UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-QSB

x QUARTERLY REPORT UNDER SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended September 30, 2006

OR

o TRANSITION REPORT UNDER SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _____ to _____

Commission File Number 0-32353

ZIOPHARM Oncology, Inc.
(Exact Name of Small Business Issuer as Specified in Its Charter)

Delaware	**84-1475642**
(State or Other Jurisdiction of Incorporation or Organization)	(IRS Employer Identification No.)
1180 Avenue of the Americas, 19 th Floor, New York, NY	**10036**
(Address of Principal Executive Offices)	(Zip Code)

(646) 214-0700
(Issuer's Telephone Number, Including Area Code)

(Former Name, Former Address and Former Fiscal Year, if Changed Since Last Report)

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

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

As of November 13, 2006, there were 15,264,248 shares of the issuer's common stock, $.001 par value per share, outstanding.

Traditional Small Business Disclosure Format (check one): Yes o No x

Index

ZIOPHARM Oncology, Inc.
(A Development Stage Enterprise)
Balance Sheets

	September 30, 2006 (Unaudited)	December 31, 2005
ASSETS		
Current assets:		
Cash and cash equivalents	$ 32,962,230	$ 8,880,717
Short-term investments	1,536,357	—
Prepaid expenses and other current assets	314,785	211,837
Total current assets	**34,813,372**	**9,092,554**
Property and equipment, net	294,982	269,702
Deposits	9,367	5,700
Other non current assets	177,219	124,343
Total assets	**$ 35,294,940**	**$ 9,492,299**
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 1,143,777	$ 835,997
Accrued expenses	2,136,961	1,418,819
Total current liabilities	**3,280,738**	**2,254,816**
Deferred rent	**39,972**	**35,557**
Commitments and contingencies		
Stockholders' equity:		
Common stock, $.001 par value; 280,000,000 shares authorized; 15,264,248 and 7,247,992 shares issued and outstanding at September 30, 2006 and December 31, 2005, respectively	15,264	7,248
Additional paid-in capital	59,361,574	22,559,034
Deficit accumulated during the development stage	(27,402,608)	(15,364,356)
Total stockholders' equity	**31,974,230**	**7,201,926**
Total liabilities and stockholders' equity	**$ 35,294,940**	**$ 9,492,299**

ZIOPHARM Oncology, Inc.
(A Development Stage Enterprise)
Statements of Operation (unaudited)

	For the three months ended September 30, 2006	For the three months ended September 30, 2005	For the nine months ended September 30, 2006	For the nine months ended September 30, 2005	From Inception (Sept. 9, 2003) through September 30, 2006
Research contract revenue	**$ —**	$ —	$ —	$ —	**$ —**
Operating expenses and other income:					
Research and development	2,097,617	1,318,608	6,545,986	4,279,687	14,266,443
General and administrative	1,832,361	1,541,740	6,345,450	2,953,830	14,281,596
Total operating expenses	3,929,978	2,860,348	12,891,436	7,233,517	28,548,039
Loss from operations	(3,929,978)	(2,860,348)	(12,891,436)	(7,233,517)	(28,548,039)
Interest income	475,476	94,231	853,184	177,710	1,145,431
Net loss	$ (3,454,502)	$ (2,766,117)	$ (12,038,252)	$ (7,055,807)	$ (27,402,608)
Basic and diluted net loss per share	$ (0.23)	$ (0.77)	$ (1.03)	$ (2.32)	
Weighted average common shares outstanding used to compute basic and diluted net loss per share share	15,264,368	3,593,109	11,662,722	3,041,829	

ZIOPHARM Oncology, Inc.
(A Development Stage Enterprise)
Statements of Cash Flows

	For the nine months ended September 30, 2006	For the nine months ended September 30, 2005	For the Period from Inception (Sept. 9, 2003) through September 30, 2006
Cash flows from operating activities:			
Net loss	$ (12,038,252)	$ (7,055,807)	$ (27,402,608)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	117,155	72,519	252,340
Non-cash stock-based compensation	2,530,436	—	3,332,307
Gain on disposal of fixed assets	(1,165)	—	(1,165)
Change in operating assets and liabilites:			
(Increase) decrease in:			
Prepaid expenses and other current assets	(102,948)	(92,245)	(314,785)
Other noncurrent assets	(52,876)	(92,812)	(177,219)
Deposits	(3,667)	24,014	(9,367)
Increase (decrease) in:			
Accounts payable	307,780	(232,558)	1,143,777
Accrued expenses	718,142	391,248	2,136,961
Deferred rent	4,415	—	39,972
Net cash used in operating activities	(8,520,980)	(6,985,641)	(20,999,787)
Cash flows from investing activities:			
Purchases of property and equipment	(141,270)	(64,648)	(546,157)
Increase in short-term investments	(1,536,357)	—	(1,536,357)
Net cash used in investing activities	(1,677,627)	(64,648)	(2,082,514)
Cash flows from financing activities:			
Stockholders' capital contribution	—	—	500,000
Proceeds from issuance of common stock and warrants, net	34,280,120	4,676	38,784,935
Proceeds from issuance of preferred stock, net	—	16,759,596	16,759,596
Net cash provided by financing activities	34,280,120	16,764,272	56,044,531
Net increase in cash and cash equivalents	24,081,513	9,713,983	32,962,230
Cash and cash equivalents, beginning of period	8,880,717	1,026,656	—
Cash and cash equivalents, end of period	$ 32,962,230	$ 10,740,639	$ 32,962,230
Supplementary disclosure of cash flow information:			
Cash paid for interest	$ —	$ —	$ —
Cash paid for income taxes	$ —	$ —	$ —
Supplementary disclosure of noncash investing and financing activities:			
Warrants issued to placement agents and investors, in connection with with private placement	$ 13,092,561	$ —	$ 13,092,561
Warrants issued to placement agent, in connection with preferred stock issuance	$ —	$ 1,682,863	$ 1,682,863
Preferred stock conversion to common stock	$ —	$ 16,759,596	$ 16,759,596

ZIOPHARM Oncology, Inc.
(A Development Stage Enterprise)
Statement of Changes in Convertible Preferred Stock and Stockholders' Equity (Deficit)
For the nine months ended September 30, 2006 (unaudited), For the Year ended December 31, 2005 and 2004 and
For the Period from Inception (September 9, 2003) to December 31, 2003

	Convertible Preferred Stock and Warrants			Stockholder's Equity (Deficit)				
	Series A Convertible Preferred Stock		Warrants to Purchase Series A Convertible Preferred Stock	Common Stock				
	Shares	Amount	Warrants	Shares	Amount	Additional Paid-in Capital	Deficit Accumulated During The Development Stage	Total Stockholders' Equity/(Deficit)
Stockholders' contribution, September 9, 2003	—	$ —	$ —	250,487	$ 250.00	$499,750.00	$ —	$ 500,000.00
Net loss	—	—	—	—	—	—	(160,136)	(160,136)
Balance at December 31, 2003 (audited)	0	0	0	250,487	250	499,750	(160,136)	339,864
Issuance of common stock	—	—	—	2,254,389	2,254	4,497,746	—	4,500,000
Issuance of common stock for services				256,749	257	438,582	—	438,839
Fair value of options/warrants issued for nonemployee services	—	—	—	—	—	264,277	—	264,277
Net loss	—	—	—	—	—	—	(5,687,297)	(5,687,297)
Balance at December 31, 2004 (audited)	—	—	—	2,761,625	2,761	5,700,355	(5,847,433)	(144,317)
Issuance of Series A convertible preferred stock (net of expenses of $1,340,263 and warrant cost of $1,682,863)	4,197,946	15,076,733	—	—	—	—	—	—
Fair value of warrants to purchase Series A convertible preferred stock	—	—	1,682,863	—	—	—	—	—
Issuance of Common stock to EasyWeb Shareholders	—	—	—	189,922	190	(190)	—	—
Conversion of Series A convertible preferred stock @ $0.001 into $0.001 common stock on September 13, 2005 at an exchange ratio of .500974	(4,197,946)	(15,076,733)	(1,682,863)	4,197,823	4,198	16,755,398	—	16,759,596
Issuance of common stock for options	—	—	—	98,622	99	4,716	—	4,815
Fair value of options/warrants issued for nonemployee services	—	—	—	—	—	98,755	—	98,755
Net loss	—	—	—	—	—	—	(9,516,923)	(9,516,923)
Balance at December 31, 2005 (audited)	—	—	—	7,247,992	7,248	22,559,034	(15,364,356)	7,201,926
Issuance of common stock in private placement, net of expenses $2,719,395	—	—	—	7,991,256	7,991	21,179,568	—	21,187,559
Issuance of warrants	—	—	—	—	—	13,092,561	—	13,092,561
Issuance of common stock for services rendered	—	—	—	25,000	25	106,225	—	106,250
Stock based compensation for employees	—	—	—	—	—	2,424,186	—	2,424,186
Net loss	—	—	—	—	—	—	(12,038,252)	(12,038,252)
Balance at September 30, 2006 (unaudited)	—	$ —	$ —	15,264,248	$ 15,264	$59,361,574	$ (27,402,608)	$ 31,974,230

Item 1. UNAUDITED FINANCIAL STATEMENTS…. CONTINUED

ZIOPHARM Oncology, Inc.
Notes to Unaudited Financial Statements
For the three and nine months ended September 30, 2006 and 2005

1. BASIS OF PRESENTATION AND OPERATIONS

The financial statements included herein have been prepared by ZIOPHARM Oncology, Inc. ("ZIOPHARM" or the "Company") without audit, pursuant to the rules and regulations of the Securities and Exchange Commission. Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been condensed or omitted pursuant to such rules and regulations. In the opinion of management, the accompanying unaudited financial statements include all adjustments (consisting of normal recurring adjustments) necessary to present fairly the financial position, results of operations and cash flows of the Company at the dates and for the periods indicated. The unaudited financial statements included herein should be read in conjunction with the audited financial statements and the notes thereto included in ZIOPHARM Oncology, Inc.'s Form 10-KSB filed on March 20, 2006 for the fiscal year ended December 31, 2005.

ZIOPHARM is a development stage biopharmaceutical company that seeks to acquire, develop and commercialize, on its own or with other commercial partners, products for the treatment of important unmet medical needs in cancer.

The Company has operated at a loss since its inception in 2003 and has no revenues. The Company anticipates that losses will continue for the foreseeable future. At September 30, 2006, the Company's accumulated deficit was approximately $27.4 million. The Company's ability to continue operations after its current cash resources are exhausted depends on its ability to obtain additional financing and achieve profitable operations, as to which no assurances can be given. Cash requirements may vary materially from those now planned because of changes in the focus and direction of our research and development programs, competitive and technical advances, patent developments or other developments. Additional financing will be required to continue operations after we exhaust our current cash resources and to continue our long-term plans for clinical trials and new product development.

On May 3, 2006, pursuant to Subscription Agreements (the "Subscription Agreements") between the Company and certain institutional and other accredited investors, the Company completed the sale of an aggregate of 7,991,256 shares (the "Shares") of the Company's common stock at a price of $4.63 per Share in a private placement (the "2006 Offering"). In addition to the Shares, the Company also issued to each investor a five-year warrant (each a "Warrant") to purchase, at an exercise price of $5.56 per share, an additional number of shares of common stock equal to 30 percent of the Shares purchased by such investor in the 2006 Offering. In the aggregate, these Warrants entitle investors to purchase an additional 2,397,392 shares of common stock. The Company estimated the fair value of these warrants at $9,575,958 using the Black-Scholes model, using an assumed risk-free rate of 5.01% and an expected life of 5 years, volatility of 100% and a dividend yield of 0%. The total gross proceeds resulting from the 2006 Offering was approximately $37 million, before deducting selling commissions and expenses. Following the completion of 2006 Offering, the Company has 15,264,248 shares of common stock outstanding.

The Company engaged Paramount BioCapital, Inc. ("Paramount") and Griffin Securities, Inc. (together, the "Placement Agents") as co-placement agents in connection with the 2006 Offering. In consideration for their services, the Company paid the Placement Agents and certain selected dealers engaged by the Placement Agents and their designees aggregate cash commissions of $2,589,966 (of which $1,726,644 was paid to Paramount; see Note 4 - Related Party Transactions) and issued 7-year warrants to the Placement Agents and their designees to purchase an aggregate of 799,126 shares of the Company's common stock (10 percent of the Shares sold in the 2006 Offering) at an exercise price of $5.09 per share (the "Placement Agent Warrants"). The Company estimated the fair value of these warrants at $3,516,603 using the Black-Scholes model, using an assumed risk-free rate of 5.01% and an expected life of 7 years, volatility of 100% and a dividend yield of 0%. The Company made reimbursements of $100,000 to the Placement Agents for their accountable expenses incurred in connection with the 2006 Offering.

Pursuant to the Offering, the Company agreed to use its best efforts to (i) file a registration statement covering the resale of the Shares and the common stock issuable upon exercise of the Warrants and Placement Agent Warrants within 30 days following the closing date of the 2006 Offering, and (ii) use its reasonable commercial efforts to cause the registration statement to be effective within 120 days after such final closing date.

With respect to each investor in the 2006 Offering, the Company also agreed to use its reasonable commercial efforts to cause the registration statement to remain effective until the earliest of (i) the date on which the investor may sell all of the Shares and shares issuable upon exercise of the Warrants then held by the investor pursuant to Rule 144(k) of the Securities Act of 1933 without regard to volume restrictions; and (ii) such time as all of the securities held by the investor and registered under the Registration Statement have been sold pursuant to a registration statement, or in a transaction exempt from the registration and prospectus delivery requirements of the Securities Act of 1933 under Section 4(1) thereof so that all transfer restrictions and restrictive legends are removed upon the consummation of such sale. The Placement Agents have been afforded equivalent registration rights as the investors in the 2006 Offering with respect to the shares issuable upon exercise of the Placement Agent Warrants. On May 19, 2006, the Company filed a registration statement on form S-3 with the Securities and Exchange Commission. The registration statement was declared effective on May 30, 2006, rendering the resale of the shares issued in the May 3, 2006 Offering registered under the Securities Exchange Act of 1933.

On August 3, 2005 the Company entered into an Agreement and Plan of Merger dated as of August 3, 2005 (the “Merger Agreement”) with EasyWeb, Inc., a Delaware corporation (“EasyWeb”), and ZIO Acquisition Corp., a Delaware corporation and wholly owned subsidiary of EasyWeb (“ZIO Acquisition”). EasyWeb was a company that was incorporated in September 1998 and had been in the business of designing, marketing, selling and maintaining customized and template turnkey sites on the Internet that are hosted by third parties. At the time of the Merger (as defined below), however, EasyWeb had no operating business and had limited assets and liabilities. Pursuant to the Merger Agreement, ZIO Acquisition merged with and into ZIOPHARM, with ZIOPHARM remaining as the surviving company and a wholly-owned subsidiary of EasyWeb (the “Merger”). In connection with the Merger, which was effective as of September 13, 2005, ZIO Acquisition ceased to exist and the surviving company changed its corporate name to ZIOPHARM, Inc. Based upon an Exchange Ratio, as defined in the Merger Agreement, in exchange for all of their shares of capital stock in ZIOPHARM, the ZIOPHARM Stockholders received a number of shares of Common Stock of EasyWeb such that, upon completion of the Merger, the then-current ZIOPHARM Stockholders held approximately 96.8% of the outstanding shares of Common Stock of EasyWeb on a fully-diluted basis. Upon completion of the Merger, EasyWeb ceased all of its remaining operations and adopted and continued implementing the business plan of ZIOPHARM. Further, effective upon the Merger, the then current officers and directors of EasyWeb resigned, and the then current officers and directors of ZIOPHARM were appointed officers and directors of EasyWeb and EasyWeb changed its name to ZIOPHARM Oncology, Inc. In conjunction with the Merger, ZIOPHARM made payments of approximately $425,000 in September 2005 to certain affiliates of EasyWeb. Subsequently, on September 14, 2005 ZIOPHARM merged with and into EasyWeb and EasyWeb changed its name to ZIOPHARM Oncology, Inc.

Although EasyWeb was the legal acquirer in the transaction, ZIOPHARM became the registrant with the Securities and Exchange Commission. Under generally accepted accounting principles, the transaction was accounted for as a reverse acquisition, whereby ZIOPHARM was considered the acquirer of EasyWeb for financial reporting purposes because ZIOPHARM's stockholders controlled more than 50% of the post-transaction combined entity, the management and the board were that of ZIOPHARM after the transaction, EasyWeb had no operating activity and limited assets and liabilities as of the transaction date, and the continuing operations of the entity are those of ZIOPHARM.

Accordingly, the equity of EasyWeb has been adjusted to reflect a recapitalization of the stock and the equity of ZIOPHARM has been adjusted to reflect a financing transaction with the proceeds equal to the net asset value of EasyWeb immediately prior to the Merger. The historical financial statements of ZIOPHARM have become the historical financial statements of the Company. The historical stockholders' equity has been retroactively restated to adjust for the exchange of shares pursuant to the Merger Agreement. All share and per share information included in the accompanying financial statements and notes give effect to the exchange, except as otherwise stated.

On June 6, 2005, the Company completed an offering (the "2005 Offering") of Series A Convertible Preferred Stock ("Series A Preferred Stock"). The Company issued 4,197,944 shares at $4.31 for gross proceeds of approximately $18.1 million. In connection with the 2005 Offering, the Company compensated Paramount, which served as placement agent for the 2005 Offering, or its affiliates for its services through the payment of (a) cash commissions equal to 7% of the gross proceeds from the sale of the shares of Series A Preferred Stock, and (b) placement warrants to acquire 419,794 shares of Series A Preferred Stock (the "Series A Stock Warrants"), exercisable for a period of 7 years from the Closing Date at a per share exercise price equal to 110% of the price per Share sold in the 2005 Offering. These commissions are also payable on additional sales by the Company of securities (other than in a public offering) to investors introduced to the Company by Paramount during the twelve (12) month period subsequent to the final closing of the 2005 Offering. The Company also paid Paramount an expense allowance of $50,000 to reimburse Paramount for its out-of-pocket expenses. Also, for a period of 36 months from the final closing of the Offering, Paramount has the right of first refusal to act as the placement agent for any private sale of the Company's securities. Lastly, the Company has agreed to indemnify Paramount against certain liabilities, including liabilities under the Securities Act.

The Company has valued the Series A Stock Warrants using the Black-Scholes model recording a cost of $1,682,863. The Company has estimated the fair value of such warrants using the Black-Scholes model, using and assumed risk-free rate of 3.93% and expected life of 7 years, volatility of 134% and dividend yield of 0%.

The results disclosed in the Statements of Operations for the three and nine months ended September 30, 2006 are not necessarily indicative of the results to be expected for the full year.

2. STOCK BASED COMPENSATION

On January 1, 2006, the Company adopted Statement of Financial Accounting Standards No. 123(R) ("SFAS 123R") Share-Based Payment, using the modified prospective method, which results in the provision of SFAS 123R only being applied to the consolidated financial statements on a going-forward basis (that is, the prior period results have not been restated). Under the fair value recognition provisions of SFAS 123R, stock-based compensation cost is measured at the grant date based on the value of the award using the Black Scholes Model and is recognized as expense over the service period. Previously, the Company had followed Accounting Principles Board (APB) Opinion No. 25, *Accounting for Stock Issued to Employees*, and related interpretations which resulted in account for employee share options at their intrinsic value in the financial statements.

The Company recognized the full impact of its share-based payment plans in the statements of operations for the three and nine months ended September 30, 2006 under SFAS 123R and did not capitalize any such costs on the balance sheets. The following table presents share-based compensation expense included in the Company's statement of operations:

	Three months ended September 30, 2006	Nine months ended September 30, 2006
Research and development, including costs of research contracts	$ 101,928	$ 266,174
General and administrative	228,535	2,158,012
Share based compensation expense before tax	330,463	2,424,186
Income tax benefit	—	—
Net compensation expense	$ 330,463	$ 2,424,186

Stock Based Compensation… *continued*

The adoption of SFAS 123R resulted in incremental stock-based compensation expense of $330,463 and $2,424,186 for the three and nine months ended September 30, 2006 respectively, which caused the Company's net loss to increase by $330,463 and $2,424,186 and its net loss per share to increase by $0.03 and $0.21 per share for the three and nine months ended September 30, 2006, respectively. The adoption had no impact on cash used in operating activities or cash provided by financing activities.

The Company had previously adopted the provisions of SFAS No. 123, *Accounting for Stock-Based Compensation ("SFAS 123")*, as amended by SFAS No. 148, *Accounting for Stock-Based Compensation - Transition and Disclosure*, through disclosure only. SFAS 123 required the measurement of the fair value of stock option or warrants granted to employees to be included in the statement of operations or alternatively, disclosed in the notes to the financial statements. The Company previously accounted for stock-based awards to employees using the intrinsic value method as prescribed by Accounting Principles Board (APB) Opinion No. 25, *Accounting for Stock Issued to Employees* , and related interpretations, and had elected the disclosure only alternative under SFAS 123. All stock-based awards to nonemployees were accounted for at their fair value in accordance with SFAS 123 and Emerging Issues Task Force (EITF) 96-18, *Accounting for Equity Instruments that are Issued to Other than Employees for Acquiring, or in Conjunction with Selling, Goods or Services* . The Company had recorded the fair value of each stock option issued to non-employees as determined at the date of grant using the Black-Scholes option pricing model.

The following table illustrates the effect on net loss and earnings per share if the company had applied the fair value recognition provisions of SFAS 123 to stock based awards for the three and nine month periods ended September 30, 2005:

	Three months ended September 30, 2005	**Nine months ended September 30, 2005**
Net loss:	$ (2,766,117)	$ (7,055,807)
As reported		
Stock-based compensation expense included in reported net loss	—	—
Stock-based compensation expense under the fair value-based method	(176,297)	(340,197)
Pro forma net loss	$ (2,942,414)	$ (7,396,004)
Basic and diluted net loss per share:		
As reported	$ (0.77)	$ (2.32)
Pro forma	$ (0.82)	$ (2.43)

3. CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' EQUITY

On December 31, 2005 the Company has authorized capital of 280,000,000 shares which has been designated as Common Stock. On April 26, 2006, the date of the Company's annual stockholders meeting, the shareholders approved the adoption of an Amended and Restated Certificate of Incorporation pursuant to which the Company has 280,000,000 shares of authorized capital stock, of which 250,000,000 shares are designated as common stock, par value $.001 per share (the "Common Stock"), and 30,000,000 shares are designated as preferred stock, par value $.001 per share (the " Preferred Stock").

Common Stock of ZIOPHARM, Inc.

In September 2003, the Company issued 2,000,000 (before the split discussed below and pre-Merger) shares of Common Stock at $0.25 per share for gross proceeds of $500,000.

In January 2004, the Company issued 18,000,000 (before the split discussed below and pre-Merger) shares of Common Stock at $0.25 per share for gross proceeds of $4,500,000.

In February 2004, the Company amended its articles of incorporation to provide for the combination of the Company's common stock, par value $0.001 per share on a 1-for-4 basis (all other share amounts presented reflect the reverse split).

On June 6, 2005, the Company completed the 2005 Offering (see Note 1). As a result of the Merger, all shares of the Series A Preferred Stock were automatically converted into the number of shares of Common Stock that the holders of Series A Preferred Stock would have received if their shares of Series A Preferred Stock had been converted into Common Stock immediately prior to the Merger.

As discussed in Note 1, on May 3, 2006, pursuant to Subscription Agreements (the "Subscription Agreements") between the Company and certain institutional and other accredited investors, the Company completed the sale of an aggregate of 7,991,256 shares (the "Shares") of the Company's common stock at a price of $4.63 per Share in a private placement (the "2006 Offering"). The total gross proceeds resulting from the 2006 Offering was approximately $37 million, before deducting selling commissions and expenses. Following the completion of the 2006 Offering, the Company has 15,264,248 shares of common stock outstanding.

Convertible Preferred Stock of ZIOPHARM, Inc.

Voting Rights

The holders of Series A Preferred Stock would have been entitled to vote together with all other holders of the Company's voting stock on an "as-converted" basis on all matters submitted to a vote of holders generally. The holders of Series A Preferred Stock, voting as a separate class, would also have had the right to approve by a 66% supermajority certain actions proposed to be taken by the Company.

Dividend Rights

The holders of Series A Preferred Stock had been entitled to receive dividends on an equal basis with the holders of Common Stock when, as and if declared by the Board of Directors.

Liquidation Preferences

The Series A Preferred Stock would have rank senior to the Common Stock and any future class of junior securities, and would have been entitled to a liquidation preference equal to the Stated Value, subject to adjustment (as defined in the Certificate of Designations for the Series A Preferred Stock), upon any liquidation, dissolution or winding up of the Company or upon a voluntary or involuntary bankruptcy of the Company.

Conversion Rights

Each share of Series A Preferred Stock would have been convertible into Common Stock at any time at the option of the holder thereof (the Series A Preferred Stock and the Common Stock issuable upon conversion of the Series A Preferred Stock are sometimes herein collectively referred to as the "Securities"). All of the outstanding shares of Series A Preferred Stock would have automatically convert into Common Stock upon the first date (the "Trading Date") on which the Common Stock (or securities received in exchange for Common Stock) trades on a national securities exchange or on NASDAQ, including the Over the Counter Bulletin Board (a "Trading Event"). The rate at which shares of Series A Preferred Stock will convert into Common Stock will initially be one-for-one, subject to adjustment in connection with certain anti-dilution protections and other adjustments.

4. RELATED PARTY TRANSACTIONS

The Company had engaged Paramount to assist in placing shares of Series A Preferred Stock in the 2005 Offering on a "best efforts" basis. Lindsay A. Rosenwald, M.D. is Chairman and Chief Executive Officer of Paramount. Dr. Rosenwald is also the managing member of Horizon BioMedical Ventures, LLC ("Horizon"). On December 30, 2004, Horizon authorized the distribution of 2,428,910 shares of Common Stock (such shares, the "Horizon Distributed Shares"), in equal installments of 1,214,455 shares of Common Stock, to Mibars, LLC ("Mibars") and to Dr. Rosenwald and his designees (the "Designated Shares"). The disposition of the Designated Shares will be subject to certain restrictions as agreed to among Dr. Rosenwald and Dr. Rosenwald's designees. Among other things, under certain circumstances set forth in pledge agreements between Dr. Rosenwald and his designees, Dr. Rosenwald has the right to re-acquire the Designated Shares from his designees. As a result of those rights, Dr. Rosenwald may be deemed to be an affiliate of the Company.

In connection with the December 22, 2004 Option Agreement with Southern Research Institute ("SRI"), the Company entered into a Finders Agreement, dated December 23, 2004, with Paramount pursuant to which the Company had agreed to compensate Paramount, for services in connection with the Company's introduction to SRI through the payment of (a) a cash fee of $60,000 and (b) warrants to purchase 62,621 shares of the Company's Common Stock at a price equal to $4.75 per share. The Company has estimated the fair value of such warrants using the Black-Scholes model, using an assumed risk-free rate of 3.93%, and expected life of 7 years, volatility of 134% and dividend yield of 0%. In December 2004, the Company expensed the $60,000 that was payable to Paramount and recognized compensation expense in the amount of $251,037 for the issuance of the warrants.

In connection with the 2005 Offering, the Company and Paramount entered into an Introduction Agreement in January 2005 (the "Introduction Agreement"), pursuant to which the Company agreed to compensate Paramount for its services in connection with the 2005 Offering through the payment of (a) cash commissions equal to 7% of the gross proceeds from the sale of the shares of Series A Preferred Stock, and (b) placement warrants to acquire a number of shares of Series A Preferred Stock equal to 10% of the number of shares of Series A Preferred Stock issued in the 2005 Offering, exercisable for a period of 7 years from the Closing Date at a per Share exercise price equal to 110% of the price per Share sold in the 2005 Offering. These commissions are also payable on additional sales by the Company of securities (other than in a public offering) to investors introduced to the Company by Paramount during the twelve (12) month period subsequent to the final closing of the 2005 Offering. The Company also agreed to pay to Paramount a non-accountable expense allowance of $50,000 to reimburse the Paramount for its out-of-pocket expenses. Also, for a period of 36 months from the final closing of the 2005 Offering, Paramount has the right of first refusal to act as the placement agent for the private sale of the Company's securities. Lastly, the Company has agreed to indemnify Paramount against certain liabilities, including liabilities under the Securities Act.

In connection with the 2006 Offering, on May 3, 2006, the Company paid Paramount a cash commissions equal to 7% of the gross proceeds from the sale of the Shares sold by Paramount in the 2006 Offering, resulting in a cash payment of approximately $1,726,644. In addition, the Company issued 7-year warrants to the Placement Agents and their designees to purchase an aggregate of 799,126 shares (10 percent of the Shares sold in the Offering) of the Company's common stock, of which 532,750 at an exercise price of $5.09 per share (the "Placement Agent Warrants").

Dr. Michael Weiser and Mr. Timothy McInerney, who are both members of the Board of Directors of the Company, are also full-time employees of Paramount .

5. STOCK OPTION PLAN

The Company has adopted the 2003 Stock Option Plan (the "Plan"), under which the Company had reserved for the issuance of 1,252,436 shares of its Common Stock as of September 30, 2006. The Plan was approved by the Company's stockholders on December 21, 2004. On April 26, 2006, the date of the Company's annual stockholders meeting, the shareholders approved an amendment to the Plan increasing the total shares reserved by 750,000 shares, for a total of 2,002,436 shares.

As of September 30, 2006, there were 1,656,630 shares that are issuable under its 2003 Stock Option Plan upon exercise of outstanding options to purchase Common Stock. As of September 30, 2006, the Company had issued to our employees outstanding options to purchase up to 1,476,206 shares of the Company's Common Stock. In addition, the Company has issued to our directors options to purchase up to 180,174 shares of the Company's Common Stock, as well as options to a consultant in connection with services rendered to purchase up to 250 shares of the Company's Common Stock. The Company had estimated the fair value of the options issued to the consultant using the Black-Scholes model, using an assumed risk-free rate of 4.23%, and expected life of 10 years, volatility of 134% and dividend yield of 0%. The options issued to the consultant were valued at $1,050, and recorded as a charge to compensation expense in December 2004.

Stock Option Plan... *continued*

Currently, stock options are granted with an exercise price equal to the closing market price of the Company's common stock on the day before the date of grant. Stock options to employees generally vest ratably over three years and have contractual terms of ten years. Stock options to directors generally vest ratably over two years and have contractual terms of ten years. Stock options are valued using the Black-Scholes option valuation method and compensation is recognized based on such fair value over the period of vesting on a straight-line basis. The Company has also reserved an aggregate of 70,934 additional shares for issuance under options granted outside of the 2003 Stock Option Plan.

During three and nine months ended September 30, 2006, the Company granted 68,750 and 705,930 options, respectively. Also during the three and nine months ended September 30, 2006 the Company cancelled 22,939 and no options, respectively while no options were exercised, under the 2003 Stock Option plan, in this period. In addition, 91.718 shares were exercised in the nine months ended September 30, 2005. Proceeds from the 2005 exercises amounted to $4,676 and the intrinsic value of these options amounted to $286,119. The fair value of each option award is estimated on the date of grant using the Black-Scholes option-pricing model. Assumptions regarding volatility, expected term, dividend yield and risk-free interest rate are required for the Black-Scholes model. Volatility and expected term assumptions are based on comparable Company's historical experience. The risk-free interest rate is based on a U.S. treasury note with a maturity similar to the option award's expected life. The assumptions are as follows, for volatility is 101%, expected life of approximately 5 years, a dividend yield of 0% and a risk-free interest rate of 5.01%.

Stock option activity under the Company's stock plan for the nine-month period ended September 30, 2006 was as follows:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Outstanding, January 1, 2006	973,639	$ 2.56		
Granted	705,930	5.02		
Exercised	—	—		
Canceled	22,939	4.19		
Outstanding, September 30, 2006	1,656,630	$ 3.56	8.76	$ 2,679,983
Options exercisable, September 30, 2006	942,097	$ 3.43	8.68	$ 1,622,360

Stock options granted in the nine months ended September 30, 2006 and 2005, had weighted average grant date fair values of $3.89 and $1.98, respectively. At September 30, 2006, total unrecognized compensation costs related to non-vested stock options outstanding amounted to $1,445,000. The cost is expected to be recognized over a weighted-average period of 1.26 years.

6. WARRANTS

The Company issued warrants to purchase 62,621 shares of the Company's Common Stock to Paramount as compensation for services rendered in connection with our entering into an option agreement with Southern Research Institute. In connection with the warrants issued, the Company recorded a charge of $251,037 to general and administrative expense. The Company has estimated the fair value of such warrants using the Black-Scholes model, using an assumed risk-free rate of 3.93%, and expected life of 7 years, volatility of 134% and dividend yield of 0%.

In 2005, the Company also issued performance warrants to purchase 50,000 shares of the Company's Common Stock for services to be rendered to its investor relations consultant as compensation. In connection with the warrant issuance, 12,500 shares are exercisable immediately and the Company recorded a charge of $44,640 to general and administrative expense in the year ended December 31, 2005. The Company had estimated the fair value of such warrants using the Black-Scholes model, using an assumed risk-free rate of 4.39%, and expected life of 5 years, volatility of 109% and dividend yield of 0%. The remaining warrants vest in increments of 12,500, 12,500 and 12,500 based on certain performance objectives.

As discussed in Note 1, in connection with the 2005 Offering, the Company compensated Paramount, the placement agent for the 2005 Offering, or its affiliates for its services through the payment of placement warrants to acquire 419,794 shares of Series A Preferred Stock (the "Series A Stock Warrants"), exercisable for a period of 7 years from the closing date of the 2005 Offering at a per share exercise price equal to 110% of the price per share sold in the 2005 Offering. The Company valued the Series A Stock Warrants using the Black-Scholes model and recorded a charge of $1,682,863 against additional paid-in capital. The Company had estimated the fair value of the Series A Stock Warrants using the Black-Scholes model, using an assumed risk-free rate of 3.93% and expected life of 7 years, volatility of 134% and dividend yield of 0%.

As discussed in Note 1, on May 3, 2006, as part of the 2006 Offering, the Company issued warrants to purchase 2,397,392 shares of common stock to investors and 799,126 warrants to purchase common stock to the Placement Agents and their designees. The Company estimated the fair value of the warrants at $9,575,958 and $3,516,603, respectively, using the Black-Scholes model, using an assumed risk-free rate of 5.01% and an expected life of 5 and 7 years, volatility of 100% and a dividend yield of 0%. The fair value of the warrants was recorded as a permanent component of shareholder's equity.

7. SUBSEQUENT EVENTS

On November 3, 2006, the Company signed a definitive Asset Purchase Agreement and License Agreement to acquire indibulin from affiliates of Baxter Healthcare Corporation. Indibulin, referred to by the Company as ZIO-301, is a novel anti-cancer agent that binds to tubulin, one of the essential proteins for chromosomal segregation, and targets mitosis like the taxanes and *Vinca* alkaloids. It is available as both an oral and a proprietary nanosuspension intravenous form. Molecules that target mitosis and inhibit cell division (antimitotic agents) are a major focus of cancer research and they are amoung the most widely used anti-cancer drugs in oncology today. Among the more well known antimitotic drugs are the taxanes (paclitaxel, docetaxel) and the *Vinca* alkaloids (vincristine, vinblastine). The terms of the agreement include an upfront cash payment of approximately $1.25 million with follow-on milestone cash payments that could amount to just over $7 million in the aggregate and royalties on net sales typical of a product at this stage of development. The purchase price includes the entire indibulin intellectual property portfolio as well as existing drug substance and capsule inventories.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OR PLAN OF OPERATION.

Note Regarding Forward-Looking Statements

This Quarterly Report on Form 10-QSB contains statements that are not historical, but are forward-looking in nature, including statements regarding the expectations, beliefs, intentions or strategies regarding the future. In particular, the "Management's Discussion and Analysis or Plan of Operation" section in Part I, Item 2 of this Quarterly Report includes forward-looking statements that reflect our current views with respect to future events and financial performance. We use words such as we "expect," "anticipate," "believe," and "intend" and similar expressions to identify forward-looking statements. A number of important factors could, individually or in the aggregate, cause actual results to differ materially from those expressed or implied in any forward-looking statements. Such factors include, but are not limited to, our ability to successfully develop or commercialize our product candidates, our ability to obtain additional financing, our ability to develop and maintain customer relationships, regulatory developments relating to and the general success of our customers' products, and our ability to protect our proprietary technology. Other risks are described under the section entitled "Risk Factors" in our Current Report on Form 10-KSB filed on March 20, 2006.

Overview:

ZIOPHARM Oncology, Inc. is a biopharmaceutical company that is seeking to develop and commercialize a diverse, risk-sensitive portfolio of in-licensed cancer drugs that address unmet medical needs. Our principal focus is on the licensing and development of proprietary drug candidate families that are related to cancer therapeutics that are already on the market or in development. We believe this strategy will result in lower risk and expedited drug development programs. We expect to commercialize our products on our own in North America but recognize that promising clinical trial results in cancers with a high incidence and prevalence might also be addressed in a commercial partnership with another company with the requisite financial resources. Currently, we are in U.S. phase I and I/II studies for two product candidates known as ZIO-101 and ZIO-201:

- ZIO-101 is an organic arsenic compound covered by issued U.S. patents and applications internationally. A form of commercially available inorganic arsenic (arsenic trioxide (Trisenox®) or ATO) has been approved for the treatment of acute promyelocytic leukemia (APL), a precancerous condition, and is on the compendia listing for the therapy of multiple myeloma as well as having been studied for the treatment of various other cancers. Nevertheless, ATO has been shown to be toxic to the heart, liver, and brain, limiting its use as an anti-cancer agent. Inorganic arsenic has also been shown to cause cancer of the skin and lung in humans. The toxicity of arsenic generally is correlated to its accumulation in organs and tissues. Our preclinical and phase I clinical studies to date have demonstrated that ZIO-101 (and organic arsenic in general) is considerably less toxic than inorganic arsenic, particularly with regard to heart toxicity. In vitro testing of ZIO-101 using the National Cancer Institute's human cancer cell panel detected activity against lung, colon, brain, melanoma, ovarian and kidney cancer. Moderate activity was detected against breast and prostate cancer. In addition to solid tumors, in vitro testing in both the National Cancer Institute's cancer cell panel and in vivo testing in a leukemia animal model demonstrated substantial activity against hematological cancers (cancers of the blood and blood-forming tissues) such as leukemia, lymphoma, myelodysplastic syndromes and multiple myeloma.

Phase I testing of the intravenous (IV) form of ZIO-101 is ongoing with two safety and dose finding studies. The Company has seen encouraging signs of clinical activity in both of these studies.. The Company has progressed an ongoing phase I/II study in advanced multiple myeloma designed to determine maximum tolerated dose and to assess clinical activity in this specific indication. The Company expects to pursue registration in the U.S. for the treatment of advanced multiple myeloma with a potentially pivotal trial to begin in late 2007. The Company also expects to initiate additional phase II studies in other hematological and solid tumor cancers while also exploring different dosing schedules and to file a U.S. Investigational New Drug Application for the clinical study of an oral form of ZIO-101.

· ZIO-201, or isophosphoramide mustard (IPM), is a proprietary stabilized metabolite of ifosfamide that is also related to cyclophosphamide. A patent application for pharmaceutical composition has been filed. Cyclophosphamide and ifosfamide are alkylating agents. The Company believes cyclophosphamide is the most widely used alkylating agent in cancer therapy and is used to treat breast cancer and non-Hodgkin's lymphoma. Ifosfamide has been shown to be effective in high dose by itself, or in combination in treating sarcoma and lymphoma. Although ifosfamide-based treatment generally represents the standard of care for sarcoma, it is not licensed for this indication by the Food and Drug Administration. Our preclinical studies have shown that, in animal and laboratory models, IPM evidences activity against leukemia and solid tumors. These studies also indicate that ZIO-201 has a better pharmacokinetic and safety profile than ifosfamide or cyclophosphamide, offering the possibility of safer and more efficacious therapy with ZIO-201. Ifosfamide is metabolized to IPM. In addition to IPM, another metabolite of ifosfamide is acrolein, which is toxic to the kidneys and bladder. The presence of acrolein can mandate the administration of a protective agent called mesna, which is inconvenient and expensive. Chloroacetaldehyde is another metabolite of ifosfamide and is toxic to the central nervous system, causing "fuzzy brain" syndrome for which there is currently no protective measure. Similar toxicity concerns pertain to high-dose cyclophosphamide, which is widely used in bone marrow and blood cell transplantation. Because ZIO-201 is independently active without acrolein or chloroacetaldehyde metabolites, the Company believes that the administration of ZIO-201 may avoid many of the toxicities of ifosfamide and cyclophosphamide without compromising efficacy. In addition to anticipated lower toxicity, ZIO-201 (and without the co-administration of mesna) may have other advantages over ifosfamide. In preclinical studies ZIO-201 likely cross-links DNA differently than ifosfamide or cyclophosphamide metabolites, resulting in a different activity profile. Moreover, in some instances ZIO-201 appears to show activity in ifosfamide- and/or cyclophosphamide-resistant cancer cells.

Phase I testing of the IV form of ZIO-201 is ongoing at two sites in the U.S. IPM has been administered without the "uroprotectant" mesna and the toxicities associated with acrolein and chloroacetaldehyde have not been observed. Electrolyte inbalances seen with ifosfamide have occurred in the higher dose cohorts. The Company has seen encouraging signs of clinical activity in the phase I study. The Company initiated a phase I/II trial in advanced sarcoma designed to determine maximum tolerated dose and to assess clinical activity in this specific indication. The Company expects to pursue registration in the U.S. for the treatment of advanced sarcoma with a potentialy pivotal trial to begin in late 2007. The Company also expects to initiate additional phase II studies in other cancers and using different dosing schedules and routes of administration and to file a U.S. Investigational New Drug Application for an oral form of ZIO-201.

Although we intend to continue with clinical development of ZIO-101 for advanced myeloma and ZIO-201 for advanced sarcoma, the successful development of our product candidates is highly uncertain. Product development costs and timelines can vary significantly for each product candidate and are difficult to accurately predict. Various statutes and regulations also govern or influence the manufacturing, safety, labeling, storage, record keeping and marketing of each product. The lengthy process of seeking these approvals, and the subsequent compliance with applicable statutes and regulations, require the expenditure of substantial resources. Any failure by us to obtain, or any delay in obtaining, regulatory approvals could materially adversely affect our business. To date, we have not received approval for the sale of any drug candidates in any market and, therefore, have not generated any revenues from our drug candidates.

On November 3, 2006, the Company signed a definitive Asset Purchase Agreement and License Agreement to acquire indibulin from affiliates of Baxter Healthcare Corporation. Indibulin, referred to by the Company as ZIO-301, is a novel anti-cancer agent that binds to tubulin, one of the essential proteins for chromosomal segregation, and targets mitosis like the taxanes and *Vinca* alkaloids. It is available as both an oral and a proprietary nanosuspension intravenous form. Molecules that target mitosis and inhibit cell division (antimitotic agents) are a major focus of cancer research and they are amoung the most widely used anti-cancer drugs in oncology today. Among the more well known antimitotic drugs are the taxanes (paclitaxel, docetaxel) and the *Vinca* alkaloids (vincristine, vinblastine). The terms of the agreement include an upfront cash payment of approximately $1.25 million with follow-on milestone cash payments that could amount to just over $7 million in the aggregate and royalties on net sales typical of a product at this stage of development. The purchase price includes the entire indibulin intellectual property portfolio as well as existing drug substance and capsule inventories.

We were originally incorporated in Colorado in September 1998 (under the name Net Escapes, Inc.) and later changed our name to “EasyWeb, Inc.” in February 1999. We were re-incorporated in Delaware on May 16, 2005 under the same name. On September 13, 2005, we completed a “reverse” acquisition of privately held ZIOPHARM, Inc., a Delaware corporation. To effect this transaction, we caused ZIO Acquisition Corp., our wholly-owned subsidiary, to merge with and into ZIOPHARM, Inc., with ZIOPHARM, Inc. surviving as our wholly owned subsidiary. In accordance with the terms of the merger, the outstanding common stock of ZIOPHARM, Inc. automatically converted into the right to receive an aggregate of approximately 97.3% of our outstanding common stock (after giving effect to the transaction). Following the merger, we caused ZIOPHARM, Inc. to merge with and into us and we changed our name to “ZIOPHARM Oncology, Inc.”

Plan of Operation

Our plan of operation for the next twelve months, is to continue implementing our business strategy, including the clinical development of our two lead product candidates, ZIO-101, ZIO-201 and the newly acquired ZIO-301. We also intend to expand our drug candidate portfolio by seeking additional drug candidates through in-licensing arrangements. We expect our principal expenditures during those 12 months to include:

- Fees and milestone payments required under the license agreements relating to our existing product candidates and additional in-licensed candidates;
- Clinical trial expenses, including the costs incurred with respect to the conduct of clinical trials for ZIO-101 and ZIO-201, ZIO-301, and preclinical costs associated with back-up candidates ZIO-102 and ZIO-202;
- Costs related to the scale-up and manufacture of ZIO-101, ZIO-201, and ZIO-301;
- Rent for our facilities; and
- General corporate and working capital, including general and administrative expenses.

As part of our plan for additional employees, we anticipate hiring several additional full-time employees in the medical, regulatory, clinical and finance functions. In addition, we intend to use senior advisors, consultants, clinical research organizations and third parties to perform certain aspects of product development, manufacturing, clinical and preclinical development, and regulatory and quality assurance functions.

At our current and desired pace of clinical development of ZIO-101, ZIO-201, newly acquired ZIO-301, and other back-up candidates and ongoing in-licensing efforts over the next 12 months we expect to spend approximately $3.1 million on preclinical and regulatory expenses, $16.8 million on clinical expenses (including clinical trials and milestone payments that we expect to be triggered under the license agreements relating to our product candidates), approximately $3.2 million on manufacturing costs, approximately $475,000 on facilities, rent (including additional space not presently contracted) and other facilities related costs, and approximately $3.4 million on general corporate and working capital. We believe that we currently have sufficient capital to fund development and commercialization activities of ZIO-101 and ZIO-201, as well as newly acquired ZIO-301, into the early part of the fourth quarter of 2007 with the proceeds, and interest earned herin, from the common stock offering received on May 3, 2006.

Product Candidate Development and Clinical Trials

ZIO-101. ZIO-101, organic arsenic, is being developed presently to treat advanced myeloma. As a follow-on to the ongoing phase I trials, a phase I/II trial in advanced multiple myeloma was initiated in January 2006. We will continue to explore the use of ZIO-101 in hematological and solid tumors as well as exploring different dosing schedules and forms. Preclinical development will continue with a back-up compound designated as ZIO-102. Additional compounds are being synthesized under our agreement with The University of Texas M.D. Anderson Cancer Center and the Texas A&M University System. Technology transfer and scale-up for the commercial manufacture of the active pharmaceutical ingredient, its lyophilization, and final product specification will continue through the period leading to the expected registration trial in late 2007. Preclinical development will continue with additional compounds.

ZIO-201. ZIO-201, stabilized isophosphoramide mustard, is being developed presently to treat advanced sarcoma. As a follow-on to the ongoing phase I trial, a phase I/II trial in advanced sarcoma was initiated and other trials, dosing schedules and forms are in the advanced planning stage. We expect to initiate a registration trial in advanced sarcoma in late 2007. Technology transfer and scale-up for the commercial manufacture of the active pharmaceutical ingredient, its lyophilization, and final product specification will continue. Preclinical development will continue with back-up analogues.

ZIO-301. ZIO-301, a novel anti-cancer agent that targets mitosis like the taxanes, is available as both an oral and a proprietary nanosuspension intravenous form. The oral form is currently in a Phase I trial, with Phase II expected to initiate in the first half of 2007 under an Investigational New Drug Application filed in the United States. The nanosuspension intravenous form is currently in late preclinical development with a Phase I trial anticipated in 2007.

Results of Operations

Revenues. We had no revenues for either of the three and nine-month periods ended September 30, 2006 and 2005.

Research and development expenses. For the three-month period ended September 30, 2006, research and development expenses increased by $779,009, or 59.1%, to $2,097,617 from $1,318,608 in the three-month period ended September 30, 2005. Increased research and development expenses in the current year period is attributable to an increase of approximately $70,000 in the cost of clinical trials and an increase of approximately $156,000 in manufacturing related costs. The increase in expenses is also attributable to an increase of approximately $102,000 in stock compensation expense related to stock options and approximately $434,000 in employee related costs. For the nine-month period ended September 30, 2006, research and development expenses increased by $2,266,299, or 53.0%, to $6,545,986 from $4,279,687 in the nine-month period ended September 30, 2005. Increased research and development expenses in the current year period is attributable to an increase of approximately $626,000 in the cost of clinical trials and an increase of approximately $427,000 in manufacturing related costs The increase in expenses is also attributable to an increase of approximately $266,000 in stock compensation expense related to stock options and approximately $787,000 in employee related costs.

General and administrative expenses. For the three month period ended September 30, 2006, general and administrative expenses increased by $290,621, or 18.9%, to $1,832,361 from $1,541,740 in the three-month period ended September 30, 2005. The increase is attributable to an increase of approximately $229,000 in stock compensation expense related to stock options, approximately $225,000 for investors relations services, approximately $118,000 in legal, accounting, and filing fee costs, approximately $40,000 in travel expenses and approximately $60,000 in employee related costs as we have built infrastructure to support the research and development efforts. These costs were offset by a decrease of $425,000 in merger related costs that were incurred in the three months ending September 30, 2005. For nine month period ended September 30, 2006, general and administrative expenses increased by $3,391,620, or 114.8%, to $6,345,450 from $2,953,830 in the nine-month period ended September 30, 2005. The increase is attributable to an increase of approximately $2,158,000 in stock compensation expense related to stock options, approximately $106,000 as compensation expense for common stock issued to an investor relations consultant, approximately $366,000 for investors relations services, approximately $202,000 in legal, accounting and filing fees, and approximately $347,000 in employee related costs as we have built infrastructure to support the research and development efforts.

Other income (expense) . Other income increased by $381,245, or 404.6%, to $475,476 in the three-month period ended September 30, 2006 from $94,231 recorded in the three-month period ended September 30, 2005. Other income during the three month periods ended September 30, 2006 and 2005, respectively, was comprised of interest income. Other income increased by $675,474, or 380.1% to $853,184 in the nine-month period ended September 30, 2006 from $177,710 recorded in the nine-month period ended September 30, 2005. Other income during the nine month periods ended September 30, 2006 and 2005, respectively, was comprised of interest income. The increase is due to higher cash balances, which was derived from the May 3, 2006 private placement, that was made available for investing purposes.

Net income (loss). For the reasons described above, the net loss increased by $688,385, or 24.9%, to $(3,454,502) in the three month period ended September 30, 2006 from $(2,766,117) for the same period of 2005. The net loss increased $(4,982,445), or 70.6%, to $(12,038,252) in the nine month period ended September 30, 2006 from $(7,055,807) for the same period of 2005.

Liquidity and Capital Resources

As of September 30, 2006, we had approximately $34.5 million in cash, cash equivalents and short-term investments. With the proceeds from our 2006 common stock offering, which was completed on May 3, 2006, we believe we currently have sufficient capital to fund development and commercialization activities of ZIO-101, ZIO-201, and ZIO-301 early into the fourth quarter of 2007. Because our business does not generate any cash flow, however, we will need to raise additional capital to continue development of the product candidates beyond that time or to fund development efforts related to new product candidates. We anticipate raising such additional capital by either borrowing money or by selling shares of our capital stock. To the extent additional capital is not available when we need it, we may be forced to abandon some or all of our development and commercialization efforts, which would have a material adverse effect on the prospects of our business. Further, our assumptions relating to the expected costs of development and commercialization and timeframe for completion are dependent on numerous factors other than available financing, including significant unforeseen delays in the clinical trial and regulatory approval process, which could be extremely costly. In addition, our estimates assume that we will be able to enroll a sufficient number of patients in each clinical trial.

The Company anticipates that losses will continue for the foreseeable future. At September 30, 2006, the Company's accumulated deficit was approximately $27.4 million. The Company has incurred significant losses from operations and has an accumulated deficit that raises substantial doubt about the Company's ability to continue as a going concern. The Company's ability to continue operations after its current cash resources are exhausted depends on its ability to obtain additional financing and achieve profitable operations, as to which no assurances can be given.

Our actual cash requirements may vary materially from those now planned because of a number of factors including:

- Changes in the focus and direction of our research and development programs, including the acquisition and pursuit of development of new product candidates;
- Competitive and technical advances;
- Costs of commercializing any of the product candidates;
- Costs of filing, prosecuting, defending and enforcing any patent claims and any other intellectual property rights; or other developments.

In order to continue our long-term plans for clinical trials and new product development, we will need to raise additional capital to continue to fund our research and development as well as operations after we exhaust our current cash resources. We expect to finance our cash needs through the sale of equity securities and possibly strategic collaborations or debt financings or through other sources that may be dilutive to existing stockholders. There can be no assurance that any such financing can be realized by the Company, or if realized, what the terms thereof may be, or that any amount that the Company is able to raise will be adequate to support the Company's working capital requirements until it achieves profitable operations. If we are unable to raise additional funds when needed, we may not be able to market our products as planned or continue development and regulatory approval of our products, or we could be required to delay, scale back or eliminate some or all our research and development programs.

Since inception, our primary source of funding for our operations has been the private sale of our securities. For the nine months ended September 30, 2006, we received gross proceeds of approximately $37 million ($34,280,121 net of cash issuance costs) as a result of the sale of an aggregate of 7,991,256 shares (the "Shares") of common stock, at a price of $4.63 per Share, in a private offering (the "2006 Offering") that was completed on May 3, 2006. In addition to the Shares, the Company also issued to each investor a five-year warrant (each a "Warrant") to purchase, at an exercise price of $5.56 per share, an additional number of shares of common stock equal to 30 percent of the Shares purchased by such investor in the Offering. In the aggregate, these Warrants entitle investors to purchase an additional 2,397,392 shares of common stock. The Company engaged Paramount BioCapital, Inc. and Griffin Securities, Inc. (the "Placement Agents") as co-placement agents in connection with the Offering. In consideration for their services, the Company paid the Placement Agents and certain selected dealers engaged by the Placement Agents aggregate cash commissions of $2,589,966 and issued 7-year warrants to the Placement Agents and their designees to purchase an aggregate of 799,126 shares at an exercise price of $5.09 per share. The Company also agreed to reimburse the Placement Agents for their accountable expenses incurred in connection with the Offering. Following the completion of Offering, the Company has 15,264,248 shares of common stock outstanding.

During the twelve months ended December 31, 2005, we received $4,815 proceeds from the exercise of stock options and gross proceeds of approximately $18.1 million ($16.8 net of issuance costs) as a result of the sale by ZIOPHARM, Inc. of Series A Convertible Preferred Stock in a private placement transaction. During the twelve months ended December 31, 2004, we received proceeds of approximately $4.5 million as a result of the sale by ZIOPHARM, Inc. of common stock in a private placement transaction.

At September 30, 2006, working capital was approximately $34.5 million, compared to working capital of approximately $7.2 million at December 31, 2005. The increase in working capital reflects the proceeds from the May 2006 offset by the use of funds for operations.

Capital expenditures were approximately $140,000 for the nine months ended September 30, 2006. We anticipate additional capital expenditures of approximately $100,000 for the fiscal year ended December 31, 2006.

The Company's significant lease obligation payable is as follows:

	Payments due by Period				
	Total	Less than 1 Year	1 - 3 Years	4 - 5 Years	After 5 Years
Operating lease	$ 855,343	$ 275,091	$ 504,220	$ 76,032	-

Critical Accounting Policies

The preparation of financial statements requires the Company to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosure of contingent assets and liabilities. On an on-going basis, the Company evaluates its estimates, including those related to accounting for stock-based compensation and research and development activities. The Company bases its estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under difference assumptions or conditions.

Research and development expenses consist primarily of salaries and related personnel costs, fees paid to consultants and outside service providers for development, legal expenses resulting from intellectual property prosecution and organizational affairs and other expenses relating to the design, development, testing, and enhancement of our product candidates. We expense our research and development costs as they are incurred. General and administrative expenses consist primarily of salaries and related expenses for executive, finance and other administrative personnel, recruitment expenses, professional fees and other corporate expenses, including business development and general legal activities.

Our results include non-cash compensation expense as a result of the issuance of stock option and warrants grants. On January 1, 2006, the Company adopted Statement of Financial Accounting Standards No. 123(R) ("SFAS 123R") Share-Based Payment, using the modified prospective method, which results in the provision of SFAS 123R only being applied to the consolidated financial statements on a going-forward basis (that is, the prior period results have not been restated). Under the fair value recognition provisions of SFAS 123R, stock-based compensation cost is measured at the grant date based on the value of the award using the Black Scholes Model and is recognized as expense over the service period. Previously, the Company had followed Accounting Principles Board (APB) Opinion No. 25, *Accounting for Stock Issued to Employees* , and related interpretations which resulted in account for employee share options at their intrinsic value in the financial statements. The Company's most critical estimates consist of accounting for stock-based compensation.

Off-Balance Sheet Arrangements

We do not have any "off-balance sheet agreements," as that term is defined by SEC regulation.

Item 3. CONTROLS AND PROCEDURES

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of our disclosure controls and procedures, as such term is defined under Rule 13a-15(e) or 15d-15(e) promulgated under the Securities Exchange Act of 1934, as amended (the Exchange Act), as of the end of the period covered by this report. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures are effective.

There have been no changes in our internal control over financial reporting identified in connection with the evaluation required by paragraph (d) of Rule 13a-15 or 15d-15 promulgated under the Exchange Act that occurred during the last fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings

No response required.

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

No response required.

Item 3. Defaults Upon Senior Securities.

No response required.

Item 4. Submission of Matters to a Vote of Security Holders

No response required.

Item 5. Other Information

Results of Operations and Financial Condition.

The information in this Item 5 is furnished to, but not filed with, the Securities and Exchange commission in lieu of furnishing such information pursuant to a separate Form 8-K, Item 2.02 “Results of Operations and Financial Condition.”

On November 13, 2006, ZIOPHARM Oncology, Inc. issued a press release reporting the financial results for its first quarter ended September 30, 2006. A copy of the press release is furnished as Exhibit 99.1 to this report and is incorporated herein by reference.

Item 6. EXHIBITS

Exhibit No.	Description
10.1	Asset Purchase Agreement dated November 3, 2006 by and among Baxter Healthcare S.A., Baxter International, Inc., Baxter Oncology GmbH and ZIOPHARM Oncology, Inc.†
10.2	License Agreement dated November 3, 2006 by and among Baxter Healthcare S.A., Baxter International, Inc. and ZIOPHARM Oncology, Inc.†
31.1	Certification of Chief Executive Officer
31.2	Certification of Chief Financial Officer
32.1	Certifications of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certifications of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
99.1	Press Release dated November 13, 2006.

†Confidential treatment has been requested as to certain portions of this exhibit purusant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

SIGNATURES

In accordance with the requirements of the Exchange Act, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

ZIOPHARM ONCOLOGY, INC.

Date: November 13, 2006

By: /s/ Jonathan Lewis

Jonathan Lewis
Chief Executive Officer
(Principal Executive Officer)

Date: November 13, 2006

By: /s/ Richard Bagley

Richard Bagley
Chief Financial Officer
(Principal Financial and Accounting Officer)

EXHIBIT INDEX

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†Confidential treatment has been requested as to certain portions of this exhibit purusant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Portions herein identified by [***] have been omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Securities Exchange Act of 1934. A complete copy of this document has been filed separately with the Securities and Exchange Commission.

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement is entered into as of the 3rd day of November, 2006, by and among Baxter Healthcare S.A., a Swiss corporation having offices at Hertistrasse 2, CH-8304, Wallisen, Switzerland, Baxter International, Inc., a Delaware corporation, having offices at One Baxter Parkway, Deerfield, IL 60015 and Baxter Oncology GmbH, a German corporation having offices at Kantstrasse 2, 33790 Halle/Westfalen ("Baxter Oncology"), (collectively, the "Sellers") on the one hand, and Ziopharm Oncology, Inc. a Delaware corporation having offices at 1180 Avenue of the Americas, Suite 1920, New York, NY 10036 (the "Buyer") on the other hand.

Whereas, the Sellers are engaged in the research, development and manufacturing of pharmaceutical agents and, in particular, the Indibulin molecule, as part of its Indibulin Project (defined below);

Whereas, the Sellers own certain assets, including patents, contracts and regulatory submissions, and other related assets relating to the Indibulin Project, and Baxter Oncology owns inventory of Indibulin; and

Whereas, the Sellers desire to sell or otherwise transfer such assets to the Buyer, and the Buyer wishes to purchase such assets from the Sellers.

Now, therefore, in consideration of the promises and the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I

DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Action" means any claim, action, suit, arbitration, mediation, inquiry, proceeding or investigation by or before any Governmental Authority (or arbitrator or mediator, as the case may be), whether at law or in equity.

"Affiliate" means, with respect to any specified Person, any other Person that directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means possession, directly or indirectly, of power to direct or cause the direction of management and policies (whether through ownership of securities, partnership or other ownership interests.

"Agreement" or "this Agreement" means this Asset Purchase Agreement dated the date hereof between the Buyer and the Sellers, as amended, modified or supplemented from time to time in accordance with the provisions hereof.

"Applicable Permits" has the meaning set forth in the Purchased Assets definition of Section 1.1 of this Agreement.

"Assumed Liabilities" has the meaning set forth in Section 2.10 of this Agreement.

"Buyer" has the meaning specified in the recitals to this Agreement.

"Closing" has the meaning specified in Section 2.7 of this Agreement.

"Closing Date" has the meaning specified in Section 2.7 of this Agreement.

"Composite Product" shall mean a product combination encompassing one or more Product(s) and one or more separate products, wherein the Composite Product is sold as a complete package for purposes of selling the one or more Product(s).

"Contracts" means those written contracts, agreements and assignments listed on Exhibit D.

"Control" (including the terms "controlled by" and "under common control with"), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly or as trustee or executor, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee or executor, by contract or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such Person.

"CTA" shall mean the European EMEA equivalent of an IND.

"Damages" has the meaning specified in Section 6.2 of this Agreement.

"EMEA" means European Agency for the Evaluation of Medicinal Products, or any successor agency thereto.

"Encumbrance" shall mean any security interest, pledge, mortgage, lien (including environmental and Tax liens), license, charge, conditional sale agreement, right of first refusal, option or other encumbrance.

"Excluded Assets" means any of the following:

(i) any software intellectual property associated with the Indibulin Project;

(ii) any asset, document or record, tangible or intangible, utilized by Sellers or its Affiliates in multiple product lines or businesses and not exclusive to the Indibulin Project;

(iii) any logo or trade name that includes or incorporates the name Baxter;

(iv) the intellectual property licensed to the Buyer under the NanoSuspension License Agreement, including without limitation intellectual property associated with nanoparticulate or microparticulate formulations of Indibulin and Indibulin related compounds.

(v) Any intellectual property associated with the manufacture of nanoparticulate or microparticulate formulations of Indibulin and Indibulin related compounds including, but not limited to, Indibulin-related Nanosuspensions; and

"Excluded Liabilities" has the meaning specified in Section 2.9 of this Agreement.

"FDA" means the United States Food and Drug Administration or any successor agency thereto.

"German Inventor's Payment" shall mean the payment to be made by the Sellers to all inventors of the Patents that are subject to the German Inventor Remuneration Law (Arbeitnehmererfindergesetz (ArbErfG)), in order to settle and satisfy such law's requirements.

"Good Practices" means compliance with the applicable requirements contained in regulations promulgated by the EMEA and comparable international standards.

"Governmental Authority" means any United States federal, state or local or any foreign government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal or arbitral body.

"Indemnified Party" means the party entitled or seeking rights to indemnification under Article VI.

"Indemnifying Party" means the party from whom indemnification is sought by the Indemnified Party under Article VI.

"Indibulin" shall mean all dosage forms, formulations, strengths, package sizes and types of pharmaceutical products containing N-(Pyridin-4-yl)-[1-(4-chlorobenzyl)-indol-3-yl]-glyoxylic acid amide, also known by its project code as "D-24851," a structure of which is shown in Exhibit A, excluding any nanoparticulate or microparticulate formulations subject to the NanoSuspension License Agreement or the manufacture thereof.

"Indibulin Project" shall mean and include (a) the research, product development, formulation, manufacturing, and clinical development of Indibulin and (b) the research, product development, formulation and clinical development (but not the manufacturing) of Indibulin-related NanoSuspension, being conducted by or on behalf of the Sellers.

"Indibulin-related NanoSuspension" shall mean shall mean a compound as claimed in claim 1 of U.S. Patent Application No. 11/266,518, filed on November 3, 2005, formulated as particles and, optionally, suspended in a composition.

"Initial Asset Payment" has the meaning specified in Section 2.2 of this Agreement.

"Initial Payment" has the meaning specified in Section 2.11 of this Agreement.

"Intangible Property Rights" has the meaning set forth in the Purchased Assets definition of this Section 1.1.

"Inventory" shall mean the inventories of Indibulin capsules and powder set forth on Exhibit B.

"Inventory Payment" has the meaning set forth in Section 2.11.

"Issued Patent" shall mean U.S. Patent No. 6,344,467.

"Licensed Assets" shall mean the Non-Exclusive Intangible Property Rights and the Licensed Patents and the Intangible Property Rights (as such terms are defined in the NanoSuspension License Agreement).

"Marketing Approval" shall mean regulatory approval of the marketing of a Product by the FDA or the EMEA.

"NanoSuspension License Agreement" shall mean the license agreement entered into by the parties on the date hereof with respect to the Sellers' NanoSuspension technology.

"Net Sales" shall mean the total amount invoiced in U.S. dollars (or, if in another currency, as converted by the Buyer in accordance with Section 2.5(f)) by the Buyer or its subsidiaries, Affiliates, licensees or licensees' sublicensees for the sale of any Product after deducting the following costs, provided and to the extent such costs are attributable to such sale of the Product in accordance with U.S. generally accepted accounting principles as consistently applied by the Buyer and are actually borne by or on behalf of the Buyer or its subsidiaries, Affiliates, licensees or licensees' sublicensees: (i) invoiced freight, shipping and shipping insurance charges, (ii) discounts allowed and taken, in amounts customary in the trade, (iii) taxes, including sales, use, turnover, excise, import and other taxes or duties, separately billed or invoiced and borne by or on behalf of the Buyer or its subsidiaries, Affiliates, licensees or licensees' sublicensees, imposed by a Governmental Authority on the production, sale, use or transfer of the Product, (iv) amounts repaid or credited by reason of rejection or return of any previously sold Products and uncollectible portions of invoiced amounts with respect to any previously sold Products and (v) rebates, chargebacks, retroactive price reductions, allowances and fees paid or credited to customers wholesalers, distributors, Third Party payors, governmental agencies, administrators and contractees with respect to Products sold.

If a Product is sold as part of a Composite Product, then Net Sales for such Composite Product will be adjusted by multiplying (x) actual Net Sales of the Composite Product for the calendar quarter in the country in which the Composite Product is being sold by (y) the fraction A/(A+B) where A is the average invoice price of the Product in such country during such period, if sold separately (i.e., without one or more products), and B is the average invoice price of the other products in the Composite Product in such country during such period, if sold separately. If in a given country A and/or B are not sold separately, the related value of the Product and the other products in the Composite Product shall be determined based on a good faith estimate by the Buyer based upon the respective fair market values of the Product as if it were sold separately and the other product(s) as if they were sold separately, which good faith estimate shall be subject to approval by the Sellers, which approval shall not be unreasonably withheld. In the event the parties cannot agree on a fair market value of the Product relative to Composite Product sales, upon the request of any one of the parties, the parties shall submit the valuation matter to a mutually agreed to, independent consultant. The parties shall accept the fair market value as determined by the independent consultant. No sales shall result from any transfer between the Buyer or any of its subsidiaries, Affiliates, licensees or licensees' sublicensees for resale, but shall result from the resale by the subsidiary, Affiliate, licensee or licensees' sublicensees.

"Non-Exclusive Intangible Property Rights" shall mean intangible property rights (other than the Patents) to the extent that such intangible property rights primarily relate to, but do not relate exclusively to, Indibulin or the Indibulin Project (with respect to Indibulin), whether or not patentable, including but not limited to inventions, discoveries, trade secrets, technical information, master formulations, master processes used for manufacturing Indibulin, know-how, copyrights and other confidential business information.

"Order" means any order, writ, judgment, injunction, decree, demand letter, stipulation, determination or award issued or entered by or agreed to with any Governmental Authority.

"Patents" shall mean all U.S. and foreign patents, provisional and non-provisional patent applications and invention records listed on Exhibit C and (i) any coninuations, continuations-in-part, divisionals and reissue patent applications and resulting patents, derived from such prior filed patent and patent applications, and any foreign counterparts and any issued patents therof and (ii) any patent applications, filed patents and any continuations, continuations-in-part, divisionals and reissue patent applications and resulting patents and any foreign counterparts and any issued patents thereof embraced by the disclosures in such invention records.

"Person" means any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity.

"Product" shall mean any product the manufacture, use, sale, offer for sale or importation of which falls within the scope of a Valid Claim.

"Purchased Assets" means the following assets, rights and claims of the Sellers acquired for, used in, held for use in, relating to or arising from the conduct of the Indibulin Project:

(a) all Patents;

(b) all Inventory;

(c) all regulatory approvals, registrations and related materials exclusively relating to Indibulin, Indibulin-related NanoSuspension (other than with respect to manufacturing) or the Indibulin Project;

(d) the Contracts;

(e) intangible property rights (other than the Patents) to the extent that such intangible property rights relate exclusively to Indibulin or the Indibulin Project (with respect to Indibulin) whether or not patentable including but not limited to, inventions, discoveries, trade secrets, technical information, master formulations, master processes used for manufacturing Indibulin, know-how, copyrights and other confidential business information (collectively, the "Intangible Property Rights");

(f) all warranties and guarantees and other similar contractual rights made by third parties in favor of the Sellers with respect to Indibulin, or the Indibulin Project;

(g) copies of all supplier lists, marketing studies, consultant reports, physician databases, and correspondence (excluding invoices) with respect to Indibulin, Indibulin-related NanoSuspension (other than with respect to manufacturing) or the Indibulin Project to the extent maintained by the Sellers, and all complaint files and adverse event files with respect to Indibulin, Indibulin-related NanoSuspension (other than with respect to manufacturing) or the Indibulin Project;

(h) all permits, licenses, franchises or authorizations from any Governmental Authority that are material to the Indibulin Project (collectively, the "Applicable Permits"); and

(i) the Scientific Data or, to the extent not owned by the Sellers, any rights of access that the Sellers have to the Scientific Data.

provided, however, that the definition of Purchased Assets shall not include any assets specifically identified in the definition of Excluded Assets.

"Scientific Data" shall have the meaning set forth in Section 3.14.

"Sellers" shall mean, jointly and severally, Baxter Healthcare S.A., Baxter International Inc. and Baxter Oncology.

"Specifications" has the meaning set forth in Section 3.15 of this Agreement.

"Tax" or "Taxes" means any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any government or taxing authority, including taxes or other charges on or with respect to income, franchises windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, social security, workers' compensation, unemployment compensation, or net worth; taxes or other charges in the nature of excise, withholding, ad valorem, stamp, transfer, value added, or gains taxes; license, registration and documentation fees; and customs' duties, tariffs, and similar charges.

"Third Party" shall mean any Person that is not a party hereto or an Affiliate of such party and in addition, in the case of the Buyer, a licensee of the Buyer or sublicensee of a licensee of the Buyer of the Purchased Assets or Licensed Assets.

"Transaction Documents" means this Agreement, the NanoSuspension License Agreement and any other certificate, instrument, report or other document delivered pursuant to this Agreement or the NanoSuspension License Agreement.

"Valid Claim" means a claim of an issued and unexpired patent within the Patents that has not been (i) held permanently revoked, unenforceable, unpatentable or invalid by a decision of a court or governmental body of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, (ii) rendered unenforceable through written disclaimer, (iii) lapsed or abandoned for failure to pay maintenance fees with no further remedy available to reinstate, or (iv) lost through an interference proceeding.

ARTICLE II

PURCHASE AND SALE OF THE PURCHASED ASSETS

2.1 Transfer of Purchased Assets to the Buyer. Upon the terms and subject to the conditions set forth in this Agreement, on the Closing Date, the Sellers shall sell, transfer, convey and assign to the Buyer, and the Buyer shall purchase from the Sellers, all of the Sellers' right, title and interest in, to or arising from the Purchased Assets, free and clear of all Encumbrances.

2.2 Initial Asset Payment. In consideration for the sale of the Purchased Assets (other than the Inventory), and the license granted under Section 2.12 to the Buyer, the Buyer shall pay to the Sellers a payment of One Million One Hundred Twenty-Five Thousand Dollars ($1,125,000) (the "Initial Asset Payment"). The Buyer shall deliver the Initial Asset Payment in the form of a cash payment by wire transfer, at Closing, in immediately available funds, to such account designated by the Sellers in writing.

2.3 Diligence Payment. In further consideration for the sale of the Purchased Assets and the license granted under Section 2.12 to the Buyer, the Buyer shall pay to the Sellers [**********] United States dollars ($[**********]) on the sixth anniversary of the Closing Date and on each anniversary thereafter with the last such payment due on such anniversary in 2017; provided, however that no such payment shall be due at any time after there ceases to be any Valid Claims under the Issued Patent except if the Issued Patent ceases to have Valid Claims due to the abandonment of the Valid Claims in accordance with clause (iii) of the definition of Valid Claims.

2.4 Milestone Payments. (a) In further consideration for the sale of the Purchased Assets to the Buyer, the Buyer shall pay to the Sellers the following milestone payments:

(i) Six Hundred Twenty-Five Thousand Dollars ($625,000) within thirty (30) days of the first effectiveness of an IND submitted to the FDA or a CTA submitted to the EMEA permitting the Buyer to initiate human clinical trials of Indibulin or Product in the United States or Europe, whichever comes first;

(ii) [**********] Dollars ($[**********]) within thirty (30) days of the date of [**********];

(iii) [**********] Dollars ($[**********]) within thirty (30) days of the date of [**********]; and

(iv) [**********] Dollars ($[**********]) within thirty (30) days of the date of [**********].

(b) For the avoidance of doubt, the term "Buyer" in each occurrence of Sections 2.4(i)-(iv) shall mean "Buyer, its subsidiaries, Affiliates, licensees or licensees' sublicensees."

2.5 Sales-Based Contingent Payments.

(a) In further consideration for the sale of the Purchased Assets to the Buyer, the Buyer shall pay, or cause to be paid to, the Sellers the following amounts based on Net Sales of Products:

(i) [*****] percent ([*****]%) of worldwide calendar year annual Net Sales less than [**********] Dollars ($[**********]);

(ii) [*****] percent ([*****]%) of worldwide calendar year annual Net Sales from [**********] Dollars ($[**********]) up to [**********] Dollars ($[**********]); and

(iii) [*****] percent ([*****]%) of worldwide calendar year annual Net Sales in excess of [*********] U.S. Dollars ($[*********]).

With respect to each Product, sales-based contingent payments will be payable on a country-by-country basis, so long as the making, using or selling of the Product was covered by a Valid Claim in the country at the time in which such Product was made, used or sold.

(b)Reports, Audit and Payment Schedule.

(i) The Buyer shall keep and maintain detailed records of all sales of Product worldwide;

(ii) The Buyer shall make quarterly payments to the Sellers within forty-five (45) days of the close of each calendar quarter (March 31, June 30, September 30 and December 31) based on Net Sales in such quarter, and shall additionally provide, together with such payment, a sales report detailing the Net Sales of Products sold per country and the calculation of the amount owed pursuant to Section 2.5(a); and

(iii) The Sellers shall have the right annually, at the Sellers' expense, to audit the Buyer's records, or the Buyer's subsidiaries, Affiliates, licensees or licensees' sublicensees, as the case may be, in order to verify the calculation of Net Sales of Products. The Buyer shall reasonably cooperate with the Sellers to provide Buyer access to such records; provided that:

(A) Such audit shall be conducted by the Sellers' independent auditors;

(B) Such audit shall be conducted during normal business hours, upon reasonable advance notice and in a manner that does not cause unreasonable disruption to the conduct of the business of the Buyer its subsidiaries, Affiliates, licensees or licensee's sublicensees;

(C) the Sellers shall treat all information reviewed or learned of in the course of such audit in accordance with Section 7.14; and

(D) prior to such audit, the Sellers shall cause its auditors to enter into a reasonably acceptable confidentiality agreement with the Buyer obligating such auditors to maintain all financial statements.

(c) No Multiple Payments. For payments pursuant to Section 2.5(a), only one payment shall be paid for each Product sold, regardless of the number of Patents or claims thereof that cover such Product.

(d) Sales-Based Contingent Payment Reduction. In the event Buyer or its subsidiaries, Affiliates or licensees licenses Third Party patent rights in order to have freedom to make, have made or sell Indibulin without infringing such patent rights, the Buyer shall be allowed to deduct from the sales-based contingent payments due pursuant to Section 2.5(a), fifty percent (50%) of any royalties or any other license fees paid or incurred in connection with such licensor up to a maximum of fifty percent (50%) of the sales-based contingent payments due pursuant to Section 2.5(a) (with any amount not deducted due to such deduction limitation carried forward to subsequent calendar quarters for deduction, but subject to the fifty percent (50%) maximum deduction limitation provided by this Section 2.5(d) for such subsequent calendar quarters).

(e) Sales-Based Contingent Payment Credits. The Buyer shall be allowed to deduct from the sales-based contingent payments due to the Sellers under Section 2.5(a) any payments made by it to the Sellers pursuant to Section 2.3.

(f) Currency Exchange. In the event sales are invoiced in a currency other than United States dollars, Net Sales shall be calculated in the following manner: cumulative non-United States dollars sales invoiced by month shall be converted to United States dollars by multiplying or dividing, whichever is applicable, this amount by the simple average of the daily NY close rates for each day in the month as published by Bloomberg, Reuters or some other generally accepted source for publishing NY close foreign currency rates. The rate source shall be reviewed with the Sellers prior to commencing payment of the sales-based contingent payments to the Sellers

(g) Withholding Taxes. The Buyer may withhold taxes in the event that revenue authorities in any country require the withholding of taxes on amounts paid hereunder to the Sellers. The Buyer will deduct such taxes from such payment and such taxes will be paid by the Buyer to the proper taxing authority on behalf of the Sellers. In the event such taxing authority routinely provides a tax receipt upon payment, the Buyer will procure such tax receipt and forward it to the Sellers. The Buyer agrees to assist the Sellers in claiming exemption from such deductions or withholdings under any applicable double taxation or similar agreement or treaty.

(h) Value Added Tax. The Buyer shall pay to the relevant Governmental Authority, any value added tax ("VAT") accruing to any payment by Buyer to Sellers hereunder, and shall be permitted to deduct such amount from such payment to Sellers. Buyer shall cooperate with Sellers in Sellers recovery of such VAT.

2.6 Employment of the Sellers' Employees. The Buyer shall assume no liability in connection with any employee of the Sellers. No portion of the assets of any employee benefit plan, fund, program or arrangement, written or unwritten, heretofore sponsored or maintained by either of the Sellers (and no amount attributable to any such plan, fund, program or arrangement) shall be transferred to the Buyer, and the Buyer shall not be required to continue any such plan, fund, program or arrangement after the Closing Date.

2.7 Closing. The closing of the transaction contemplated by this Agreement (the "Closing") shall take place at the offices of the Sellers, Deerfield, Illinois, concurrently with the execution of this Agreement (the "Closing Date"). At the Closing, subject to the terms and conditions hereof:

(a) the Sellers shall:

(i) execute and deliver, or cause to be executed and delivered, to the Buyer, a Bill of Sale, an Assignment and Assumption Agreement, an assignment of Patents, and the NanoSuspension License Agreement;

(ii) deliver to the Buyer copies of the notices to regulatory authorities or otherwise set forth on Exhibit E; and

(iii) deliver to the Buyer such other documents and instruments as may be reasonably necessary to effect or evidence the transactions contemplated by this Agreement and by the other Transaction Documents, including such documents necessary to record the assignment of the Patents.

(b) the Buyer shall:

(i) pay to the Sellers the Initial Asset Payment in full by wire transfer of immediately available funds directly to the bank account designated by the Sellers;

(ii) execute and deliver to the Sellers the Bill of Sale, the Assignment and Assumption Agreement and the NanoSuspension License Agreement; and

(iii) deliver to the Sellers such other documents and instruments as may be reasonably necessary to effect or evidence the transactions contemplated by this Agreement and other Transaction Documents.

2.8 Title; Risk of Loss. Legal title and risk of loss with respect to the Purchased Assets other than the Inventory shall not pass to the Buyer (or its designated affiliate) until such Purchased Assets are transferred at Closing. Legal title and risk of loss with respect to the Inventory shall not pass to the Buyer (or its designated affiliate) until the Inventory is delivered at the location provided in Section 2.11 below.

2.9 No General Assumption of Pre-Closing Liabilities. The Buyer shall not be the successor to the Sellers. Except as expressly set forth in Section 2.10, and for those matters as to which the Buyer has agreed to indemnify the Sellers under Section 6.2(b), the Buyer does not and shall not assume, and shall not be liable or responsible for, any debt, obligation or liability of the Sellers or any of the Sellers' Affiliates that is in any way related to Indibulin, NanoSuspension-related Indibulin, the Indibulin Project, the Purchased Assets, the Licensed Assets or otherwise, including any debt, liability or obligation of any kind, whether known or unknown, contingent, absolute, liquidated or unliquidated, due or to become due or otherwise all of which are retained by the Sellers (the "Excluded Liabilities"), including without limitation the following Excluded Liabilities:

(a) Any product liability or similar claim for injury to person or property, regardless of when made or asserted in connection with the use of Indibulin or Indibulin-related NanoSuspension prior to the Closing Date, including any Third Party claim seeking recovery for consequential damages, lost revenue or income, but excluding any Third Party liability or claim made or asserted in connection with (i) the treatment of any Person or property after the Closing Date or (ii) any use of Indibulin, Indibulin-related NanoSuspension, the Purchased Assets or the Licensed Assets after the Closing Date, including any claim seeking recovery for consequential damages, lost revenue or income;

(b) Any federal, state or local income or other Tax (i) payable with respect to the assets, properties or operations of the Sellers for any period prior to the Closing Date, or (ii) incident to or arising as a consequence of the negotiation or consummation by the Sellers of this Agreement and the transactions contemplated hereby (except that the Buyer shall be responsible for any transfer, sales, use or similar tax payable as a result of the consummation of the transactions contemplated hereby);

(c) Any liability or obligation arising prior to or as a result of the Closing to any employees, agents or independent contractor of the Sellers, whether or not employed by the Buyer after the Closing, or under any benefit arrangement with respect thereto; and

(d) Any liability or obligation relating to or arising from litigation or any other disputes with third parties, if any, pending at the Closing or, to the knowledge of the Sellers, threatened, on or prior to the Closing Date.

2.10 Assumption of Post-Closing Liabilities under Contracts and Product Liability Claims. At Closing the Buyer shall (a) assume all liability or obligations of the Sellers that are required to be paid, performed or discharged under the Contracts after the Closing Date other than liabilities and obligations that were otherwise required to have been paid, performed or discharged on or before the Closing (the "Assumed Liabilities"); and (b) be responsible for those matters as to which the Buyer has agreed to indemnify the Seller Indemnified Parties (as defined below) pursuant to Section 6.2(b)(iii).

2.11 Inventory. Within thirty (30) days of the Closing, the Sellers shall transfer and convey to the Buyer the Inventory, which shall be delivered to Fisher Clinical Scientific at an address to be provided by the Buyer. The delivered Inventory shall be accompanied by a certificate of analysis certifying that the delivered Inventory is in conformance with the Specifications. In consideration for the transfer and conveyance of the Inventory to the Buyer, the Buyer shall pay to Baxter Oncology a payment of One Hundred Thousand Dollars ($100,000) (the "Inventory Payment" and together with the Initial Asset Payment, the "Initial Payment"). The Buyer shall deliver the Inventory Payment in the form of a cash payment by wire transfer, in immediately available funds, to such account designated by Baxter Oncology in writing, within seven (7) days of the receipt by the Buyer of the Inventory and the certificate of analysis with respect to the Inventory.

2.12 Non-Exclusive Intangible Property Rights. Sellers hereby grant to Buyer a worldwide, non-royalty bearing, exclusive right and license, with the right to grant sublicenses, under the Non-Exclusive Intangible Property Rights to use, market, sell, make, offer to sell and manufacture Indibulin.

2.13 Further Assurances. From time to time after the Closing, at the reasonable request of the Buyer and without further consideration, the Sellers shall execute and deliver such other instruments of sale, transfer, conveyance and assignment and take such actions as the Buyer may reasonably request to more effectively transfer, convey and assign to the Buyer, and to confirm the Buyer's rights to, title in and ownership of, the Purchased Assets and to place the Buyer in actual possession and operating control thereof.

2.14 Payment Instructions. Buyer shall make payments to Sellers hereunder in accordance with Sellers' written instructions, which Sellers' may amend from time to time, pursuant to the notice provision of Section 7.11.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE SELLERS

As an inducement to the Buyer to enter into this Agreement and to consummate the transactions contemplated hereby, the Sellers hereby jointly and severally represent and warrant to the Buyer as follows:

3.1 Organization and Qualification. Baxter Healthcare S.A. is a corporation duly incorporated, validly existing and in good standing under the laws of Switzerland, and Baxter International, Inc. is a corporation duly incorporated, validly existing and in good standing under the laws of Delaware. Each is duly licensed or qualified to transact business as a foreign corporation and is in good standing in each jurisdiction in which the ownership or leasing of its assets or properties requires it to be so licensed or qualified, except where the failure to be so licensed or qualified would not prevent or materially delay the ability of the Sellers to perform their obligations hereunder or to consummate the transactions contemplated hereby.

3.2 Corporate Power and Authority; Validity. Each of the Sellers has the corporate power and authority to own, operate and hold its respective assets and properties. Each of the Sellers has the corporate power and authority to execute, deliver and perform this Agreement and the other Transaction Documents to which it is a party. The execution, delivery and performance by each Seller of this Agreement and such other Transaction Documents and the consummation by each Seller of the transactions contemplated hereby and thereby have been duly authorized and approved by the Sellers. This Agreement and each of the other Transaction Documents to be executed and delivered by the Sellers have been duly executed and delivered by the Sellers. This Agreement and each such other Transaction Document constitutes the legal, valid and binding obligation of the Sellers enforceable against the Sellers in accordance with their respective terms.

3.3 No Conflict. Neither the execution and delivery by the Sellers of this Agreement and the other Transaction Documents to which they are parties, the consummation by the Sellers of the transactions contemplated hereby or thereby, nor the performance by the Sellers of this Agreement and such other Transaction Documents in compliance with the terms and conditions hereof and thereof, will (i) violate, conflict with or result in any breach of the Certificate of Incorporation, bylaws, or equivalent governing documents of each Seller, (ii) require by or on behalf of a Seller any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Authority, (iii) violate, conflict with or result in a breach, default or termination (or give rise to any right of termination, cancellation or acceleration of the maturity of any of the obligations of the Sellers or increase or otherwise affect the obligations of the Sellers) or require any notice or consent or waiver under any law, rule, regulation or any governmental permit, license or Order or any of the terms, conditions or provisions of any mortgage, indenture, note, license, agreement or other instrument or obligation to which a Seller is a party or by which a Seller or any of the Purchased Assets or Licensed Assets are bound or affected or (iv) result in the creation of any Encumbrance upon any of the Purchased Assets or Licensed Assets.

3.4 Litigation. There is no Action pending or, to the knowledge of the Sellers, threatened or otherwise pending against either of the Sellers related to Indibulin, Indibulin-related NanoSuspension, the Indibulin Project, the Purchased Assets, the Licensed Assets or the transactions contemplated by the Transaction Documents. There are no outstanding Orders prohibiting the transactions contemplated hereby. There is no Action by either of the Sellers pending, threatened or contemplated by a Seller against others with respect to or relating in any way to Indibulin, Indibulin-related NanoSuspension, the Indibulin Project, the Purchased Assets or the Licensed Assets.

3.5 Title to Purchased Assets. The Sellers are the sole and exclusive legal and equitable owner of all right, title and interest in, and have good and marketable title to, the Purchased Assets and the Licensed Assets, free and clear of all Encumbrances. At the Closing, the Buyer will receive legal and beneficial title to all of the Purchased Assets free and clear of all security interests. The Purchased Assets and the Licensed Assets include (i) all of the Patents and other intellectual property related to Indibulin, Indibulin-related NanoSuspension, or the Indibulin Project which the Sellers own or have the right to use, and (ii) all of the other assets owned by the Sellers and related to Indibulin, Indibulin-related NanoSuspension, or the Indibulin Project, in each case necessary, with the exception of any necessary capital equipment, facilities or employee related assets owned by the Sellers, to make, have made, use or sell Indibulin, to use or sell Indibulin-related NanoSuspension and to conduct the Indibulin Project following the Closing in the manner the Sellers engaged in such activities during the thirty (30) days prior to the Closing Date.

3.6 No Third Party Options. Neither of the Sellers is a party to any existing agreements, options, commitments or rights with, of or to any Person to acquire any of such Seller's assets, properties or rights included in the Purchased Assets or any interest therein.

3.7 Contracts. The Sellers have made available or delivered to the Buyer a complete and accurate copy of each contract and agreement to which a Seller or Baxter Oncology is a party that relates primarily to Indibulin, Indibulin-related NanoSuspension, or the Indibulin Project other than contracts and agreements related to the manufacture of Indibulin-related NanoSuspension. The Contracts include all of the contracts and agreements to which a Seller is a party that relate exclusively to Indibulin, Indibulin-related NanoSuspension (other than with respect to the manufacture of Indibulin-related NanoSuspension), or the Indibulin Project. Each of the Contracts is in full force and effect and is valid and enforceable against all parties thereto in accordance with its terms; the Sellers are, and to the Sellers' knowledge, all other parties thereto are, in compliance with the provisions thereof; the Sellers are not, and to the Sellers' knowledge, no other party thereto is, in default in the performance, observance or fulfillment of any obligation, covenant or condition contained therein and no condition exists or event has occurred that, with notice or lapse of time would constitute such a default; and each Contract is freely assignable to the Buyer without the consent of any party thereto.

3.8 Regulatory Compliance.

(a) To the Sellers' knowledge, the Sellers have delivered to the Buyer true and correct copies of all material written communications between the Sellers or the Third Party manufacturer of Indibulin, on the one hand, and the FDA, the EMEA or any other similar Governmental Authority or any clinical investigator, the investigator's institution, or the review board for such institution, on the other hand, and any existing written summaries of material discussions between such parties, that describe matters that are material to assessing compliance of the Sellers' operation of the Indibulin Project or the Third Party manufacturer's production of Indibulin with the Federal Food, Drug and Cosmetics Act and its implementing regulations and equivalent laws in Europe and other jurisdictions.

(b) To the Seller's knowledge, the Sellers' operation of the Indibulin Project is and has been in compliance in all material respects with all EMEA and other comparable foreign, state and local statutes, rules and regulations, as well as investigator and review board policies and conditions, applicable to the Indibulin Project, including, but not limited to, EMEA and comparable foreign, state and local rules and regulations, as well as the policies and conditions of any clinical investigator, the investigator's institution or the review board for such institution, relating to clinical investigations, Good Practices, advertising and promotion, adverse drug experience and adverse drug reaction reporting, and all other reporting requirements, as applicable.

(c) Neither the Sellers nor, to their knowledge, any Third Party manufacturer of Indibulin or Indibulin-related NanoSuspension, is in receipt of written notice of, or is known by the Sellers to be subject to any written, adverse inspection, finding of deficiency, finding of non-compliance, compelled or voluntary recall, investigation, penalty for corrective or remedial action or other compliance or enforcement action, in each case relating to Indibulin or Indibulin-related NanoSuspension or to the facilities in which Indibulin and Indibulin-related NanoSuspension is developed, manufactured, collected or handled, by any applicable Governmental Authority or by any investigator, investigator institution or institutional review board. There are no pending or, to the Sellers' knowledge, threatened actions, proceedings or complaints by any applicable Governmental Authority or by any investigator, investigator institution or institutional review board related to the Sellers or any Third Party manufacturer which would prohibit or materially impede the conduct of the Indibulin Project.

(d) To the Seller's knowledge, the Sellers have not made any materially false statements on, or material omissions from, any applications, approvals, reports and other submissions to any applicable Governmental Authority by any investigator, investigator institution or institutional review board or in or from any other records and documentation prepared or maintained to comply with the requirements of any applicable Governmental Authority or any investigator, investigator institution or institutional review board relating to Indibulin.

3.9 Intellectual Property.

(a) The Sellers own the Patents and the Intangible Property Rights.

(b) The Sellers have the sole and exclusive right to bring actions for infringement, misappropriation or unauthorized use of the Patents. No patents included in the Patents have been adjudicated to be invalid, all patents included in the Patents are valid and in force, and all patent applications included in the Patents are pending (except as noted on Exhibit C) and in good standing. No third person has asserted in writing to the Sellers or, to the Sellers' knowledge, to any Governmental Authority that any of the Patents owned by the Sellers is invalid or unenforceable. To the Seller's knowledge, the Sellers have taken all steps reasonably necessary to protect and preserve the confidentiality of the trade secrets and other confidential information included in the Purchased Assets. Neither the Sellers nor, to the Sellers' knowledge, anyone acting on their behalf in a representative capacity before any patent or other governmental office in connection with the Patents, has any knowledge of any material misrepresentation made to such patent or other governmental office in connection with the procurement of any Patent.

(c) To the Seller's knowledge, the conduct of the Indibulin Project does not conflict with, infringe upon, contribute to or induce the infringement of, or misappropriate or violate any patent, trademark, service mark, trade name, copyright, trade secret or other proprietary right of a Third Party. The Sellers have not received notice of a pleading or threatened claim, interference action or other judicial or adversarial proceeding that (i) the development, manufacture, marketing, sale, distribution, promotion and use of Indibulin infringes or would infringe any patent, trademark, service mark, trade name, copyright, trade secret or other proprietary right of a Third Party, or (ii) the Sellers have misappropriated or are misappropriating or otherwise improperly using the trade secrets, formulae or proprietary rights of a Third Party with respect to the development, manufacture or use of Indibulin or Indibulin-related NanoSuspension. To the Sellers' knowledge, there is no existing or threatened infringement, misuse, violation or misappropriation of the Patents by others. There is no pending or threatened claim by the Sellers against a Third Party for infringement, misuse, violation or misappropriation of the Patents.

(d) To the Seller's knowledge, the Sellers have performed the obligations required to be performed by them under the terms of any agreement pursuant to which the Sellers have rights in any Patents, and neither the Sellers nor, to the knowledge of the Sellers, any Third Party is in default under any such agreement.

(e) The Sellers have not granted to any Third Party a license to commercially use any of the Patents that is in effect as of the date hereof or will be in effect after the Closing Date. The Sellers are not required to pay any royalty or other recurring payment to any third parties in connection with developing, making, having made, using, importing, distributing, offering for sale or selling Indibulin.

3.10 Legal Compliance. To the Seller's knowledge, the Sellers are in compliance in all material respects with all applicable laws (including rules and regulations thereunder) of any federal or state government, or any Governmental Authority, relating to the Indibulin Project, the Purchased Assets, the Licensed Assets and the uses of the Purchased Assets and the Licensed Assets. The Sellers have not received written notice of any pending action, suit, proceeding, hearing, investigation, claim or demand relating to the Indibulin Project alleging any failure to so comply.

3.11 Permits To the Sellers' knowledge, no Applicable Permit exists. In the event Sellers or Buyer become aware of an Applicable Permit after the Closing, then, pursuant to Section 2.13, Sellers shall convey such Permit (to the extent necessary to permit Buyer the operation and ownership of Purchased Assets) to Buyer for no further consideration hereunder.

3.12 Brokers' Fees. The Sellers have no liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement.

3.13 Taxes. There are no liens for Taxes upon the Purchased Assets except liens relating to current Taxes not yet due and payable. The Sellers shall pay all Taxes that are not yet due and payable but will be due and payable with respect to the period prior to the Closing and for which there are liens on the Purchased Assets.

3.14 Clinical and Scientific Data; Good Practices.

(a) To the Sellers' knowledge, the Sellers have made available to the Buyer, regardless of whether or not Buyer has apprised itself of such availability, all laboratory and clinical data, including raw data and reports, created by the Sellers or any Third Party on behalf of the Sellers in connection with Indibulin, Indibulin-related NanoSuspension (other than with respect to manufacturing) and the Indibulin Project, including without limitation data in laboratory notebooks, data relating to product development, all formulation and manufacturing-related data (all of such data to the extent it primarily relates to Indibulin, Indibulin-related NanoSuspension, and the Indibulin Project being referred to as "Scientific Data").

(b) The Sellers own, or have rights to use and transfer, all Scientific Data created by the Sellers or any Third Party on behalf of the Sellers in connection with Indibulin, Indibulin-related NanoSuspension and the Indibulin Project

(c) To the knowledge of the Sellers, (i) the clinical studies conducted, and all Scientific Data created from such studies, by the Sellers in connection with Indibulin, Indibulin-related NanoSuspension, and the Indibulin Project have been conducted, kept and maintained by the Sellers in a manner that complies with Good Practices and, (ii) all clinical studies conducted, and all Scientific Data created in such studies, in connection with Indibulin, Indibulin-related NanoSuspension, and the Indibulin Project by any Third Party on behalf of the Sellers have been conducted, kept and maintained in a manner that complies with Good Practices.

3.15 Inventory. The Inventory delivered by or on behalf of the Sellers to clinical sites for administration to humans in the Sellers' ongoing clinical trial have been manufactured in accordance in all material respects with Good Practices (except as noted on Exhibit B) and conform with the applicable specifications attached as Exhibit F (the "Specifications").

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE BUYER

As an inducement to the Sellers to enter into this Agreement and to consummate the transactions contemplated hereby, the Buyer hereby represents and warrants to the Sellers as follows:

4.1 Organization and Qualification. The Buyer is duly incorporated, validly existing and in good standing under the laws of the State of Delaware and is duly licensed or qualified to transact business as a foreign corporation and is in good standing in each jurisdiction in which the ownership or leasing of its assets or properties requires it to be so licensed or qualified, except where the failure to be so licensed or qualified would not prevent or materially delay the ability of the Buyer to perform its obligations hereunder or to consummate the transactions contemplated hereby.

4.2 Corporate Power and Authority; Validity. The Buyer has the corporate power and authority to own, operate and hold its assets and properties. The Buyer has the corporate power and authority to execute, deliver and perform this Agreement and the other Transaction Documents to which it is a party. The execution, delivery and performance of this Agreement and such other Transaction Documents and the consummation of the transactions contemplated hereby and thereby have been duly authorized and approved by the Buyer. This Agreement, and each of the other Transaction Documents to be executed and delivered by the Buyer have been, duly executed and delivered by the Buyer. This Agreement and each such other Transaction Document constitutes, the legal, valid and binding obligation of the Buyer enforceable against the Buyer in accordance with their respective terms.

4.3 No Conflict. Neither the execution and delivery by the Buyer of this Agreement and the other Transaction Documents to which it is a party, the consummation by the Buyer of the transactions contemplated hereby or thereby, nor the performance by the Buyer of this Agreement and such other Transaction Documents in compliance with the terms and conditions hereof and thereof, will (i) violate, conflict with or result in any breach of its Certificate of Incorporation or bylaws, (ii) require by or on behalf of the Buyer any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Authority, or (iii) violate, conflict with or result in a breach, default or termination (or give rise to any right of termination, cancellation or acceleration of the maturity of any of the obligations of the Buyer or increase or otherwise affect the obligations of the Buyer) or require any notice or consent or waiver under any law, rule, regulation or any governmental permit, license or Order or any of the terms, conditions or provisions of any mortgage, indenture, note, license, agreement or other instrument or obligation to which the Buyer is a party or by which the Buyer or any of its assets are bound or affected except in the case of the clause (iii) such violations, conflicts, breaches, defaults and terminations as would not have a material adverse affect on the ability of the Buyer to consummate the transactions contemplated hereby.

4.4 Litigation. There is no Action pending or, to the knowledge of the Buyer, threatened against the Buyer which would reasonably be expected to result in the prohibition of the Closing of the transactions contemplated hereby. There are no outstanding Orders prohibiting the transactions contemplated hereby.

ARTICLE V

POST-CLOSING COVENANTS

The Sellers and the Buyer hereby covenant and agree as follows:

5.1 Certain Post-Closing Covenants. With respect to the period following the Closing, in the event and for so long as any party actively is contesting or defending against any action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand in connection with (i) any transaction contemplated under this Agreement or (ii) any fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act, or transaction on or prior to the Closing Date involving the Purchased Assets, the other party shall cooperate with such party's counsel in the defense or contest, make available its personnel, and provide such testimony and access to its books and records as shall be necessary in connection with the defense or contest, all at the sole cost and expense of the contesting or defending party, unless the contesting or defending party is entitled to indemnification therefor under Article VI hereof.

5.2 Further Assurances. The Sellers from time to time after the Closing, at the Buyer's reasonable request, will execute, acknowledge and deliver to the Buyer such other instruments of conveyance and transfer and will take such other actions and execute and deliver such other documents, certifications and further assurances as the Buyer may reasonably require in order to vest more effectively in the Buyer, or to put the Buyer more fully in possession of, any of the Purchased Assets. Each of the parties hereto will cooperate with the other and execute and deliver to the other party hereto such other instruments and documents and take such other actions as may be reasonably requested from time to time by the other party hereto as necessary to carry out, evidence and confirm the intended purposes of this Agreement.

5.3 Availability of Records. After the Closing, the Sellers shall make available to the Buyer and its Affiliates, agents and representatives during normal business hours upon reasonable advanced notice and in a manner that does not cause unreasonable disruption to the conduct of the business of the Sellers, all information, records and documents in its possession relating primarily to Indibulin, Indibulin-related NanoSuspension (other than with respect to manufacturing), and/or the Indibulin Project that was not transferred to the Buyer, for all periods prior to Closing and shall preserve all such information, records and documents for one (1) year following the Closing. The Sellers shall also make available to the Buyer, at Buyer's cost, during normal business hours, when reasonably requested, personnel responsible for preparing or maintaining information, records and documents, in connection with Tax matters, governmental contracts, litigation or potential litigation, each as it relates to Indibulin, Indibulin-related NanoSuspension (other than with respect to manufacturing), the Purchased Assets, the Licensed Assets or the Indibulin Project prior to the Closing Date.

5.4 Tax Matters; Bulk Sales.

(a) Tax Matters. After the Closing Date, the Buyer and the Sellers shall cooperate in filing of any Tax returns or other Tax-related forms or reports, to the extent such filing requires providing each other with necessary relevant records and documents relating to the Purchased Assets, or providing reasonable access to employees. The Buyer and the Sellers shall cooperate in the same manner: (i) in defending or resolving any Tax audit, examination or Tax-related litigation relating to the Purchased Assets; and (ii) to minimize any transfer, sales and use Taxes and notary and registry fees and recording costs.

(b) Bulk Sales Laws. The Sellers and the Buyer waive compliance with bulk sales laws in connection with the sale of the Purchased Assets.

5.5 Restriction on Competition. The Sellers hereby represent and warrant that as of the Closing Date neither the Sellers nor any of their Affiliates are engaged in the research or development of any proprietary tubulin binding agent (a "Tubulin Binding Agent Program"). For the avoidance of doubt, the term "Tubulin Binding Agent Program" shall (x) only encompass those active pharmaceutical agents that are proprietary and are not yet approved for marketing by a Governmental Authority and (y) not encompass proprietary formulations of tubulin binding agents, wherein the agents have been approved for marketing by a Governmental Authority. During the three-year period commencing upon the Closing Date, the Sellers and their Affiliates shall not (i) acquire any Person or all or substantially all of the assets of any Person that is engaged in a Tubulin Binding Agent Program if such Program is the primary or lead program or product of such Person and (ii) in-license or otherwise acquire a Person's Tubulin Binding Agent Program other than through an acquisition of a Person or all or substantially all of the assets of person that is not prohibited by clause (i). Notwithstanding the foregoing, the restrictions on competition under this Section 5.5 shall not, in any way, restrict Sellers from engaging in formulation, packaging or any other activity related to pharmaceutical agents in collaboration with a Third Party owner or licensee of a tubulin binding agent.

5.6 Patent Maintenance.

(a) Buyer to Manage Patents. Buyer shall be responsible for, and use reasonable discretion in, the filing, prosecution and maintenance ("Management") of Patents. At a minimum, Buyer shall file, prosecute and maintain Patents in the U.S., Germany, France, United Kingdom, Belgium, Netherlands, Spain, Italy, Australia, China, Mexico, Korea, Canada, Brazil and Japan. Each party agrees to cooperate with the other with respect to the preparation, filing, prosecution and maintenance of patents and patent applications pursuant to this Section 5.6.

(i) Step-In Rights by Sellers. In the event Buyer determines to abandon or not to continue with any Management of a Patent, it shall provide Sellers with at least sixty (60) days prior written notice of such determination. Sellers, in their discretion, may elect to assume the Management of such Patent (an "Assumed Patent"), at Seller's sole expense; provided, however, Assumed Patents shall remain the sole property of Buyer.

ARTICLE VI

INDEMNIFICATION

6.1 Survival. All representations and warranties contained in this Agreement or in any of the other Transaction Documents furnished in connection with this Agreement, or the transactions contemplated hereby or thereby, shall survive the Closing and any investigation at any time made by or on behalf of any party for a period of two (2) years following the Closing Date provided, however, (i) the representations and warranties contained in Section 3.13 shall survive for sixty (60) days beyond the applicable statute of limitations (ii) the representations and warranties of the Sellers contained in Sections 3.1, 3.2 and 3.3 and of the Buyer contained in Sections 4.1, 4.2 and 4.3 shall survive the Closing and the consummation of the transactions contemplated hereby without limitation. If an indemnification claim under Section 6.2(a) or Section 6.2(b) is properly asserted in writing pursuant to Section 6.3 prior to the expiration as provided in this Section 6.1 of a representation or warranty that is the basis for such claim, then such representation or warranty shall survive until, but only for the purpose of, the resolution of such claim.

6.2 Indemnification.

(a) By the Sellers. Subject to the terms and conditions of this Article VI, the Sellers, jointly and severally, shall indemnify and hold harmless the Buyer and its officers, directors, employees, agents, representatives and Affiliates and its successors and assigns (collectively, "Buyer Indemnified Parties") from, against and with respect to any claim, liability, obligation, loss, fine, penalty, damage, assessment, judgment, cost and expense (including reasonably attorneys', consultants' and accountants' fees and costs and expenses reasonably incurred in investigating or defending against any pending or threatened Action) of any kind or character (collectively, the "Damages"), which any Buyer Indemnified Party incurs or suffers either directly or in connection with a Third Party claim to the extent arising out of or based upon:

(i) Any breach of any representation or warranty of the Sellers contained in this Agreement or any of the other Transaction Documents;

(ii) Any failure by the Sellers to perform or observe, or to have performed or observed, in full, any covenant, agreement or condition to be performed or observed by it under this Agreement or any other Transaction Document;

(iii) The Sellers' ownership and operation of the Purchased Assets and the Licensed Assets prior to the Closing Date, including the conduct of the Indibulin Project and including without limitation any product liability or similar claim for injury which injury (x) results from the conduct of the Indibulin Project prior to the Closing Date, or (y) arises on or after the Closing Date but prior to the first dosing of Indibulin or Indibulin-related Nansuspension to the injured Person following the Closing and does not arise from the treatment of the injured Person on or after the Closing Date;

(iv) Any liabilities or obligations under the Contracts to the extent arising or occurring prior to the Closing, in each case whether asserted prior to or after the Closing Date;

(v) Any liability or obligation in connection with any employee of the Sellers or its Affiliates;

(vi) Any liability or obligation in connection with the German Inventor's Payment or under the German Inventor Remuneration Law referred to in the definition of the German Inventor's Payment set forth herein; and

(vii) Any failure of the Sellers to pay, perform or discharge any Excluded Liabilities.

(b) By the Buyer. Subject to the terms and conditions of this Article VI, the Buyer shall indemnify and hold harmless the Sellers and their officers, directors, employees, agents, representatives and Affiliates and their successors and assigns (collectively, "Seller Indemnified Parties") from, against and with respect to any Damages, which any Seller Indemnified Party incurs or suffers either directly or in connection with a Third Party claim, to the extent arising out of or based upon:

(i) Any breach of any representation or warranty of the Buyer contained in this Agreement or any of the other Transaction Documents;

(ii) Any failure by the Buyer to perform or observe, or to have performed or observed, in full, any covenant, agreement or condition to be performed or observed by it under this Agreement or any other Transaction Documents;

(iii) The Buyer's ownership and operation of the Purchased Assets and the Licensed Assets from and after the Closing Date, including without limitation the use, manufacture or sale of Indibulin or the use or sale of Indibulin-related Nanosuspension, or any product liability or similar claim for injury which injury arises from any dosing of Indibulin or Indibulin-related Nansuspension to the injured Person following the Closing or any treatment of the injured Person on or after the Closing Date; provided, however, that the Buyer shall not indemnify any Seller Indemnified Parties to the extent that the damages under this clause (iii) arise out of or are based upon an event for which Buyer is entitled to indemnification under Section 6.2(a)(i) or (ii); and

(iv) Any failure of the Buyer to pay, perform or discharge any Assumed Liability.

6.3 Claims for Indemnification.

(a) Third Party Claims. In order to seek indemnification under this Article VI, an Indemnified Party shall deliver a notice to the Indemnifying Party. In the case of an Action relating to a Third-Party claim (a "Third Party Action"), an Indemnified Party shall give written notification to the Indemnifying Party of the commencement (or threatened commencement) of any Third Party Action. Such notification shall be given as soon as practicable after receipt by the Indemnified Party of notice of such Third Party Action, and shall describe in reasonable detail (to the extent known by the Indemnified Party) the facts constituting the basis for such Third Party Action and the amount of the claimed Damages; provided, however, that no delay or failure on the part of the Indemnified Party in so notifying the Indemnifying Party shall relieve the Indemnifying Party of any liability or obligation hereunder except to the extent of any damage or liability caused by or arising out of such delay or failure. Within twenty (20) days after delivery of such notification, the Indemnifying Party may, upon written notice thereof to the Indemnified Party, assume control of the defense of such Third Party Action with counsel reasonably satisfactory to the Indemnified Party; provided that the Indemnifying Party may not assume control of the defense of any Third Party Action involving criminal liability or in which equitable relief is sought against the Indemnified Party. If the Indemnifying Party does not, or is not permitted under the terms hereof to, so assume control of the defense of a Third Party Action, the Indemnified Party shall control such defense with counsel reasonably satisfactory to the Indemnifying Party. The non-controlling party may participate in such defense at its own expense. The controlling party shall keep the non-controlling party advised of the status of such Third Party Action and the defense thereof and shall consider in good faith recommendations made by the non-controlling party with respect thereto. The non-controlling party shall furnish the controlling party with such information as it may have with respect to such Third Party Action (including copies of any summons, complaint or other pleading which may have been served on such party and any written claim, demand, invoice, billing or other document evidencing or asserting the same) and shall otherwise cooperate with and assist the controlling party in the defense of such Third Party Action. The fees and expenses of counsel to the Indemnified Party with respect to a Third Party Action shall be considered Damages for purposes of this Agreement if the Indemnified Party controls the defense of such Third Party Action pursuant to the terms of this Section 6.3. The Indemnifying Party shall not agree to any settlement of, or the entry of any judgment arising from, any Third Party Action without the prior written consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed. The Indemnified Party shall not agree to any settlement of, or the entry of any judgment arising from, any such Third Party Action without the prior written consent of the Indemnifying Party, which shall not be unreasonably withheld, conditioned or delayed.

(b) Procedure for Other Claims. An Indemnified Party wishing to assert a claim for indemnification under this Article VI which is not subject to Section 6.3(a) shall deliver to the Indemnifying Party a written notice (a "Claim Notice") which contains (i) a description and the amount (the "Claimed Amount") of any Damages incurred by the Indemnified Party, (ii) a statement that the Indemnified Party is entitled to indemnification under this Article VI and a reasonable explanation of the basis therefor, and (iii) a demand for payment in the amount of such Damages. Within twenty (20) days after delivery of a Claim Notice, the Indemnifying Party shall deliver to the Indemnified Party a written response in which the Indemnifying Party shall: (I) agree that the Indemnified Party is entitled to receive all of the Claimed Amount (in which case such response shall be accompanied by a payment by the Indemnifying Party to the Indemnified Party of the Claimed Amount, by check or by wire transfer), or (II) contest that the Indemnified Party is entitled to receive any of the Claimed Amount. If the Indemnifying Party in such response contests the payment of all or part of the Claimed Amount, the Indemnifying Party and the Indemnified Party shall use good faith efforts to resolve such dispute. If such dispute is not resolved within sixty (60) days following the delivery by the Indemnifying Party of such response, the Indemnifying Party and the Indemnified Party shall each have the right to litigate such dispute or to take such other actions, as they may deem appropriate.

(c) Notwithstanding anything contained herein to the contrary, the amount of any Damages incurred or suffered by an Indemnified Party shall be calculated after giving effect to: (i) any insurance proceeds actually received by the Indemnified Party (or any of its Affiliates) with respect to such Damages and (ii) any recoveries obtained by the Indemnified Party (or any of its Affiliates) from any other Third Party. Each Indemnified Person shall exercise its commercially reasonable efforts to obtain such proceeds, benefits and recoveries. If any such proceeds, benefits or recoveries are received by an Indemnified Party (or any of its Affiliates) with respect to any Damages after the Indemnified Party (or any Affiliate) has received the benefit of any indemnification hereunder with respect thereto, the Indemnified Party (or such Affiliate) shall pay to the Indemnifying Party the net amount of such proceeds, benefits or recoveries, after deduction of any deductible or amount incurred by the Indemnified Party (or any of its Affiliates) in connection with the collection thereof (up to the amount of the Indemnifying Party's payment).

(d) Upon making any payment to an Indemnified Person in respect of any Damages, the Indemnifying Person will, to the extent of such payment, be subrogated to all rights of the Indemnified Person (and its Affiliates) against any Third Party in respect of the Damages to which such payment relates. Such Indemnified Person (and its Affiliates) and Indemnifying Person will execute upon request all instruments reasonably necessary to evidence or further perfect such subrogation rights.

6.4 Exclusive Remedy. Following the Closing, except with respect to claims for fraud or for equitable relief, and claims for specific performance of the covenants and obligations of the other party under this Agreement, claims for indemnification pursuant to this Article VI, shall be the sole and exclusive remedies for claims and damages available to the Sellers, the Buyer and their respective Affiliates arising out of or relating to this Agreement and the purchase and sale of the Purchased Assets or any certificate or document delivered in connection herewith.

6.5 Limitation on Liability. Notwithstanding this Article VI or any other provision of this Agreement, neither the Sellers nor the Buyer shall be liable under this Agreement for any special, indirect, consequential or punitive damages except to the extent that the liability for such damages arises out of a Third Party Action. Except for specific performance claims relative to Sellers' obligations to assign to Buyer the Purchased Assets and liabilities that arise out of a Third Party Action, neither party shall be liable to the other under this Agreement for any Damages in the aggregate that exceed with respect to such party, an amount equal to the Initial Payment.

ARTICLE VII

MISCELLANEOUS

7.1 Notices. All notices, requests, consents and other communications hereunder shall be in writing, shall be addressed to the receiving party's address set forth below or to such other address as a party may designate by notice hereunder, and shall be either (i) delivered by hand, (ii) made by telecopy or facsimile transmission, (iii) sent by recognized overnight courier, or (iv) sent by registered or certified mail, return receipt requested, postage prepaid:

If to the Sellers:

Baxter Healthcare S.A.
Hertistrasse 2, CH-8304
Wallisen, Switzerland
Attn: General Manager
Fax: +41 44 878 64 77

Baxter International Inc.
One Baxter Parkway
Deerfield, IL 60015
Attn: Corporate Vice President & General Counsel
Fax: 847.948.2450

Baxter Oncology GmbH
Kantstrasse 2
33790 Halle/Westfalen
Germany
Attn: Corporate Counsel
Fax: +49 -5201-711-2546

If to the Buyer:

ZIOPHARM Oncology, Inc
1180 Avenue of the Americas
New York, NY 10036
Attn: Jonathan Lewis, MD, PhD
Chief Executive Officer and Executive Chairman
Fax: 203 848 6007

With a copy to:

ZIOPHARM Oncology, Inc
197 Eighth Street, Suite 300
Charlestown, MA 02129
Attn: Bob Newman, Senior Vice President, Business and Development Operations
Fax: 617 241 2855

All notices, requests, consents and other communications hereunder shall be deemed to have been received (i) if by hand, at the time of the delivery thereof to the receiving party at the address of such party set forth above or as so designated, (ii) if made by telecopy or facsimile transmission, at the time that receipt thereof has been acknowledged by electronic confirmation or otherwise, (iii) if sent by overnight courier, on the next business day following the day such notice is delivered to the courier service, or (iv) if sent by registered or certified mail, on the fifth business day following the day such mailing is made.

7.2 Entire Agreement. The Transaction Documents collectively embody the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and supersede all prior oral or written agreements and understandings relating to the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in the Transaction Documents shall affect, or be used to interpret, change or restrict, the express terms and provisions of this Agreement.

7.3 Modifications and Amendments. The terms and provisions of this Agreement may be amended, modified, supplemented or waived only by written agreement executed by all parties hereto.

7.4 No Waiver of Rights, Powers and Remedies. No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, shall operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, shall preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto shall not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement shall entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a wavier of the rights of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure therefrom granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent shall be deemed to be or shall constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent shall be effective only in the specific instance and for the purpose for which it was given, and shall not constitute a continuing waiver or consent.

7.5 Assignment. Neither party may assign or transfer this Agreement or any rights or obligations hereunder without the prior written consent of the other, except that a party may make such an assignment without the other party's consent to one or more of its Affiliates or in connection with the sale of all or substantially all of the stock or assets of the party or any merger, consolidation or similar transaction involving the party. Any permitted successor or assignee of rights and/or obligations hereunder shall, in writing to the other party, expressly assume performance of such rights and/or obligations. Any permitted assignment shall be binding on the successors of the assigning party. Any assignment or attempted assignment by either party in violation of the terms of this Section 7.5 shall be null and void and of no legal effect.

7.6 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their permitted successors and assigns, and nothing in this Agreement, express or implied, (i) is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Agreement, or (ii) shall be construed to create any rights or obligations except among the parties hereto, and no Person shall be regarded as a third-party beneficiary of this Agreement; provided that the provisions of Article VI shall be enforceable by, and inure to the benefit of, the Person entitled to the benefit thereunder.

7.7 Governing Law. This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the internal law of the State of Illinois, without giving effect to the conflicts of law principles thereof.

7.8 Severability. In the event that any court of competent jurisdiction shall finally determine that any provision, or any portion thereof, contained in this Agreement shall be void or unenforceable in any respect, then such provision shall be deemed limited to the extent that such court determines it enforceable, and as so limited shall remain in full force and effect. In the event that such court shall determine that any such provision, or potion thereof, is wholly unenforceable, the remaining provisions of this Agreement shall nevertheless remain in full force and effect.

7.9 Interpretation. The parties hereto acknowledge and agree that: (i) each party and its counsel reviewed and negotiated the terms and provisions of this Agreement and have contributed to its revision; (ii) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement; and (iii) the terms and provisions of this Agreement shall be construed fairly as to all parties hereto and not in favor of or against any party, regardless of which party was generally responsible for the preparation of this Agreement.

7.10 Headings and Captions. The headings and captions of the various subdivisions of this Agreement are for convenience of reference only and shall in no way modify, or affect, or be considered in construing or interpreting the meaning or construction of any of the terms or provisions hereof.

7.11 Enforcement. Each of the parties hereto acknowledges and agrees that the rights acquired by each party hereunder are unique and that irreparable damage would occur in the event that any of the provisions of this Agreement to be performed by the other party were not performed in accordance with their specific terms or were otherwise breached. Accordingly, in addition to any other remedy to which the parties hereto are entitled at law or in equity, each party hereto shall be entitled to an injunction or injunctions to prevent breaches of this Agreement by the other party and to enforce specifically the terms and provisions hereof in any federal or state court of competent jurisdiction.

7.12 Expenses. Each of the parties hereto shall pay its own fees and expense (including the fees of any attorneys, accountants, appraisers or others engaged by such party) in connection with this Agreement and the transactions contemplated hereby whether or not the transactions contemplated hereby are consummated.

7.13 Publicity. Neither party shall make any public announcement concerning this Agreement without the prior written consent of the other party, unless counsel to such party advises that such announcement or statement is required by law (including applicable stock exchange rule). In the case of an announcement required by law, the other party shall be advised in advance and both parties shall use good faith efforts to cause a mutually agreeable announcement to be issued in a timely basis, subject to the disclosing party's legal requirements.

7.14 Confidentiality. From and after the Closing, each party shall hold, and shall cause its respective Affiliates, auditors, attorneys, financial advisor, bankers and other consultants and advisors, to hold, in strict confidence all information and data concerning the other party, Indibulin, Indibulin-related NanoSuspension, the Indibulin Project, the Purchased Assets and the Licensed Assets, furnished to it by the other party or such other party's representatives pursuant to this Agreement or the Confidential Disclosure Agreement dated as of April 12, 2006 between the party (which agreement shall terminate upon the date of this Agreement with all Confidential Information thereunder being subject to this Agreement. Such information and data shall include, without limitation, any trade or business secrets and any technical or business materials, including information (whether in written, oral or machine-readable form) concerning: general business operations; methods of doing business, servicing clients, client relations, and of pricing and making charge for services and products; financial information, including costs, profits and sales; marketing strategies; business forms developed; names of suppliers, personnel, customers, clients and potential clients; negotiations or other business contact with suppliers, personnel, customers, clients and potential clients; form and content of bids, proposals and contracts; internal reporting methods; technical and business data, documentation and drawings; software programs, however embodied; inventions; diagnostic techniques; and information obtained by or given to the parties about or belonging to third parties. To the extent that any such information or data was transferred to the Buyer as part of the Purchased Assets under this Agreement, such information and data shall be deemed to be information and data of the Buyer.

7.15 Confidentiality of this Agreement. Neither the Sellers or the Buyer nor their representatives, will, without the prior written consent of the other party, other than to its employees, their officers, its Affiliates and/or its agents, disclose to any person any of the terms or conditions of this Agreement; provided, however, that notwithstanding the foregoing, the Sellers or the Buyer may disclose the terms or conditions of this Agreement to the extent such disclosure is reasonably necessary to (a) comply with or enforce any of the provisions of this Agreement, (b) comply with applicable laws, or (c) comply with applicable stock exchange regulation, New York Stock Exchange regulation, Nasdaq regulation or Securities and Exchange Commission rule or regulation. To the extent that either party determines that it is required to file this Agreement to comply with the requirements of an applicable stock exchange regulation, New York Stock Exchange regulation, Nasdaq regulation or SEC rule or regulation, such party shall give at least three (3) days advance written notice of any such required disclosure to the other party, and to the extent the other party so requests it within such three (3) day period, prior to making any such filing shall consult with the other party with respect thereto regarding confidentiality.

7.16 Interpretation. Unless the context otherwise requires, words defined herein in the singular include the plural and words defined herein in the plural include the singular. “Include,” “includes” or “including” shall in all places mean including, but not limited to. The use of the masculine or any other pronoun herein when referring to any Person is for convenience only and shall be deemed to refer to the particular Person intended regardless of the actual gender of such Person or whether such Person is a corporation or other entity.

7.17 Counterparts. This Agreement may be executed in one or more counterparts, each of which deemed an original, but all of which together shall constitute one and the same instrument.

7.18 Facsimile/Scanned Signatures. For purposes of this Agreement and any other Transaction Documents required to be delivered pursuant to this Agreement, facsimiles of, or scanned, signatures shall be deemed to be original signatures. In addition, if any of the parties sign facsimile or scanned copies of this Agreement or any of the other Transaction Documents, such copies shall be deemed originals.

In Witness Whereof, the parties hereto have executed this Agreement as of the day and year first above written.

SELLERS:
BAXTER HEALTHCARE S.A.

By: /s/ Robert J. Hombach
Name: Robert J. Hombach
Title: VP Finance Europe

BAXTER INTERNATIONAL INC.

By: /s/ Rob Burns
Name: Rob Burns
Title: CVP, CFO

BAXTER ONCOLOGY, INC.

By: /s/ Phillip Saame
Name: Philipp Saame
Title: Senior Counsel

BUYER:
ZIOPHARM ONCOLOGY, INC.

By: /s/ Jonathan Lewis
Name: Jonathan Lewis
Title: Chief Executive Officer

Exhibit 10.2

Portions herein identified by [***] have been omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Securities Exchange Act of 1934. A complete copy of this document has been filed separately with the Securities and Exchange Commission.

LICENSE AGREEMENT

This License Agreement is entered into as of the 3rd day of November, 2006 ("Effective Date"), by and among Baxter Healthcare S.A. a Swiss corporation having offices at Hertistrasse 2, CH-8304, Wallisellen Switzerland and Baxter International, Inc. a Delaware Corporation, having offices at One Baxter Parkway, Deerfield, IL 60015 (collectively, "Baxter") on the one hand, and Ziopharm Oncology, Inc. a Delaware corporation having offices at 197 Eighth Street, Suite 300, Charlestown, MA 02129 ("Licensee") on the other hand.

WHEREAS, Baxter possesses certain intellectual property rights related to the use of nanosuspension technology in the manufacture of a suspension formulation of Indibulin and compositions thereof ("Licensed Patents," as further defined below);

WHEREAS, Licensee is engaged in the pharmaceutical business and, more particularly, in oncology;

WHEREAS, Baxter and Licensee are, concurrently with this Agreement, entering into a separate Asset Purchase Agreement providing for, among other things, the transfer of certain assets relative to the Indibulin molecule and associated intellectual property (the "Asset Purchase Agreement");

WHEREAS, Licensee desires to obtain certain rights in and to the Licensed Patents;

WHEREAS, Baxter has agreed to license to Licensee certain rights in and to the Licensed Patents;

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

ARTICLE 1
DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

An "Affiliate" of a subject person or entity shall mean any corporation, firm, business organization or legal entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with the subject person or entity. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means possession, directly or indirectly, of power to direct or cause the direction of management and policies (whether through ownership of securities, partnership or other ownership interests, by contract or otherwise).

"Asset Purchase Agreement" shall have the meaning ascribed in preamble of this Agreement.

"Assumed Patent" shall have the meaning set forth in Section 5.1(a)(ii).

"Commercialize" shall mean the sale of a Licensed Product which has received Marketing Approval.

"Composite Product" shall mean a product combination encompassing one or more Licensed Products and one or more separate products, wherein the Composite Product is sold as a complete package for purposes of selling the one or more Licensed Products.

"CTA" shall mean the European EMEA equivalent of IND.

"EMEA" means European Agency for the Evaluation of Medicinal Products, or any successor agency thereto.

"FDA" shall mean the United States Food and Drug Administration.

"Governmental Authority" means any United States federal, state or local or any foreign government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal or arbitral body.

"IND" shall mean an investigational new drug application submitted to the FDA.
"Indibulin-related Nanosuspension" shall mean a compound as claimed in claim 1 of U.S. Patent Application No. 11/266,518, filed on November 3, 2005, formulated as particles and, optionally, suspended in a composition.

"Intangible Property Rights" shall mean intangible property rights (other than the Licensed Patents) to the extent that such intangible property rights relate to Indibulin-related Nanosuspension, whether or not patentable including, but not limited to, inventions, discoveries, trade secrets, technical information, know-how, copyrights and other confidential business information.

"Licensed Patents" shall mean all shall mean all U.S. and foreign patents, provisional and non-provisional patent applications and invention records listed on Exhibit A and (i) any continuations, continuations-in-part, divisionals and reissue patent applications and resulting patents, derived from such prior filed patents and patent applications, and any foreign counterparts and any issued patents thereof and (ii) any patent applications, filed patents and any continuations, continuations-in-part, divisionals and reissue patent applications and resulting patents and any foreign counterparts and any issued patents thereof embraced by the disclosures in such invention records.

"Licensed Product" shall mean an Indibulin-related Nanosuspension, the use, manufacture, sale, offer for sale or importation of which falls within the scope of a Valid Claim.

"Management" shall have the meaning set forth in Section 5.1(a)(i).

"Marketing Approval" shall mean regulatory approval of the marketing of a Licensed Product by the FDA or the EMEA.

"Net Sales" shall mean the total amount invoiced in U.S. dollars (or, if in another currency, as converted by Licensee in accordance with Section 3.7 by Licensee or its subsidiaries, Affiliates or Sublicensees for the sale of any Licensed Product after deducting the following costs, provided and to the extent such costs are attributable to such sale of the Licensed Product in accordance with U.S. generally accepted accounting principles as consistently applied by Licensee and are actually borne by or on behalf of Licensee or its subsidiaries, Affiliates or Sublicensees: (i) invoiced freight, shipping and shipping insurance charges, (ii) discounts allowed and taken, in amounts customary in the trade, (iii) taxes, including sales, use, turnover, excise, import and other taxes or duties, separately billed or invoiced and borne by or on behalf of Licensee or its subsidiaries, Affiliates or Sublicensees, imposed by a Governmental Authority on the production, sale, use or transfer of the Licensed Product, (iv) amounts repaid or credited by reason of rejection or return of any previously sold Licensed Products and uncollectible portions of invoiced amounts with respect to any previously sold Licensed Products, and (v) rebates, chargebacks, retroactive price reductions, allowances and fees paid or credited to customers, wholesalers, distributors, third party payors, governmental agencies, administrators and contractees with respect to Licensed Products sold.

If a Licensed Product is sold as part of a Composite Product, then Net Sales for such Composite Product will be adjusted by multiplying (x) actual Net Sales of the Composite Product for the calendar quarter in the country in which the Composite Product is being sold by (y) the fraction A/(A+B) where A is the average invoice price of the Licensed Product in such country during such period, if sold separately (i.e., without one or more products), and B is the average invoice price of the other products in the Composite Product in such country during such period, if sold separately. If in a given country A and/or B are not sold separately, the related value of the Licensed Product and the other products in the Composite Product shall be determined based on a good faith estimate by Licensee based upon the respective fair market values of the Licensed Product as if it were sold separately and the other product(s) as if they were sold separately, which good faith estimate shall be subject to approval by Baxter, which approval shall not be unreasonably withheld. In the event the Parties cannot agree on a fair market value of the Licensed Product relative to Composite Product sales, upon the request of any one of the Parties, the Parties shall submit the valuation matter to a mutually, agreed to independent consultant. The Parties shall accept the fair market value as determined by the independent consultant.

No sales shall result from any transfer between Licensee or any of its subsidiaries, Affiliates or Sublicensees for resale, but shall result from the resale by the subsidiary, Affiliate or Sublicensee.

"Party" shall mean either Baxter or Licensee, or both, as the context dictates.

"Sublicensee" shall mean a third party other than an Affiliate who has received a sublicense from Licensee or Licensee's sublicensees pursuant to Section 2.3.

"Term" shall have the meaning set forth in Section 10.1.

"Territory" shall mean the entire world.

"Valid Claim" means a claim of an issued and unexpired patent within the Licensed Patents that has not been (i) held permanently revoked, unenforceable, unpatentable or invalid by a decision of a court or governmental body of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, (ii) rendered unenforceable through written disclaimer (iii) lapsed or abandoned for failure to pay maintenance fees with no further remedy available to reinstate, or (iv) lost through an interference proceeding.

ARTICLE 2
LICENSE

2.1 Grant. Subject to the conditions hereunder,

(a) Baxter hereby grants to Licensee a world-wide, royalty bearing (pursuant to Article 3) exclusive right and license, with the right to grant sublicenses, under Licensed Patents to use, market, sell, offer to sell and import (except where a product is manufactured in a country where a Valid Claim relative to such manufacture does not exist, and such product is imported in a country where a Valid Claim relative to the manufacture does exist) Licensed Products in the Territory; and

(b) Baxter hereby grants to Licensee a world-wide, non-royalty bearing exclusive right and license, with the right to grant sublicenses, under the Intangible Property Rights to use, market, sell, offer to sell and import Licensed Products in the Territory.

Notwithstanding this Section 2.1, Baxter does not and shall not license to Licensee hereunder the right and license under the Licensed Patents or the Intangible Property Rights to make or have made Licensed Products or Indibulin-related Nanosuspension in the Territory.

2.2 Limitation on License Grants. Except for the license expressly granted pursuant to Section 2.1, all right, title and interest in all Licensed Patents, and other rights owned by Baxter or in which Baxter has an interest shall remain the sole property of Baxter, and nothing herein shall be construed to grant or establish any other rights to the contrary.

2.3 Sublicenses by Licensee. Licensee shall notify Baxter of any sublicense hereunder and the identity of each Sublicensee, and provide Baxter with a copy of the executed agreement involving such sublicense with such redactions of confidential terms as Licensee shall determine to be appropriate, all within thirty (30) days of execution of the Agreement. Sublicenses shall not contain any provision contrary to, or inconsistent with, this Agreement and shall provide that all obligations of Licensee hereunder shall be binding upon each Sublicensee as if the Sublicensee were a party to this Agreement. Additionally, Licensee shall be responsible for and liable to Baxter for Sublicensee's compliance with the provisions hereof.

2.4 Rights in Bankruptcy. All rights and licenses granted under or pursuant to this Agreement by Baxter are, and will otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101 of the U.S. Bankruptcy Code.

ARTICLE 3

PAYMENTS

3.1 Milestone Fees. As part of the consideration for the rights granted by Baxter to Licensee hereunder, Licensee shall pay to Baxter five hundred thousand United States dollars ($500,000) within thirty (30) days of the first effectiveness of an IND submitted to the FDA or a CTA submitted to the EMEA permitting Licensee to initiate human clinical trials of an Indibulin-related Nanosuspension in the United States or Europe, whichever comes first.

3.2 License Royalties. As part of the consideration for the rights granted by Baxter to Licensee, Licensee shall pay, or cause to be paid to Baxter, the following royalties based on Net Sales of Licensed Products:

a) [****] percent ([****]%) of worldwide calendar year annual Net Sales of less than [**********] Dollars ($[**********]);

b) [****] percent ([****]%) of worldwide calendar year annual Net Sales from [**********] Dollars ($[**********]) up to [**********] Dollars ($[**********]); and

c) [****] percent ([****]%) of worldwide calendar year annual Net Sales in excess of [**********] U.S. Dollars ($[**********]).

With respect to each Licensed Product, royalties will be payable on a country-by-country basis, so long as the importing, using or selling of the Licensed Product was covered by a Valid Claim in the country in which such Licensed Product was imported, used or sold.

3.3 Reports, Audit and Payment Schedule. Licensee shall keep and maintain detailed records of all sales of Licensed Product worldwide; and

a) Licensee shall make quarterly payments to Baxter within forty-five (45) days of the close of each calendar quarter (March 31, June 30, September 30 and December 31) based on Net Sales in such quarter, and shall additionally provide, together with such payment, a sales report detailing Net Sales of Licensed Products sold per country and the royalty calculation, pursuant to Section 3.2; and

b) Baxter shall have the right annually, at Baxter's expense, to audit Licensee's records, or Licensee's subsidiaries, Affiliates or Sublicensees in order to verify the calculation of Net Sales of Licensed Products. Licensee shall reasonably cooperate with Baxter to provide Licensee access to such records; provided that:

(i) Such audit shall be conducted by Baxter's independent auditors;

(ii) Such audit shall be conducted during normal business hours, upon reasonable advance notice and in a manner that does not cause unreasonable disruption to the conduct of the business of Licensee, its subsidiaries, Affiliates or Sublicensees;

(iii) Baxter shall treat all information reviewed or learned of in the course of such audit in accordance with Section 11.13; and

(iv) prior to such audit, Baxter shall cause its auditors to enter into a reasonably acceptable confidentiality agreement with Licensee obligating such auditors to maintain confidentiality of all financial statements.

3.4 No Multiple Payments. For payments pursuant to Section 3.2, only one payment shall be paid for each Licensed Product sold, regardless of the number of Licensed Patents or claims thereof that cover such Licensed Product. Additionally, in the event Licensee has paid Baxter a sales-based contingent payment on the Net Sales of a unit of Licensed Product pursuant to Section 2.4 of the Asset Purchase Agreement, Licensee shall not pay Baxter a royalty, pursuant to Section 3.2 of this Agreement, on the Net Sales of that unit of Licensed Product.

3.5 Royalty Reduction. In the event Licensee or its subsidiaries, Affiliates or Sublicensees licenses third party patent rights in order to have freedom to make, have made or sell Licensed Product without infringing such patent rights, Licensee shall be allowed to deduct from the royalties due pursuant to Section 3.2, fifty percent (50%) of any royalties or any other license fees paid or incurred in connection with such license up to a maximum of fifty percent (50%) of the royalties due pursuant to Section 3.2 (with any amount not deducted due to such deduction limitation carried forward to subsequent calendar quarters for deduction, but subject to the fifty percent (50%) maximum deduction limitation provided by this Section 3.5 for such subsequent calendar quarters).

3.6 Royalty Credits. Licensee shall be allowed to deduct from the royalty payments due to Baxter under Section 3.2 any payments made by it to Baxter pursuant to Section 2.3 of the Asset Purchase Agreement.

3.7 Currency Exchange. In the event sales are invoiced in a currency other than United States dollars, Net Sales shall be calculated in the following manner: cumulative non-United States dollars sales invoiced by month shall be converted to United States dollars by multiplying or dividing, whichever is applicable, this amount by the simple average of the daily NY close rates for each day in the month as published by Bloomberg, Reuters or some other generally accepted source for publishing NY close foreign currency rates. The rate source shall be reviewed with Baxter prior to commencing payment of royalty payments to Baxter.

3.8 Withholding Taxes. Licensee may withhold taxes in the event that revenue authorities in any country require the withholding of taxes on amounts paid hereunder to Baxter. Licensee will deduct such taxes from such payment and such taxes will be paid by Licensee to the proper taxing authority on behalf of Baxter. In the event such taxing authority routinely provides a tax receipt upon payment, Licensee will procure such tax receipt and forward it to Baxter. Licensee agrees to assist Baxter in claiming exemption from such deductions or withholdings under any applicable double taxation or similar agreement or treaty.

3.9 Late Penalty. Milestone fees and royalties not received within the required timeframe shall bear interest at the lesser of (a) the maximum rate permitted by law, and (b) 1.0% per month on the outstanding balance compounded monthly. All applicable sums due herein shall be paid in U.S. Dollars.

ARTICLE 4
SUPPLY OF LICENSED PRODUCT

4.1 Baxter to Supply. In the event that Licensee desires the supply of Licensed Products or Indibulin-related Nanosuspension, Baxter and Licensee shall negotiate and enter into a separate supply agreement governing the developmental and commercial supply by Baxter of Licensed Product or Indibulin-related Nanosuspension to Licensee.

ARTICLE 5
PATENT PROSECUTION, ENFORCEMENT AND INFRINGEMENT

5.1 Prosecution and Maintenance of Patents.

a) Patents.

(i) Baxter to Manage Patents. Baxter shall be responsible for, and use reasonable discretion in, the filing, prosecution and maintenance ("Management") of Licensed Patents. At a minimum, Baxter shall file, prosecute and maintain Licensed Patents in the U.S., Germany, France, United Kingdom, Belgium, Netherlands, Spain, Italy, Australia, China, Mexico, Korea, Canada, Brazil and Japan. Each Party agrees to cooperate with the other with respect to the preparation, filing, prosecution and maintenance of patents and patent applications pursuant to this Section 5.1.

(ii) Step-In Rights by Licensee. In the event Baxter determines to abandon or not to continue with any Management of a Licensed Patent, it shall provide Licensee with at least sixty (60) days prior written notice of such determination. Licensee, in its discretion, may elect to assume the Management of such Licensed Patent (an "Assumed Patent"), at Licensee's sole expense; provided, however, Assumed Patents shall remain the sole property of Baxter, subject to the license of Section 2.1; and provided further that Licensee shall be entitled to deduct 50% of the direct costs of the Management of the Assumed Patents from any amounts due under Section 5.1(b).

b) Costs. The Parties have agreed to estimate the annual cost of filing, prosecuting and maintaining the Licensed Patents at thirty thousand dollars ($30,000) and, as a result, have agreed that for so long as Baxter is filing, prosecuting and maintaining the Licensed Patents, with the exception of the Assumed Patents or Licensed Patents not elected pursuant to Section 5.1(a)(ii), the Licensee shall pay to Baxter fifteen thousand dollars ($15,000) on the Effective Date and every anniversary thereafter during the Term.

5.2 Enforcement of Intellectual Property Rights.

a) Each Party shall promptly, but in no event later than thirty (30) days after receipt of notice thereof, notify the other Party (i) of any nullity actions, oppositions, reexaminations, declaratory judgment actions or any alleged or threatened infringement affecting any Licensed Patent or the misappropriation or violation of any intellectual property rights relating to any Licensed Product or any Licensed Patent; or (ii) if it reasonably believes that any Licensed Patent is being infringed, misappropriated or violated by a third party.

b) Litigation.

(i) Except as provided in Section 5.2(b)(ii), Baxter, in its discretion and at its expense, shall pursue all necessary actions, including initiating a suit, against any third party that Baxter reasonably believes is infringing, misappropriating or violating a Licensed Patent.

(ii) Notwithstanding Section 5.2(b)(i), Licensee, in its discretion and its expense, shall have the first right and option to pursue all necessary actions, including initiating a suit, against any third party that Licensee reasonably believes is infringing, misappropriating or violating or Licensed Patent, if such infringement, misappropriation or violation relates to the development or commercialization of a product or product candidate that is competitive (i.e., the product or product candidate is a tubulin inhibitor particle suspension) with a Licensed Product being developed or commercialized by Licensee. If Licensee fails to take any of the foregoing actions within a reasonable period of time after becoming aware of the claimed infringement, misappropriation or violation (but in no event more than ninety (90) days), or otherwise notifies Baxter within such time period that it elects to not pursue any such action, then Baxter shall have the right to take any such action in accordance with Section 5.2(c). The ninety (90) day time period in this sub-section shall be shortened as reasonably necessary to enable Baxter to initiate a suit or take other appropriate action if, in the absence of such shortening, a loss of rights with respect to such suit or other action would occur (e.g., if a generic pharmaceutical maker files an abbreviated new drug application for which the reference listed drug is a Licensed Product and, in order to obtain an automatic stay from the FDA with respect to the approval of such abbreviated new drug application, a patent infringement suit must be brought within a shorter period of time). The Party filing any suit or taking any such action hereunder shall be responsible for all costs in connection therewith.

c) The Party initiating suit or action under Section 5.2(b)(ii) shall have the sole and exclusive right to select counsel for any suit initiated by it. If required under applicable law in order for the initiating Party to initiate and/or maintain such suit or action, the other Party shall join as a party to the suit or action. Such other Party shall offer reasonable assistance to the initiating Party in connection therewith at no charge to the initiating Party except for reimbursement of reasonable out-of-pocket expenses incurred in rendering such assistance. The Party filing any such suit or taking any such action shall provide the other Party with an opportunity to make suggestions and comments regarding such suit or action. Thereafter, the Party filing any such suit or taking any such action shall, to the extent permitted by applicable law, keep the other Party promptly informed, and shall from time to time consult with such other Party regarding the status of any such suit or action and shall provide such other Party with copies of all material documents including complaints, answers, counterclaims, material motions, orders of the court, memoranda of law and legal briefs, interrogatory responses, depositions, material pre-trial filings, expert reports, affidavits filed in court, transcripts of hearings and trial testimony, trial exhibits and notices of appeal filed in, or otherwise relating to, such suit or action. The Party not initiating such suit or action shall have the right to participate and be represented in any such suit by its own counsel at its own expense. The Parties shall not conduct or settle any such suit or action in a manner that deprives the non-initiating Party of material consideration under this Agreement or materially places at risk the scope or validity of any Licensed Patent without the prior written approval of the non-initiating Party, which approval shall not be unreasonably withheld or delayed.

d) With respect to any suit or action referred to in Section 5.2(b)(ii), any recovery obtained as a result of any such proceeding, by settlement or otherwise, shall be applied in the following order of priority:

(i) first, the Party initiating the suit or action shall be reimbursed for all costs in connection with such proceeding paid by such Party and not otherwise recovered; and

(ii) second, any remainder shall be paid seventy-five percent (75%) to the Party initiating such suit or action and twenty-five (25%) to the other Party.

5.3 Defense of Infringement Action. With respect to any and all claims instituted by third parties for patent infringement involving the manufacture, use, offer for sale or sale of a Licensed Product during the Term ("Third Party Suit"), Licensee shall have the right, at its sole discretion, to defend and control any action or proceeding with respect to such claim. Baxter agrees to be joined as a party if necessary to defend the action or proceeding and shall provide all reasonable cooperation, including any necessary use of its name, required to defend such litigation. In the event Baxter is joined as a party to any Third Party Suit, Baxter shall have the right to be represented by its own counsel, at its own selection and expense. Licensee shall have sole control of any such suit and all negotiations for its settlement or compromise, provided that Licensee shall not conduct or settle any such suit in a manner that deprives Baxter of material consideration under this Agreement or materially places at risk the scope or validity of any Licensed Patent without the prior written approval of Baxter, which approval shall not be unreasonably withheld or delayed.

ARTICLE 6

[Intentionally Omitted]

ARTICLE 7
REPRESENTATIONS AND WARRANTIES

7.1 Licensee’s Representations And Warranties. Licensee hereby represents and warrants to Baxter as of the Effective Date that:

(a) Licensee is duly authorized to enter into this Agreement;

(b) no consents or approvals which Licensee has not previously obtained are necessary for Licensee to enter into this Agreement and perform all of Licensee's obligations hereunder; and

(c) this Agreement does not conflict with any other Licensee contractual, statutory or regulatory obligation.

7.2 Licensee’s Covenant. Licensee hereby covenants during the Term that Licensee shall perform its obligations hereunder in accordance with all relevant material applicable state and federal laws, rules and regulations as they apply.

7.3 Baxter's Representations and Warranties. Baxter hereby represents and warrants to Licensee, as of the Effective Date that:

(a) Baxter is duly authorized to enter into this Agreement;

(b) no consents or approvals which Baxter has not previously obtained are

necessary for Baxter to enter into this Agreement and perform all of Baxter's obligations hereunder;

(c) this Agreement does not conflict with any other Baxter contractual, statutory or regulatory obligation;

(d) Baxter is the owner of the Licensed Patents and it is free and clear of any encumbrances, and that Baxter has the right to grant the license hereunder, and such grant does not conflict with any other agreements, documents or other materials;

(e) to Baxter's knowledge, the manufacture, sale, offer for sale, importation or use of a Licensed Product would not infringe any existing, valid intellectual property right of any third party throughout the world. Baxter represents that it has not received any notice of any claimed infringement (including without limitation patent infringement) in connection with the manufacture, sale, offer for sale, importation or use of a Licensed Product as of the Effective Date;

(f) Baxter has not received and does not have knowledge of any information that would suggest the invalidity or unenforceability of all of the claims of the Licensed Patents.

7.4 Baxter's Covenant. Baxter hereby covenants during the Term that Baxter shall perform its obligations hereunder in accordance with all relevant material applicable state and federal laws, rules and regulations as they apply.

ARTICLE 8
INDEMNIFICATION

8.1 Indemnification. Each Party's rights to indemnification with respect to the provisions of this Agreement and the performance thereof shall be governed by and set forth in Section 6.2 and 6.3 of the Asset Purchase Agreement.

8.2 Exclusive Remedy. Except with respect to claims for fraud or for equitable relief, and claims for specific performance of the covenants and obligations of the other Party under this Agreement, claims for indemnification pursuant to Article VI of the Asset Purchase Agreement shall be the sole and exclusive remedy for claims and damages available to Baxter and Licensee and their respective Affiliates arising out of or relating to this Agreement and the licenses contemplated hereby.

8.3 Limitation on Liability. Notwithstanding Article VI of the Asset Purchase Agreement, or any other provision of this Agreement, no Party shall be liable under this Agreement for any special, indirect, consequential or punitive damages except to the extent that the liability for such damages arises out of a Third Party Action (as defined in the Asset Purchase Agreement).

ARTICLE 9
FORCE MAJEURE

Neither of the Parties shall be liable for failure of performing its obligation hereunder to riot, act of God, war, fire, flood, invasion, earthquake, epidemics, interruption of transportation, embargo, strike, lockout or any other causes similar to the foregoing which are beyond the reasonable control of the Party ("Events of Force Majeure") and the performance of obligation hereunder shall be suspended but not longer than the existence of such cause. The Party so affected shall: (a) give prompt written notice to the other Party of the nature and date of commencement of the force majeure event and its expected duration; and (b) use all reasonable commercial efforts to relieve the effect of such cause as rapidly as possible. If the Events of Force Majeure do not abate within ninety (90) days such that the Party claiming such Force Majeure is still unable to perform its obligations hereunder, the failure to perform shall be deemed a material breach and the other Party may terminate this Agreement pursuant to Section 10.2.

ARTICLE 10
TERM AND TERMINATION

10.1 Term. The licenses granted under this Agreement shall come into effect as of the Effective Date and, subject to the provisions of this Article 10, shall expire on the expiration of last to expire of the Licensed Patents (the "Term"). Upon expiration of the Term, (i) the licenses granted herein shall terminate and (ii) no further obligation shall accrue under Article 3.

10.2 Termination of Certain Rights for Material Breach. Either Party may terminate certain rights of the other Party under this Agreement, as more fully described in Section 10.4, for any material breach by the other Party or if the other Party has failed to comply with all laws, regulations or treaties of the United States of America applicable to its activities under this Agreement, by giving sixty (60) days written notice to the other Party specifying the nature of such breach or failure. Termination shall become effective if such breach or failure remains uncured at the end of such sixty (60) day period, provided, however, if such breach or failure is incapable of cure within a sixty (60) day period but is otherwise capable of cure, and the terminating Party will not be materially prejudiced if the cure is effected in a reasonable time, and the curing Party is proceeding to effect the cure in good faith and with reasonable diligence, then the termination shall not become effective until the curing Party has had a reasonable time to effect the cure.

10.3 Licensee Termination. Licensee may terminate this Agreement at any time upon sixty (60) days prior written notice, at which time (i) the licenses granted herein shall terminate and (ii) no further obligation shall accrue under Article III.

10.4 Effect of Termination Under Section 10.2. In the event Baxter exercises its right of termination pursuant to Section 10.2, the license pursuant to Section 2.1 shall, at Baxter's option, either (i) become non-exclusive, without the right to sublicense; provided, however, that sublicenses granted prior to termination of the other Party's licenses under this Agreement shall continue unaffected by termination, except for the substitution of Baxter for Licensee as party to such sublicense or (ii) terminate.

ARTICLE 11
NOTICES AND MISCELLANEOUS

11. 1Notices. All notices, requests, consents and other communications hereunder shall be in writing, shall be addressed to the receiving party's address set forth below or to such other address as a party may designate by notice hereunder, and shall be either (i) delivered by hand, (ii) made by telecopy or facsimile transmission, (iii) sent by recognized overnight courier, or (iv) sent by registered or certified mail, return receipt requested, postage prepaid:

If to the Sellers:

Baxter Healthcare S.A.
Hertistrasse 2, CH-8304
Wallisen, Switzerland
Attn: General Manager
Fax: +41 44 878 64 77

Baxter International Inc.
One Baxter Parkway
Deerfield, IL 60015
Attn: Corporate Vice President & General Counsel
Fax: 847.948.2450

If to the Buyer:

ZIOPHARM Oncology, Inc
1180 Avenue of the Americas
New York, NY 10036
Attn: Jonathan Lewis, MD, PhD
Chief Executive Officer and Executive Chairman
Fax: 203 848 6007

With a copy to:

ZIOPHARM Oncology, Inc
197 Eighth Street, Suite 300
Charlestown, MA 02129
Attn: Bob Newman, Senior Vice President,
Business and Development Operations
Fax: 617 241 2855

All notices, requests, consents and other communications hereunder shall be deemed to have been received (i) if by hand, at the time of the delivery thereof to the receiving party at the address of such party set forth above or as so designated, (ii) if made by telecopy or facsimile transmission, at the time that receipt thereof has been acknowledged by electronic confirmation or otherwise, (iii) if sent by overnight courier, on the next business day following the day such notice is delivered to the courier service, or (iv) if sent by registered or certified mail, on the fifth business day following the day such mailing is made.

11.2 Entire Agreement. This Agreement, together with the Asset Purchase Agreement, collectively embodies the entire agreement and understanding among the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in the Agreement shall affect, or be used to interpret, change or restrict, the express terms and provisions of this Agreement.

11.3 Modifications and Amendments. The terms and provisions of this Agreement may be amended, modified, supplemented or waived only by written agreement executed by all Parties.

11.4 No Waiver of Rights, Powers and Remedies. No failure or delay by a Party in exercising any right, power or remedy under this Agreement, and no course of dealing between the Parties, shall operate as a waiver of any such right, power or remedy of the Party. No single or partial exercise of any right, power or remedy under this Agreement by a Party, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, shall preclude such Party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a Party shall not constitute a waiver of the right of such Party to pursue other available remedies. No notice to or demand on a Party not expressly required under this Agreement shall entitle the Party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a wavier of the rights of the Party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure therefrom granted, only by written document executed by the Party entitled to the benefits of such terms or provisions. No such waiver or consent shall be deemed to be or shall constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent shall be effective only in the specific instance and for the purpose for which it was given, and shall not constitute a continuing waiver or consent.

11.5 Assignment. Neither Party may assign or transfer this Agreement or any rights or obligations hereunder without the prior written consent of the other, except that a Party may make such an assignment without the other Party's consent to one or more of its Affiliates or in connection with a sale or transfer of all or substantially all of the stock or assets of the Party or any merger, consolidation or similar transaction involving the Party. Any permitted successor or assignee of rights and/or obligations hereunder shall, in a writing to the other Party, expressly assume performance of such rights and/or obligations. Any permitted assignment shall be binding on the successors of the assigning Party. Any assignment or attempted assignment by either Party in violation of the terms of this Section shall be null and void and of no legal effect.

11.6 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each Party and their permitted successors and assigns, and nothing in this Agreement, express or implied, (i) is intended to confer upon any other person or entity any rights or remedies of any nature whatsoever under or by reason of this Agreement, or (ii) shall be construed to create any rights or obligations except among the Parties, and no person or entity shall be regarded as a third-party beneficiary of this Agreement.

11.7 Governing Law. This Agreement and the rights and obligations of the Parties hereunder shall be construed in accordance with and governed by the internal law of the State of Illinois, without giving effect to the conflicts of law principles thereof.

11.8 Severability. In the event that any court of competent jurisdiction shall finally determine that any provision, or any portion thereof, contained in this Agreement shall be void or unenforceable in any respect, then such provision shall be deemed limited to the extent that such court determines it enforceable, and as so limited shall remain in full force and effect. In the event that such court shall determine that any such provision, or potion thereof, is wholly unenforceable, the remaining provisions of this Agreement shall nevertheless remain in full force and effect.

11.9 Interpretation. The Parties acknowledge and agree that: (i) each Party and its counsel reviewed and negotiated the terms and provisions of this Agreement and have contributed to its revision; (ii) the rule of construction to the effect that any ambiguities are resolved against the drafting Party shall not be employed in the interpretation of this Agreement; and (iii) the terms and provisions of this Agreement shall be construed fairly as to all Parties and not in favor of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement.

11.10 Headings and Captions. The headings and captions of the various subdivisions of this Agreement are for convenience of reference only and shall in no way modify, or affect, or be considered in construing or interpreting the meaning or construction of any of the terms or provisions hereof.

11.11 Enforcement. Each of the Parties acknowledges and agrees that the rights acquired by each Party hereunder are unique and that irreparable damage would occur in the event that any of the provisions of this Agreement to be performed by the other Party were not performed in accordance with their specific terms or were otherwise breached. Accordingly, in addition to any other remedy to which the Parties are entitled at law or in equity, each Party shall be entitled to an injunction or injunctions to prevent breaches of this Agreement by the other Party and to enforce specifically the terms and provisions hereof in any federal or state court of competent jurisdiction.

11.12 Publicity. Neither Party shall make any public announcement concerning this Agreement without the prior written consent of the other Party, unless counsel to such Party advises that such announcement or statement is required by law (including applicable stock exchange rule). In the case of an announcement required by law, the other Party shall be advised in advance and both Parties shall use good faith efforts to cause a mutually agreeable announcement to be issued in a timely basis, subject to the disclosing party's legal requirements.

11.13 Confidentiality. The Parties acknowledge and agree that any information or data it has acquired from the other Parties, not otherwise properly in the public domain, shall be subject, in all respects, to Section 7.14 of the Asset Purchase Agreement.

11.14 Confidentiality of This Agreement. Neither Party nor their representatives, will, without the prior written consent of the other Party, other than to its employees, their officers, its Affiliates and/or its agents, disclose to any person any of the terms or conditions of this Agreement; provided, however, that notwithstanding the foregoing, a Party may disclose the terms or conditions of this Agreement to the extent such disclosure is reasonably necessary to (a) comply with or enforce any of the provisions of this Agreement, (b) comply with applicable laws, or (c) comply with applicable stock exchange regulation, New York Stock Exchange regulation, Nasdaq regulation or Securities and Exchange Commission rule or regulation. To the extent that either Party determines that it is required to file this Agreement to comply with the requirements of an applicable stock exchange regulation, New York Stock Exchange regulation, Nasdaq regulation or SEC rule or regulation, such Party shall give at least three (3) days advance written notice of any such required disclosure to the other party, and to the extent the other party so requests it within such three (3) day period, prior to making any such filing shall consult with the other Party with respect thereto regarding confidentiality.

11.15 Interpretation. Unless the context otherwise requires, words defined herein in the singular include the plural and words defined herein in the plural include the singular. “Include,” “includes” or “including” shall in all places mean including, but not limited to. The use of the masculine or any other pronoun herein when referring to any person or entity is for convenience only and shall be deemed to refer to the particular person or entity intended regardless of the actual gender of such person or whether such person is a corporation or other entity.

11.16 Counterparts. This Agreement may be executed in one or more counterparts, each of which deemed an original, but all of which together shall constitute one and the same instrument.

11.17 Facsimile/Scanned Signatures. For purposes of this Agreement and any other Transaction Documents required to be delivered pursuant to this Agreement, facsimiles of, or scanned, signatures shall be deemed to be original signatures. In addition, if any of the parties sign facsimile or scanned copies of this Agreement or any of the other Transaction Documents, such copies shall be deemed originals.

In Witness Whereof, the Parties have executed this Agreement as of the day and year first above written.

BAXTER HEALTHCARE S.A.

By: /s/ Robert J. Hombach

Name: Robert J. Hombach
Title: VP Finance Europe

BAXTER INTERNATIONAL INC.

By: /s/ Rob Davis

Name: Rob Davis
Title: CVP, CFO

ZIOPHARM ONCOLOGY, INC.

By: /s/ Jonathan Lewis

Name: Jonathan Lewis
Title: Chief Executive Officer

Exhibit 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

I, Jonathan Lewis, certify that:

1. I have reviewed this quarterly report on Form 10-QSB of ZIOPHARM Oncology, Inc.;

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

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

4. The small business issuer's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the small business issuer 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 small business issuer, 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) Evaluated the effectiveness of the small business issuer's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

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

5. The small business issuer's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the small business issuer's auditors and the audit committee of the small business issuer'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 small business issuer'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 small business issuer's internal control over financial reporting.

Date: November 13, 2006

/s/ *Jonathan Lewis*

Jonathan Lewis
Principal Executive Officer

Exhibit 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

I, Richard Bagley, certify that:

1. I have reviewed this quarterly report on Form 10-QSB of ZIOPHARM Oncology, Inc.;

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

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

4. The small business issuer's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the small business issuer 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 small business issuer, 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) Evaluated the effectiveness of the small business issuer's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

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

5. The small business issuer's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the small business issuer's auditors and the audit committee of the small business issuer'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 small business issuer'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 small business issuer's internal control over financial reporting.

Date: November 13, 2006

/s/ *Richard E. Bagley*

Richard E. Bagley
Principal Financial Officer

Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of ZIOPHARM Oncology, Inc. (the "Company") on Form 10-QSB for the period ending June 30, 2006, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jonathan Lewis, Principal Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ *Jonathan Lewis*

Jonathan Lewis
Principal Executive Officer, 2006
November 13, 2006

Exhibit 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of ZIOPHARM Oncology, Inc. (the "Company") on Form 10-QSB for the period ending June 30, 2006, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Richard Bagley, Principal Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ *Richard E. Bagley*

Richard E. Bagley
Principal Financial Officer
November 13, 2006

Exhibit 99.1

ZIOPHARM Oncology, Inc. Reports Third Quarter 2006 Results

NEW YORK, NY,-November 13, 2006- ZIOPHARM Oncology, Inc. (NASDAQ: ZIOP), a biopharmaceutical company engaged in the development and commercialization of a diverse, risk-sensitive portfolio of in-licensed cancer drugs to address unmet medical needs, reported a net loss of $3.5 million, or $(0.23) per share for the quarter ended September 30, 2006, compared to a net loss of $2.8 million, or $(0.77) per share, in the third quarter of 2005. Total operating expenses for the third quarter increased by approximately 37% compared to the third quarter of 2005. This increase was attributable to the continued development of ZIO-101 and ZIO-201, two of the company's drug candidates. Cash used in operations was $2.6 million in the third quarter. ZIOPHARM ended the quarter with approximately $34.5 million in total cash and short-term investments, compared to $37.1 million at the end of the second quarter of 2006.

Following the end of the third quarter, the company acquired indibulin, a novel synthetic anti-cancer agent that targets mitosis like the taxanes, from affiliates of Baxter Healthcare Corporation. Indibulin has been designated by the company as ZIO-301. Terms of the acquisition included an upfront cash payment of $1.225 million, up to $7 million in milestone payments if an indibulin product were approved, and royalty on net sales typical for a product licensed at this stage of development.

Among key achievements in the third quarter of 2006, the Company was approved for the listing of its common stock on the NASDAQ Capital Market. Shares of ZIOPHARM began trading on the NASDAQ under the symbol ZIOP in September 22, 2006

About ZIOPHARM Oncology, Inc.

ZIOPHARM Oncology, Inc. is a biopharmaceutical company engaged in the development and commercialization of a diverse, risk-sensitive portfolio of in-licensed cancer drugs to address unmet medical needs. The Company applies new insights from molecular and cancer biology to understand the efficacy and safety limitations of approved and developmental cancer therapies and identifies proprietary and related molecules for better patient treatment. For more information, visit www.ziopharm.com.

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Forward-Looking Safe Harbor Statement:

This press release contains forward-looking statements for ZIOPHARM Oncology, Inc. that involve risks and uncertainties that could cause the Company's actual results to differ materially from the anticipated results and expectations expressed in these forward-looking statements. These statements are based on current expectations, forecasts and assumptions that are subject to risks and uncertainties, which could cause actual outcomes and results to differ materially from these statements. Among other things, there can be no assurance that any of the Company's development efforts relating to its product candidates will be successful, or such product candidates will be successfully commercialized. Other risks that affect forward-looking information contained in this press release include the possibility of being unable to obtain regulatory approval of the Company's product candidates, the risk that the results of clinical trials may not support the Company's claims, and risks related to the Company's ability to protect its intellectual property and its reliance on third parties to develop its product candidates. The Company assumes no obligation to update these forward-looking statements, except as required by law.

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