall have the power to obligate or bind the other in any manner whatsoever.

11.7. Interpretation. This Agreement is to be deemed to have been drafted jointly by the Parties and any uncertainty or ambiguity shall not be construed for or against either Party based on attribution of drafting to either Party. The captions and headings to this Agreement are for convenience only, and are to be of no force or effect in construing or interpreting any of the provisions of this Agreement. Unless specified to the contrary, references to Articles, Sections or Exhibits mean the particular Articles, Sections or Exhibits to this Agreement and references to this Agreement i nclude all Exhibits hereto. Unless context otherwise clearly requires, whenever used in this Agreement, the words “include” or “including” shall be construed as incorporating, also, “but not limited to” or “without limitation.”

11.8. Headings. The paragraph headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such paragraph, or in any way affect such agreements.

11.9. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be considered an original, but all of which together shall constitute one and the same instrument. Faxed signatures shall have the same legal effect as original signatures.

11.10. Entire Agreement. This Agreement contains the Parties’ entire understanding with respect to the matters contained herein and supersedes all prior oral or written understandings with respect to the subject matter hereof. There are no promises, covenants or undertakings other than those set forth herein, and neither Party is relying upon any

representations or warranties except as set forth herein. This Agreement may not be modified except by a writing signed by both Parties.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Patent License Agreement.

CYBERHEART, INC. (LICENSOR)		**ACCURAY, INC. (LICENSEE)**	
By:	/s/ Patrick J. Maguire	By:	/s/ Euan Thomson
Name:	Patrick J. Maguire	Name:	Euan Thomson
Title:	President & CEO	Title:	President and Chief Executive Officer
			12-10-10
		By:	/s/ Darren J. Milliken
		Name:	Darren J. Milliken
		Title:	Senior Vice President, General Counsel
			12-9-2010

Exhibit 31.1

Certifications

I, Euan S. Thomson, certify that:

1. I have reviewed this report on Form 10-Q of Accuray Incorporated, a Delaware corporation;

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

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

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

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

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

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

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

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

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

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

Date: January 27, 2011

/s/ Euan S. Thomson

Euan S. Thomson, Ph. D.
President and Chief Executive Officer

Exhibit 31.2

I, Derek Bertocci, certify that:

1. I have reviewed this report on Form 10-Q of Accuray Incorporated, a Delaware corporation;

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

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

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

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

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

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

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

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

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

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

Date: January 27, 2011

/s/ Derek Bertocci
Derek Bertocci
Senior Vice President and Chief Financial Officer

Exhibit 32.1

Certification of Chief Executive Officer and Chief Financial Officer

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officers of Accuray Incorporated, a Delaware corporation (the "*Company*") hereby certify, to such officers' knowledge, that:

(i) the accompanying Quarterly Report on Form 10-Q of the Company for the three and six months ended December 31, 2010 (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.

Date: January 27, 2011

/s/ Euan S. Thomson
Euan S. Thomson, Ph.D.
President and Chief Executive Officer

/s/ Derek Bertocci
Derek Bertocci
Senior Vice President and Chief Financial Officer