

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 8-K

CURRENT REPORT

**Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

Date of earliest event reported: February 27, 2019

**NovaBay Pharmaceuticals, Inc.
(Exact Name of Registrant as Specified in Charter)**

Delaware
**(State or Other Jurisdiction
of Incorporation)**

001-33678
(Commission File Number)

68-0454536
**(I.R.S. Employer
Identification No.)**

2000 Powell Street, Suite 1150, Emeryville, CA 94608
(Address of Principal Executive Offices) (Zip Code)

(510) 899-8800
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter). Emerging growth company

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

Item 1.01. Entry into a Material Definitive Agreement.

On February 27, 2019, NovaBay Pharmaceuticals, Inc. (the “**Company**”) entered into certain agreements pursuant to a loan (the “**Loan**”) facilitated by China Kington Asset Management Co. Ltd. (“**China Kington**”). In connection with the Loan, the Company issued a promissory note (the “**Note**”) payable to Pioneer Pharma (Hong Kong) Company Limited (“**Pioneer**”), loaning the Company \$1,000,000. The Note was issued on February 27, 2019.

The proceeds from the Note are to be used for general corporate purposes. The Loan includes an interest payment of \$150,000 (the “**Interest Payment**”). The entire principal sum and the Interest Payment are payable in full upon the Company’s next financing with Pioneer, but in no event shall the term of the Loan extend beyond July 27, 2019. The Note may be prepaid in whole or in part without premium or penalty upon certain events occurring.

To secure the Note, China Kington shall have a perfected security interest in all tangible and intangible assets of the Company, pursuant to a security agreement (the “**Security Agreement**”) between the Company and China Kington, which was entered into on February 27, 2019.

The foregoing descriptions are qualified in their entirety by reference to the Note payable to the order of Pioneer and the Security Agreement, copies of which are filed as [Exhibit 10.1](#) and [Exhibit 10.2](#), respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

- (a) The information set forth in Item 1.01 of the Current Report of Form 8-K is incorporated by reference into this Item 2.03.

Item 7.01. Regulation FD

The Company’s operating cash flow is not sufficient to support its ongoing operations. The above-described Loan will cover the Company’s operating expenses for approximately 30 days. During this time, the Company will evaluate its strategic options.

Item 9.01. Financial Statements and Exhibits.

- (d) [Exhibits](#).

Exhibit No.	Description
10.1	Promissory Note Payable to Pioneer Pharma (Hong Kong) Company Limited, dated February 27, 2019
10.2	Security Agreement, dated February 27, 2019

SIGNATURES

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

NovaBay Pharmaceuticals, Inc.

By: /s/ Justin Hall
Justin Hall
Senior Vice President, General Counsel

Dated: March 1, 2019

THIS SECURED PROMISSORY NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED ("SECURITIES ACT"), OR ANY STATE SECURITIES LAWS OR "BLUE SKY" LAWS (COLLECTIVELY, THE "ACTS"), AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF UNLESS IN COMPLIANCE WITH RULE 144 UNDER THE SECURITIES ACT OR AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL FOR THE LENDER SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE ACTS OR RECEIPT OF A NO-ACTION LETTER FROM THE U.S. SECURITIES AND EXCHANGE COMMISSION.

PROMISSORY NOTE

\$1,000,000

February 27, 2019

FOR VALUE RECEIVED, the undersigned, NOVABAY PHARMACEUTICALS, INC., a Delaware corporation (the "Company"), promises to pay to the order of Pioneer Pharma (Hong Kong) Company Limited (the "Lender") on or before the Maturity Date (as defined below), the principal sum of One Million US DOLLARS (US \$1,000,000), together with interest of One Hundred and Fifty Thousand US Dollars (US \$150,000) (the "Interest Payment"). The entire principal sum and the Interest Payment shall be payable on or before July 27, 2019 (the "Maturity Date").

The Company may prepay this Note, in whole or in part, upon certain events occurring without premium or penalty as set forth in Section 6.01 hereof.

The Company agrees that all principal advanced by the Lender, together with the Interest Payment and other amounts, if any, owing in respect of the loan evidenced hereby (the "Loan") and payments received hereunder, will be evidenced by appropriate entries endorsed on this Note by the Lender or by appropriate entries by the Lender in the Lender's books and records (which may, at the Lender's option, take the form of entries into the Lender's electronic data processing system), or both. Each such entry on this Note or in such books and records maintained by the Lender shall be presumptive evidence of the data entered; provided that such entries shall not be a condition to the Company's obligation to pay hereon.

ARTICLE ONE

COLLATERAL; PRO RATA PAYMENTS

1.01 Collateral. This Note made by the Company on the date hereof is secured by a security interest in all of the assets of the Company, including the Company's patents, trade secrets, sales infrastructure, and revenue from commercial products, including, but not limited to, Aganocide and derivative compounds such as auriclosene (NVC-422), which may have an application as a treatment for UCBE, and the Branded Neutrox product, CelleRx, pursuant to a Security Agreement of even date herewith (as amended, modified, supplemented or restated from time to time, the "Security Agreement") between the Company and China Kington Asset Management Co Ltd. ("China Kington"), in its capacity as Collateral Agent for the Lender.

ARTICLE TWO

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company makes the following representations and warranties to the Lender as of the date hereof:

2.01 Organization, Good Standing and Qualification. The Company is a corporation duly organized, validly existing, and in good standing under the laws of its state of incorporation. The Company has all requisite power and authority to own and operate its properties and assets; to execute, deliver, and perform this Note and the other documents and instruments contemplated hereby or thereby or otherwise made or delivered in connection herewith or therewith to which it is a party; to issue, sell, and deliver this Note; and to carry on its business as presently conducted and as presently proposed to be conducted. The Company is duly qualified, authorized to do business, and in good standing as a foreign corporation in all jurisdictions in which the nature of its activities and properties makes such qualification necessary.

2.02 Authorization; Binding Obligations. All corporate action on the part of the Company and its directors necessary for the authorization, execution, and delivery of this Note and the performance of all obligations of the Company hereunder and thereunder, has been taken. This Note and the other documents delivered in connection herewith or therewith to which it is a party, when executed and delivered, shall be valid and binding obligations of the Company enforceable against it in accordance with their respective terms.

2.03 No Conflicts. This Note (a) will not violate any law applicable to the Company, (b) will not violate or result in a default under any indenture, agreement or other instrument binding upon the Company or the assets of the Company, or give rise to a right thereunder to require any payment to be made by the Company, and (c) will not result in the creation or imposition of any lien on any asset of the Company, except liens created pursuant to the Security Agreement.

2.04 Litigation. No actions, suits or proceedings by or before any arbitrator or governmental authority are pending or, to the knowledge of the Company, threatened against or affecting the Company (i) as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a material adverse effect on the Company or (ii) that involve this Note or the loan made hereunder.

2.05 Use of Proceeds. The proceeds of the loan made hereunder will be used for general corporate purposes, including continuing business operations.

ARTICLE THREE

COVENANTS OF THE COMPANY

The Company agrees and covenants that until such time as this Note has been paid in full, it shall comply with the following covenants in this Article Three.

3.01 Existence. The Company shall do or cause to be done all things reasonably necessary to preserve and keep in full force and effect its existence, rights and franchise as a Delaware corporation and its qualification to transact business as a foreign corporation in California and in each other state in which the failure so to qualify could have a material adverse effect on the Company, its property or its ability to enforce accounts or other intangible property.

3.02 Payment of Taxes and Other Claims. The Company shall file, pay or discharge or cause to be filed, paid or discharged, before the same shall become delinquent, (i) all returns and reports required to be filed by any governmental authority, (ii) all taxes, assessments and governmental charges levied or imposed upon it or upon its income, profits or property and (iii) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon its property; provided, however, that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings so long as the exercise of remedies by such governmental authority is effectively stayed.

3.03 Maintenance of Properties. The Company shall cause all its properties used or useful in the conduct of its business to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and shall cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times.

3.04 Consolidation, Merger, Conveyance or Transfer. The Company shall not consolidate with or merge into or with any other entity, liquidate or transfer any of its properties and assets, without prior written approval of the Lender; provided that the Company may license or otherwise transfer interests in its intellectual property or other general intangibles that is no longer used or useful in the operation of the Company's business.

3.05 Compliance with Laws. The Company shall comply with all federal, state, local, provincial and foreign laws and regulation of the United States applicable to it, including ERISA and labor matters, except to the extent that the failure to comply, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the Company.

3.06 Notices. The Company shall give written notice to the Lender, as soon as possible and in any event within five (5) business days after the Company has knowledge of any proceedings or investigations being instituted by or against the Company in any federal, state or foreign court or before any commission or other regulatory body. The Company shall immediately notify the Lender of any Event of Default.

3.07 Use of Proceeds. The Company shall use the proceeds of the Loan for general corporate purposes, including continuing business operations.

3.08 Next Financing. The Company agrees that it will pay the outstanding principal and the Interest Payment of this Note with the proceeds of its next private equity financing with the Lender, without any premium or charge pursuant to Section 6.01 hereof.

3.09 Audit Review. The Company agrees to reasonably cooperate with reasonable requests made by an auditor engaged by, and paid for by, China Kington (the “Outside Auditor”); provided, however, that (i) the Outside Auditor shall be a registered public accounting firm with The Public Company Accounting Oversight Board and be reasonably acceptable to the Company, (ii) such requests shall be in a manner that do not interfere with the normal business operations of the Company, the completion of its accounting review or audit process, or completion of its audit, and (iii) such requests shall not contravene or interfere with the efforts of the Company’s registered public accounting firm. The Company shall receive a copy of any report or correspondence of the Outside Auditor as relates to the Company. Further, such Outside Auditor shall enter into a commercially reasonable non-disclosure agreement that shall protect the confidentiality of the Company’s information disclosed to the Outside Auditor until such time as the information becomes public through no action of the Outside Auditor.

3.10 Business Oversight. Until the earlier of the Maturity Date or prepayment of this Loan, the Company shall cooperate with the Lender and China Kington and furnish, or cause to be furnished, any and all information and data concerning the Company, including its business, financial condition and strategic plans deemed appropriate by China Kington (including, without limitation, the Company’s strategic, business, growth, acquisition and/or merger plans and plans for raising capital or additional financing) that is reasonably requested by the Lender or China Kington. The Company’s management shall adhere to recommendations made by China Kington in regards to the above; *provided, however*, if there is a material dispute, the Company’s Board of Directors shall provide definitive direction.

ARTICLE FOUR

REPRESENTATIONS AND WARRANTIES OF THE LENDER

4.01 Authorization. All action on the part of the Lender necessary for the authorization of the Lender to execute and deliver this Note has been taken. No consent, approval, authorization, order, filing, registration or qualification of or with any court, governmental authority or third person is required to be obtained by the Lender in connection with the execution and delivery of this Note by the Lender.

4.02 Binding Obligation. This Note has been duly executed by the Lender and constitutes the legal, valid and binding obligation of the Lender, enforceable against Lender in accordance with its terms, subject, as to enforcement of remedies, to the discretion of courts in awarding equitable relief and to applicable bankruptcy, reorganization, insolvency, moratorium and similar laws affecting the rights of creditors generally.

4.03 Non-Transferable. It is the present intention of the Lender to acquire this Note for the Lender's own account and that this Note is being or will be acquired by the Lender for the purpose of making the loan and not with a view to distribution. This Note is not transferable by the Lender.

4.04 Information Provided by Lender. The Lender understands that the information provided by the Lender in connection with this Note is being relied upon by the Company for an exemption under federal and state securities laws. All information the Lender has provided to the Company is correct and complete as of the date set forth on the signature page hereof and if there should be any adverse change in such information, the Lender shall immediately provide the Company with such updated information.

4.05 Accredited Investor. The Lender is an "accredited investor" as defined in the regulations of the U.S. Securities and Exchange Commission ("SEC") pursuant to the Securities Act. No "Bad Actor" disqualifying event described in Rule 506(d)(1)(i) to (viii) of the Securities Act is applicable to the Lender.

4.06 Business and Financial Information. The Lender acknowledges that it has received and reviewed the business and financial information that it has deemed necessary to make this loan to the Company. Specifically, the Lender acknowledges that it is aware of, and has reviewed, the Company's risk factors as outlined in the Company's publicly-available filings with the SEC via Forms 10-Q and Form 10-K under the heading "Risk Factors."

4.07 Expert Advice. The Lender has sought such accounting, legal and tax advice as the Lender has considered necessary to make an informed decision with respect to the making of the loan, and the Lender has taken all the steps it deems necessary to evaluate the merits and risks of making the loan to the Company.

4.08 No Solicitation. The Lender is not making the loan to the Company as a result of any advertisement, article, notice or other communication regarding the Company published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or any other general advertisement or general solicitation.

4.09 Representations and Warranties. The Lender acknowledges that no representations or warranties have been made to the Lender by the Company, or any officer, employee, agent, affiliate or subsidiary of the Company other than the representations contained in this Note, and in making the loan to the Company hereunder, the Lender is not relying upon any representations.

4.10 Financial Ability. The Lender has the financial ability to bear the economic risk of the loan, including but not limited to a total loss of the principal loaned to the Company and lack of transferability of the Note, and the Lender has adequate means for providing for the Lender's current needs and personal contingencies and the Lender has no need for liquidity with respect to the loan made to the Company.

4.11 Financial Condition of the Company. The Lender acknowledges that currently the Company's cash and cash equivalents are not sufficient to fund its immediately planned operations and in order to fund its operations and meet its ongoing obligations, the Company will continue with its historical financing strategy to raise additional capital. Repayment of this Note will be based on the Company's ability to continue such additional capital raising efforts, as well as the Company's ability to successfully commercialize its prescription Avenova, among other matters. The Lender further understands that (i) its loan to the Company involves a high degree of risk, (ii) no representation is being made as to the business or prospects of the Company, (iii) no representation is being made as to any projections or estimates delivered to or made available to the Lender (or any of the Lender's affiliates or representatives) of the Company's future assets, liabilities, stockholders' equity, regulatory capital ratios, net interest income, net income or any component of any of the foregoing or any ratios derived therefrom and (iv) the Company has a history of losses and there is no assurance that the Company will be able to continue operating as a going concern.

4.12 Suitable Financial Decision. The Lender has carefully considered and has, to the extent the Lender believes such discussion necessary, discussed with the Lender's professional legal, tax and financial advisers the suitability of making a loan to the Company and believes that making the loan is suitable for the Lender's particular financial situation.

4.13 Sale or Transfer. The Lender understands that a sale or transfer of this Note is restricted by applicable federal and state securities laws and the provisions of this Note.

4.14 Securities Laws. The Lender acknowledges that it, its affiliates and representatives are aware that the United States securities laws prohibit any person who has received from the Company material, non-public information concerning the matters which are the subject of an investment in the Note from purchasing or selling securities of the Company or from communicating such information to any other person or entity under circumstances in which it is reasonably foreseeable that such person or entity is likely to purchase or sell such securities. The Lender shall comply with such laws as they relate to the Company confidential information and its securities. The Lender is not aware of any violations of United States securities laws relating purchases and sales of the Company securities by the Lender.

4.15 Survival. The foregoing representations and warranties shall survive the execution and delivery of this Note.

ARTICLE FIVE

REMEDIES

5.01 Events of Default. An “Event of Default”, wherever used herein shall mean any one of the following events or conditions (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (a) the Company shall fail to pay when due the principal of the Loan; or
- (b) the Company shall fail to pay when due the Interest Payment, fees or other amounts on the Loan and such failure shall continue for ten (10) business days; or
- (c) any representation or warranty of the Company shall prove to have been materially incorrect when made or deemed made; or
- (d) the default in the performance or breach of any other covenant of the Company in the Security Agreement or this Note, and such failure shall continue unremedied for a period of thirty (30) calendar days after the earlier of the Company’s knowledge of such breach or written notice thereof from the Lender; or
- (e) the entry of a final judgment or judgments for the payment of money in excess of US\$100,000 in the aggregate at any time are outstanding against the Company, and the same are not stayed or bonded within thirty (30) calendar days after the entry thereof; or
- (f) the default by the Company in the payment on (i) any indebtedness (other than the Loan) secured by the Security Agreement or (ii) any indebtedness (other than the Loan) in an amount in excess of US\$100,000, after giving effect to any notice requirement or grace period applicable thereto; or
- (g) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Company or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or for a substantial part of its assets; or
- (h) the Company shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (f) of this Section 5.01, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing; or

(i) this Note or the Security Agreement shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of this Note or the Security Agreement;

then and in each and every case, the entire principal balance of this Note, together with the Interest Payment, shall, without any action by the Lender or any other party, become automatically and immediately due and payable in full, without presentation, protest or further demand or notice of any kind, all of which are hereby expressly waived; and the Lender thereupon may proceed to enforce payment of the indebtedness and performance of the covenants of this Note (including, without limitation, as applicable, by specific enforcement), any and right or remedy the Lender may have under the Security Agreement, and any other legal or equitable right or remedy available to the Lender.

5.02 Amendments and Waivers. No course of dealing between the Company and the Lender and no delay or omission on the part of the Lender in exercising any rights, privileges or remedies under this Note shall operate as a waiver of the rights, privileges or remedies of the Lender. No covenant or other provision of this Note nor any default or Event of Default in connection therewith may be waived otherwise than by a written instrument signed by the Lender expressly so waiving such covenant or other provision or default or Event of Default. Any provision of this Note to the contrary notwithstanding, changes in or additions to this Note may be made, and compliance with any term, covenant, condition or provision set forth in this Note or the Security Agreement may be omitted or waived (either generally or in a particular instance and either retroactively or prospectively), and any default or Event of Default and the consequences thereof may be waived, by a consent or consents in writing signed by the Lender. Under no circumstances shall an effective waiver of any right, privilege or remedy on any one occasion constitute or be construed as a bar to the exercise of or waiver of such right, privilege or remedy on any future occasion.

5.03 Cost and Expense of Collection. The Company covenants and agrees that if default be made in any payment of principal of this Note or the Interest Payment, it shall, to the extent permitted under applicable law, pay to the Lender such further amount as shall be sufficient to cover the cost of expense of collection and other enforcement, including reasonable compensation and expenses to the attorneys of the Lender, for all services rendered in that connection.

ARTICLE SIX

MISCELLANEOUS

6.01 Voluntary Prepayment. If any of the events listed in Section 6.02 of this Note occur or the Company completes a private equity financing with China Kington of an amount equal to or greater than the entire principal balance of this Note and the Interest Payment, the Company shall have the right to prepay any or all of the outstanding principal or the Interest Payment of this Note without premium or charge.

6.02 Mandatory Prepayment. The Company shall prepay all of the outstanding principal and the Interest Payment of this Note upon the occurrence of any of the following events:

- (a) the merger or consolidation of the Company into or with another corporation (except one in which the holders of capital stock of the Company immediately prior to such merger or consolidation continue to hold at least a majority of the voting power of the capital stock of the surviving corporation);
- (b) the sale of all or substantially all of the assets of the Company;
- (c) other transactions pursuant to or as a result of which a single person (or group of affiliated persons) acquires or holds capital stock of the Company representing a majority of the Company's outstanding voting power; or
- (d) a sale or exclusive license of all or substantially all of the Company's intellectual property.

6.03 Benefits. This Note shall be binding upon the Company and its permitted successors and assigns and shall inure to the benefit of the Lender and its permitted successors and assigns. This Note is not transferrable by the Lender.

6.04 Amendment. This Note may not be amended, changed, modified or terminated except by a written document executed by the Lender and the Company.

6.05 Addresses of Parties. All communications provided for herein or with reference to this Note shall be deemed to have been sufficiently given or served for all purposes if sent by overnight courier service, by hand or by facsimile or email, with a confirmation of transmission by the transmitting equipment, to the following addressees:

if to the Company, at:
NovaBay Pharmaceuticals, Inc.
2000 Powell Street, Suite 1150
Emeryville, CA 94608
Attention: Justin Hall
Email: jhall@novabay.com

and if to the Lender, at:
Pioneer Pharma (Hong Kong) Company Limited, as a Noteholder:
No. 15 Lane 88 Wuwei Road
Putuo 200331 China
Attention: Paul Li
Email: paul.li@pioneer-pharma.com

and

China Kington Asset Management Co. Ltd.
Suite 1907-09, Gang Tai Plaza, No. 700
Yan An East Road, Shanghai, China
Attention: Bob Wu
Email: bob.wu@kingtonasset.com

or to such other address as from time to time the Company or to the Lender may subsequently duly specify in writing to the other.

6.06 Severability. If any one or more of the provisions of this Note shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of this Note shall not be affected thereby. To the extent permitted by applicable law, the Lender and the Company waive any provision of law which renders any provision of this Note invalid, illegal or unenforceable in any respect.

6.07 Governing Law. THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE APPLICABLE TO AGREEMENTS MADE AND FULLY TO BE PERFORMED THEREIN BY RESIDENTS THEREOF, WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICT OR LAW PROVISION OR RULE THAT WOULD CAUSE THE LAWS OF ANY OTHER JURISDICTION TO APPLY.

6.08 Section Headings. The descriptive section headings herein have been inserted for convenience only and shall not be deemed to limit or otherwise affect the construction of any provisions hereof.

6.09 WAIVER OF JURY TRIAL. THE COMPANY AND THE LENDER HEREBY IRREVOCABLY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE, THE SECURITY AGREEMENT OR OTHER RELATED AGREEMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS NOTE, THE SECURITY AGREEMENT OR OTHER RELATED AGREEMENTS AND THE RELATIONSHIPS THEREBY ESTABLISHED. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including, without limitation, contract claims, tort claims, breach of duty claims, and all other statutory and common law claims. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS OF THIS NOTE. In the event of litigation, this provision may be filed as a written consent to a trial by the court.

[The remainder of this page is intentionally left blank.]

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IN WITNESS WHEREOF, the Company has caused this Note to be signed in its name by its Senior Vice President, General Counsel and dated the day and year first above written.

NOVABAY PHARMACEUTICALS, INC.

By: /s/ Justin Hall

Justin Hall

Senior Vice President, General Counsel

[Signature Page to Promissory Note]

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (this "Agreement") dated as of February 27, 2019, between NOVABAY PHARMACEUTICALS, INC., a Delaware corporation (the "Company"), and CHINA KINGTON ASSET MANAGEMENT CO. LTD., in its capacity as Collateral Agent for the benefit of the Secured Party (together with its successors and assigns in such capacity, the "Collateral Agent").

WITNESSETH

WHEREAS, the Company, as maker, has executed and delivered or will soon execute and deliver to Pioneer Pharma (Hong Kong) Company Limited, a corporation based in Hong Kong (the "Secured Party"), as payee, a certain promissory note, that has an aggregate principal amount of \$1,000,000 (as hereinafter modified from time to time, the "Note");

WHEREAS, the Note evidences a loan to be advanced by the Secured Party to the Company (the "Loan"); and

WHEREAS, it is a condition precedent to the Secured Party's advance of the Loan that the Company shall have executed and delivered this Security Agreement to the Collateral Agent.

NOW THEREFORE, in consideration for the foregoing premises, the agreements and covenants contained herein and other valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND REFERENCES

Section 1.1. General Definitions. As used herein, the terms "Company," "Secured Party," "Note" and "Loan" shall have the meanings ascribed to such terms above, and the following terms shall have the following meanings:

"Code" means the Uniform Commercial Code currently in effect in the State of Delaware; *provided, however*, in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, priority or exercise of remedies of the Collateral Agent's security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of Delaware, the term "Code" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection, priority or exercise of remedies and for purposes of definitions related to such provisions.

"Collateral" means all property of whatever type, in which the Collateral Agent, for the benefit of the Secured Party, at any time has a security interest pursuant to Section 2.1 hereof.

"Event of Default" has the meaning specified in Section 5.1 hereof.

“Person” means an individual, corporation, association, general or limited partnership, limited liability company, joint stock company, joint venture, trust or trustee thereof, estate or executor thereof, unincorporated organization or joint venture, court or governmental unit or any agency or subdivision thereof, or any legally recognizable entity of whatever kind or type.

“Secured Obligations” means the payment by the Company, as and when due and payable, of amounts from time to time owing by it under or with respect to the Note and all indebtedness and other obligations owing by the Company under this Agreement or any of the other loan documents executed in connection therewith or herewith.

Section 1.2. References. All terms used in this Agreement which are defined in Article 9 of the Code and not otherwise defined herein shall have the same meanings herein as set forth therein, except where the context otherwise requires.

Section 1.3. Exhibits and Schedules. All exhibits and schedules attached to this Agreement are a part hereof for all purposes.

Section 1.4. Renewals, Extensions, Amendments, Modifications, Supplements and Restatements. Unless the context otherwise requires or unless otherwise provided herein, references in this Agreement to a particular agreement, instrument or document (including, without limitation, references in Section 2.1) also refer to and include all renewals, extensions, amendments, modifications, supplements or restatements of any such agreement, instrument or document, provided that nothing contained in this Section 1.4 shall be construed to authorize any Person to execute or enter into any such renewal, extension, amendment, modification, supplement or restatement.

Section 1.5. Headings. Titles and headings appearing at the beginning of any subdivision are for convenience only and do not constitute any part of any such subdivision and shall be disregarded in construing the language contained in this Agreement.

Section 1.6. References and Titles. All references in this Agreement to Exhibits, Schedules, Articles, Sections, Subsections, and other subdivisions refer to the Exhibits, Schedules, Articles, Sections, Subsections and other subdivisions of this Agreement unless expressly provided otherwise. The words “this Agreement”, “herein”, “hereof”, “hereby”, “hereunder” and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. The phrases “this Section” and “this Subsection” and similar phrases refer only to the Sections or Subsections hereof in which the phrase occurs. The word “or” is not exclusive. Pronouns in masculine, feminine and neuter gender shall be construed to include any other gender. Words in the singular form shall be construed to include the plural and words in the plural form shall be construed to include the singular, unless the context otherwise requires.

ARTICLE II

SECURITY INTEREST

Section 2.1. Grant of Security Interest. As security for the Secured Obligations, the Company hereby grants to the Collateral Agent for the benefit of the Secured Party a security interest in all of the Company's right, title and interest in and to all tangible and intangible assets, whether now existing or owned or hereafter arising or acquired, and wheresoever situated, including but not limited to all accounts, contract rights and other general intangibles (including payment intangibles and patents, trademarks, copyrights and applications therefor), inventory, equipment, fixtures, deposit accounts, investment property, commercial tort claims, letters of credit and letter of credit rights, and products and proceeds (as each and all of the foregoing types of Collateral is defined in the Code) of all of the foregoing owned by the Company or in which the Company otherwise has any rights. For the avoidance of doubt, such security interest also includes but is not limited to, the Company's patents, trade secrets, sales infrastructure, and revenue from commercial products which includes Aganocide and derivative compounds such as auriclosene (NVC-422), which may have an application as a treatment for UCBE, and the Branded Neutrox product, CelleRx.

Section 2.2. Obligations Secured. The security interest created hereby in the Collateral constitutes a continuing security interest for the payment by the Company, as and when due and payable, of all amounts from time to time owing by it under or with respect to the Note. The obligations secured by this Agreement include all renewals, extensions, amendments, modifications, supplements or restatements of or substitutions for any of the foregoing.

Section 2.3. Nature of Obligations. The security interests created by this Agreement in the Collateral are to be a first priority interest in the Collateral superior to all other security interests in the Collateral, except as expressly permitted hereunder or under the Note. Notwithstanding the foregoing, the Company may execute additional promissory notes on terms substantially similar to the Note, and the obligations under such additional promissory notes may be secured by security interests that are pari passu with the security interests granted hereunder.

ARTICLE III

REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 3.1. Representations and Warranties. The Company represents and warrants to the Collateral Agent for the benefit of the Secured Party as of the date hereof as follows:

(a) Location of the Company and Records. The Company's chief executive office and principal place of business and the office where the records concerning the Collateral are kept or will be kept is set forth on Schedule 3.1 hereto. Schedule 3.1 also sets forth each and every other location at which Collateral is stored or maintained.

(b) Ownership. The Company is the legal and beneficial owner of the Collateral free and clear of any liens, except for (i) the security interests created by this Agreement; (ii) liens imposed by law for taxes that are not yet due or are being contested; (iii) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like liens imposed by law and arising in the ordinary course of business; (iv) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance, social insurance and other social security laws or regulations; (v) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business; (vi) judgment liens in respect of judgments that do not constitute an Event of Default under the Note; (vii) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Company; (viii) liens upon tangible personal property securing loans to the Company or deferred payments by the Company for the purchase of such tangible personal property; (ix) pari passu liens as described in Section 2.3; and (x) other liens consented to in writing by the Collateral Agent (collectively, "Permitted Liens"). Except with respect to Permitted Liens, no effective financing statement or other document similar in effect covering all or any part of the Collateral is on file in any recording office.

(c) **Validity.** This Agreement creates a valid security interest in the Collateral, securing the payment of the Secured Obligations.

(d) **No Conflict, Violation or Breach.** The execution, delivery and performance by the Company of this Agreement does not and will not (i) conflict with the Company's organizational documents; (ii) violate any provision of any law, rule or regulation; (iii) result in a breach of or constitute a default (after the passage of time or the giving of notice or both) under any loan or credit agreement or any other agreement, lease or instrument to which the Company is a party or by which it or its properties may be bound or affected; or (iv) require the consent or approval of any third party or governmental entities, except, in the case of clauses (ii), (iii) and (iv) above, for any such default or violation that would not, individually or in the aggregate, have a Material Adverse Effect. As used in this Section, "Material Adverse Effect" shall mean any event, act, condition or occurrence having a material adverse effect on the business, properties, management, financial position, stockholders' equity, results of operations or prospects of the Company and its subsidiaries taken as a whole or on the performance by the Company of its obligations under this Agreement.

Section 3.2. Affirmative Covenants. Unless the Secured Party shall otherwise consent in writing, the Company shall at all times comply with the covenants and agreements contained in this Section 3.2 from the date hereof and so long as any part of the Secured Obligations are outstanding:

(a) **Ownership and Liens.** The Company shall maintain good and marketable title to all Collateral free and clear of all liens, security interests, adverse claims and other charges or encumbrances except with respect to Permitted Liens. The Company shall use commercially reasonable efforts to resolve any dispute, right of set off, counterclaim or defense with respect to all or any part of the Collateral. The Company shall cause to be terminated any financing statement or other security instrument with respect to the Collateral, except such as may exist or as may have been filed in favor of the Collateral Agent or pursuant to a Permitted Lien.

(b) Inspection; Verification. The Company shall make the Collateral available for inspection by the Collateral Agent or the Secured Party. The Company shall not permit the Collateral or any part thereof to be affixed to or otherwise become a part of any real or personal property, without first making arrangements satisfactory to the Collateral Agent to protect the Collateral Agent's security interest therein. During regular business hours and after reasonable notice to the Company, the Collateral Agent or the Secured Party (by any of its officers, employees, agents, representatives, or designees) shall have the right to inspect the Collateral and to inspect and audit, all books, records, journals, orders, receipts, or other correspondence related thereto or to the Company's business (and to make extracts or copies thereof as the Collateral Agent or the Secured Party may desire), to inspect the premises upon which any of the Collateral is located, and to verify accounts with the Company's customers and other account debtors for the purpose of verifying the amount, quality, quantity, value, and condition of, or any other matter relating to, the Collateral, including, without limitation, the conduct of the Company's business and its compliance with the terms and conditions of this Agreement and the Note. Each of the Collateral Agent and the Secured Party agrees to maintain the confidentiality of information obtained pursuant to any such inspection, except that such information may be disclosed (i) to its directors, officers, employees, agents, advisors and other representatives (it being understood that the persons to whom such disclosure is made will be informed of the confidential nature of such information and instructed to keep such information confidential); (ii) to the extent requested by any regulatory authority purporting to have jurisdiction over it; (iii) to the extent required by applicable laws or regulations or by any subpoena or similar legal process; (iv) in connection with the exercise of any remedies hereunder or under any other loan document executed in connection herewith or any action or proceeding relating to this Agreement or any other such loan document or the enforcement of rights hereunder or thereunder; (v) with the consent of the Company; or (vi) to the extent such information (A) becomes publicly available other than as a result of a breach of this section or (B) becomes available to the Collateral Agent or the Secured Party on a nonconfidential basis from a source other than the Company.

(c) Further Assurances. The Company shall, at its expense and at any time and from time to time, promptly execute and deliver all further instruments and documents and take all further action that may be necessary or desirable or that the Collateral Agent or the Secured Party may reasonably request in order (i) to perfect and protect the security interest created hereby; (ii) to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to the Collateral; or (iii) to otherwise effect the purposes of this Agreement, including, without limitation (A) executing and filing such financing or continuation statements, or amendments thereto, as may be necessary or desirable or that the Collateral Agent may request in order to perfect and preserve the security interest created hereby, (B) executing and delivering, and causing depositaries and security intermediaries to execute and deliver, control agreements in respect of deposit accounts and investment property, and (C) furnishing to the Collateral Agent from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Collateral Agent may reasonably request, all in reasonable detail.

(d) Information. The Company shall furnish to the Collateral Agent any information that the Collateral Agent or the Secured Party may from time to time reasonably request concerning any covenant, provision or representation contained herein or any other matter in connection with the Collateral. The Company shall advise the Collateral Agent promptly upon the Company's acquiring or otherwise having an interest in any commercial tort claim.

(e) Payment of Taxes, etc. The Company shall (i) timely pay all property and other taxes, assessments and governmental charges or levies imposed upon the Collateral or any part thereof; (ii) timely pay all lawful claims which, if unpaid, might become a lien or charge upon the Collateral or any part thereof; and (iii) maintain appropriate accruals and reserves for all such liabilities in a timely fashion in accordance with generally accepted accounting principles. The Company may, however, delay paying or discharging any such taxes, assessments, charges, claims or liabilities so long as the validity thereof is contested in good faith by proper proceedings and adequate reserves therefor have been set aside on its books.

(f) Changes. Without limitation of any other covenant herein, the Company shall provide thirty (30) days' written notice to the Collateral Agent prior to causing or permitting any change to be made in its name or identity, or any change to be made to the locations, as set forth on Schedule 3.1, of (i) any Collateral; (ii) any records concerning any Collateral; or (iii) the Company's chief executive office or principal place of business.

Section 3.3. Negative Covenants. Unless the Secured Party consents in writing, the Company shall at all times comply with the covenants contained in this Section 3.3 from the date hereof and so long as any part of the Secured Obligations are outstanding.

(a) Transfer or Encumbrance. The Company shall not (i) sell, assign (by operation of law or otherwise), transfer, exchange, lease or otherwise dispose of any of its properties or assets, including any of the Collateral, other than in the ordinary course of the Company's business (the "Business") and other than personal property that is replaced by equivalent property or consumed in the normal operation of the Business or is otherwise no longer used or useful in the operation thereof; (ii) grant a lien on or security interest in or execute, file or record any financing statement or other security instrument with respect to the Collateral other than those in favor of the Collateral Agent or Permitted Liens; or (iii) deliver actual or constructive possession of the Collateral to any other Person. Notwithstanding the foregoing, the Company may license or otherwise transfer interests in its intellectual property or other general intangibles that is no longer used or useful in the operation of the Business.

(b) Impairment of Security Interest. The Company shall not take or fail to take any action outside the ordinary course of Business that would in any manner materially impair the value or enforceability of the Collateral Agent's security interest in any Collateral.

ARTICLE IV

POWERS AND AUTHORIZATIONS

Section 4.1. Additional Financing Statement Filings. The Company hereby authorizes the Collateral Agent to file, without the signature of the Company where permitted by law, one or more financing or continuation statements, and amendments thereto, relating to the Collateral. The Company further agrees that a carbon, photographic or other reproduction of this Agreement or any financing statement describing any Collateral is sufficient as a financing statement and may be filed in any jurisdiction that the Collateral Agent may deem appropriate.

Section 4.2. Power of Attorney. The Company hereby irrevocably appoints the Collateral Agent as the Company's attorney-in-fact and proxy, with full authority upon the occurrence and during the continuance of an Event of Default in the place and stead of the Company and in the name of the Company or otherwise, in the Collateral Agent's discretion, at any time upon the occurrence and during the continuance of an Event of Default, to take any action and to execute any instrument which the Collateral Agent may reasonably deem necessary or advisable to accomplish the purposes of this Agreement, including, without limitation (i) to obtain and adjust insurance required to be paid to the Collateral Agent for the benefit of the Secured Party; (ii) to ask, demand, collect, sue for, recover, compound, receive, compromise, settle, and give acquittance and receipts for moneys due and to become due under or with respect to any of the Collateral, and take control, in any manner, of any item of payment or proceeds relating to any Collateral, to endorse the name of the Company upon any of the items of payment or proceeds relating to any Collateral and deposit the same to the account of the Collateral Agent on account of the Secured Obligations and endorse the name of the Company upon any chattel paper, document, instrument, invoice, freight bill, bill of lading, or similar document or agreement relating to the accounts, inventory and any other Collateral; (iii) to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with clause (i) or clause (ii) above; (iv) to file any claims and proofs of claim or take any action or institute any proceedings that the Collateral Agent may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Collateral Agent with respect to any of the Collateral; and (v) to execute and file one or more financing or continuation statements, and amendments thereto, relating to the Collateral. Such appointment is coupled with an interest and shall be irrevocable from the date hereof and so long as any part of the Secured Obligations are outstanding, but may only be exercised upon the occurrence and during the continuance of an Event of Default.

Section 4.3. Performance by the Collateral Agent. If the Company fails to perform any material agreement or obligation contained herein within thirty (30) days after notice from the Collateral Agent, the Collateral Agent may itself, at its option and in its sole discretion, perform, or cause performance of, such agreement or obligation, and the expenses of the Collateral Agent incurred in connection therewith shall be payable by the Company on demand; *provided, however,* that nothing herein shall impose any obligation of any kind whatsoever on the Collateral Agent to perform any obligation or agreement of the Company.

ARTICLE V

EVENTS OF DEFAULT AND REMEDIES

Section 5.1. Events of Default. The occurrence of any of the following events shall constitute an "Event of Default" hereunder:

- (a) the Company shall fail to make any payment, including without limitation, for principal, interest, fees or other expenses, under the Note; or
 - (b) an Event of Default, as defined in the Note, shall occur; or
 - (c) any representation, warranty or statement made by the Company herein shall prove to have been incorrect or untrue in any material respect on or as of the date made or deemed made; or
 - (d) the Company shall fail to observe or perform in all material respects any term, indemnity, covenant or agreement contained herein.
-

Section 5.2. Remedies. Upon the occurrence of any Event of Default, or at any time thereafter, in addition to all other rights, powers and remedies herein conferred, conferred in the Note or conferred by operation of law, the Collateral Agent may, and upon receipt of written instructions from the Secured Party shall, declare the Secured Obligations immediately due, payable and performable; and from time to time in its reasonable discretion, without limitation and without notice except as expressly provided below, the Collateral Agent may:

- (a) exercise with respect to the Collateral all the rights and remedies of a secured party on default under the Code (whether or not the Code applies to the affected Collateral);
- (b) require the Company to, and the Company hereby agrees that it shall at its expense and upon the reasonable request of the Collateral Agent forthwith, assemble all or part of the Collateral as directed by the Collateral Agent and make it available to the Collateral Agent;
- (c) reduce its claim to judgment or foreclose or otherwise enforce, in whole or in part, the security interest created hereby by any available judicial procedure;
- (d) dispose of, at its office, on the premises of the Company or elsewhere, all or any part of the Collateral, as a unit or in parcels, by public or private proceedings, and by way of one or more contracts (it being agreed that the sale of any part of the Collateral shall not exhaust the Collateral Agent's power of sale, but sales may be made from time to time, and at any time, until all of the Collateral has been sold or until the Secured Obligations have been paid and performed in full), and at any such sale it shall not be necessary to exhibit any of the Collateral;
- (e) apply by appropriate judicial proceedings for appointment of a receiver for the Collateral, or any part thereof, and the Company hereby consents to any such appointment; and
- (f) at its discretion, retain an amount of the Collateral in satisfaction of the Secured Obligations whenever the circumstances are such that the Collateral Agent is entitled to do so under the Code or otherwise.

The Company agrees that, to the extent notice of sale shall be required by law, ten (10) calendar days' notice to the Company of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

Section 5.3. Application of Proceeds. Upon the occurrence of any Event of Default, or at any time thereafter, the Collateral Agent may in its discretion apply any cash held by the Collateral Agent as Collateral, and any cash proceeds received by the Collateral Agent with respect to any sale of, collection from, or other realization upon all or any part of, the Collateral, to any or all of the following in such order as the Collateral Agent may elect:

- (a) to the repayment of the reasonable out-of-pocket costs and expenses up to an aggregate of \$20,000, including attorneys' fees and legal expenses up to an aggregate of \$10,000, incurred by the Collateral Agent in connection with (i) the administration of this Agreement; (ii) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any Collateral; (iii) the exercise or enforcement of any of the rights of the Collateral Agent or the Secured Party hereunder; or (iv) the failure of the Company to perform or observe any of the provisions hereof;
- (b) to the payment or other satisfaction of any liens and other encumbrances upon any of the Collateral;
- (c) to the satisfaction of the Secured Obligations;
- (d) by holding the same as Collateral;
- (e) to the payment of any other amounts required by applicable law; and
- (f) by delivery to the Company or to any other party who shall be lawfully entitled to receive the same or as a court of competent jurisdiction shall direct.

Section 5.4. Deficiency. In the event that the proceeds of any sale, collection or realization of or upon the Collateral by the Collateral Agent or the Secured Party are insufficient to pay all amounts to which the Collateral Agent or the Secured Party is legally entitled, the Company shall be liable for the deficiency, together with interest thereon as provided herein and in the Note, or, if no interest is so provided, at such other rate as shall be fixed by applicable law, together with the costs of collection and the reasonable fees and expenses of any attorneys (up to \$10,000 in the aggregate) employed by the Collateral Agent to collect such deficiency.

Section 5.5. Other Resources. The Company waives any right to require the Collateral Agent to proceed against any other Person, exhaust any Collateral or other security for the Secured Obligations, or pursue any other remedy in the Collateral Agent's power. The Company further waives any and all notice of acceptance of this Agreement. Until all of the Secured Obligations shall have been paid in full, the Company shall have no right to subrogation and the Company waives the right to enforce any remedy which the Collateral Agent has or may hereafter have against any other party liable for the Secured Obligations, and waives any benefit of and any right to participate in any other security whatsoever now or hereafter held by the Collateral Agent. No action which the Collateral Agent may take or omit to take in connection with this Agreement or the Note or any of the Secured Obligations shall release or diminish the Company's obligations, liabilities, duties or agreements hereunder, including without limitation, from time to time: (a) taking or holding any other property of any type from any other Person as security for the Secured Obligations, and exchanging, enforcing, waiving and releasing any or all of such other property, and (b) applying the Collateral or such other property and directing the order or manner of sale thereof as the Collateral Agent may in its reasonable discretion determine.

Section 5.6. Remedies Not Exclusive. All rights, powers and remedies herein conferred are cumulative, and not exclusive, of (i) any and all other rights and remedies herein conferred or provided for, (ii) any and all other rights, powers and remedies conferred or provided for in the Note, and (iii) any and all rights, powers and remedies conferred, provided for or existing at law or in equity, and the Collateral Agent shall, in addition to the rights, powers and remedies herein conferred or provided for, be entitled to avail itself of all such other rights, powers and remedies as may now or hereafter exist at law or in equity for the collection of and enforcement of the Secured Obligations and the enforcement of the warranties, representations, covenants, indemnities and other agreements contained in this Agreement and the Note. Each and every such right, power and remedy may be exercised from time to time and as often and in such order as may be deemed expedient by the Collateral Agent and the exercise of any such right, power or remedy shall not be deemed a waiver of the right to exercise, at the same time or thereafter, any other right to exercise, at the same time or thereafter, any other right, power or remedy. No delay or omission by the Collateral Agent or other person in the exercise of any right, power or remedy will impair any such right, power or remedy or operate as a waiver thereof or of any other right, power or remedy then or thereafter existing.

ARTICLE VI

MISCELLANEOUS

Section 6.1. Notices. All notices and other required communications hereunder shall be in writing, addressed as follows:

If to the Collateral Agent:

China Kington Asset Management Co Ltd.
Suite 1907-09, Gang Tai Plaza, No. 700
Yan An East Road, Shanghai, China
Attention: Bob Wu
Email: bob.wu@kingtonasset.com

If to the Company then to:

NovaBay Pharmaceuticals, Inc.
2000 Powell Street, Suite 1150
Emeryville, CA 94608
Attention: Justin Hall, Senior Vice President, General Counsel
Email: jhall@novabay.com

Notices shall be given (a) by personal delivery to the other party; (b) by facsimile or email, with a confirmation of transmission by the transmitting equipment; or (c) by registered or certified mail, return receipt requested. All notices shall be effective and deemed delivered (i) if by personal delivery, on the date of delivery if during business hours, otherwise next business day; (ii) if by facsimile or email, on the date the facsimile or email is received if received during business hours in the time zone of the recipient, otherwise next business day; and (iii) if solely by mail, upon receipt by the addressee. A party may change its address by notice to the other party.

Section 6.2. Entire Agreement. This Agreement (including the Schedules and Exhibits hereto) constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all negotiations, prior discussions and prior agreements and understandings relating to such subject matter.

Section 6.3. Costs and Expenses. The Company shall upon demand pay to the Collateral Agent the amount of any and all reasonable costs and expenses up to \$20,000 in the aggregate, including the reasonable fees and disbursements of the Collateral Agent's counsel and of any experts and agents up to \$10,000, which the Collateral Agent may incur in connection with (i) the perfection and preservation of the security interest created under this Agreement; (ii) the administration of this Agreement; (iii) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any Collateral; (iv) the exercise or enforcement of any of the rights of the Collateral Agent or the Secured Party hereunder; or (v) the failure by the Company to perform or observe any of the provisions hereof.

Section 6.4. Amendments. No amendment of any provision of this Agreement shall be effective unless it is in writing and signed by the Company and the Collateral Agent, and no waiver of any provision of this Agreement, and no consent to any departure by the Company therefrom, shall be effective unless it is in writing and signed by the Collateral Agent, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given and to the extent specified in such writing.

Section 6.5. Preservation of Rights. No failure on the part of the Collateral Agent to exercise, and no delay in exercising, any right hereunder or under the Note shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. Neither the execution nor the delivery of this Agreement shall in any manner impair or affect any other security for the Secured Obligations.

Section 6.6. Unenforceability. All rights, powers and remedies hereunder conferred shall be exercisable by the Collateral Agent only to the extent not prohibited by applicable law; and all waivers or relinquishments of rights and similar matters shall only be effective to the extent such waivers or relinquishments are not prohibited by applicable law. If any provision of this Agreement is invalid or unenforceable in any jurisdiction, such provision shall be fully severable from this Agreement, and the other provisions hereof shall remain in full force and effect in such jurisdiction and the remaining provisions hereof shall be liberally construed in favor of the Collateral Agent in order to carry out the provisions and intent hereof. The invalidity of any provision of this Agreement in any jurisdiction shall not affect the validity or enforceability of any such provision in any other jurisdiction.

Section 6.7. Survival of Agreements. All representations and warranties of the Company herein, and all covenants and agreements herein, including the confidentiality covenant within Section 3.2(b) herein, shall survive the execution and delivery of this Agreement, and the creation of the Secured Obligations.

Section 6.8. Binding Effect and Assignment. This Agreement creates a continuing security interest in the Collateral and shall be binding on the Company and shall inure to the benefit of the Collateral Agent for the benefit of the Secured Party. Neither the Company nor the Collateral Agent may assign or otherwise transfer its rights under this Agreement to any other person or entity without the prior written consent of the other party. Upon any such consent to transfer, such other person or entity shall become vested with all of the duties, obligations and benefits with respect thereto granted to the Company or the Collateral Agent, as the case may be, herein or otherwise.

Section 6.9. Termination. Upon the satisfaction in full of the Secured Obligations, the security interest created by this Agreement shall terminate and all rights to the Collateral shall revert to the Company. Upon such event, the Collateral Agent shall, upon the Company's request and at the Company's expense (a) return to the Company such of the Collateral as shall not have been sold or otherwise disposed of or applied pursuant to the terms hereof, and (b) execute and deliver to the Company such documents as the Company shall reasonably request to evidence such termination. The termination of the security interest created by this Agreement, shall not terminate or otherwise affect the Collateral Agent's right or ability to exercise any right, power or remedy on account of any claim for breach of warranty or representation, for failure to perform any covenant or other agreement, under any indemnity or for fraud, deceit or other misrepresentation or omission.

Section 6.10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware applicable to contracts made and to be performed entirely within such state, except as required by mandatory provisions of law and except to the extent that the perfection and the effect of perfection or non-perfection of the security interest created hereby, with respect to any particular collateral, are governed by the laws of a jurisdiction other than the State of Delaware.

Section 6.11. Jurisdiction. The Company agrees to submit to personal jurisdiction in the State of Delaware in any action or proceeding arising out of this Agreement and, in furtherance of such agreement, the Company hereby agrees and consents that without limiting other methods of obtaining jurisdiction, personal jurisdiction over the Company in any such action or proceeding may be obtained within or without the jurisdiction of any court located in Delaware and that any process or notice of motion or other application to any such court in connection with any such action or proceeding may be served upon the Company by registered or certified mail to or by personal service at the address set forth in Section 6.1 (unless such address is changed pursuant to the notice provision set forth in Section 6.1) whether such address be within or without the jurisdiction of any such court.

Section 6.12. Waiver of Jury Trial. THE COMPANY AND THE COLLATERAL AGENT HEREBY IRREVOCABLY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THE NOTE, THIS AGREEMENT OR OTHER RELATED AGREEMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THE NOTE, THIS AGREEMENT OR OTHER RELATED AGREEMENTS AND THE RELATIONSHIPS THEREBY ESTABLISHED. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including, without limitation, contract claims, tort claims, breach of duty claims, and all other statutory and common law claims. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS OF THIS AGREEMENT. In the event of litigation, this provision may be filed as a written consent to a trial by the court.

Section 6.13. Specific Performance. The Collateral Agent, for itself and on behalf of the Secured Party, acknowledges and agrees that compliance with the confidentiality provisions set forth in Section 3.2(b) is essential, and that Company will suffer immediate and irreparable injury and have no adequate remedy at law, if the Collateral Agent or the Secured Party, through acts or omissions, fails to comply with such provisions. Accordingly, in addition to all other rights and remedies of the Company hereunder, the Company shall have the right to seek specific performance of the Collateral Agent's and the Secured Party's obligations under such provisions, and any other equitable relief as the Company may deem necessary or appropriate, and the Collateral Agent, for itself and on behalf of the Secured Party, waives any requirement for the posting of a bond in connection with such equitable relief.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

NOVABAY PHARMACEUTICALS, INC.

By: /s/ Justin Hall

Name: Justin Hall

Title: Senior Vice President, General Counsel

CHINA KINGTON ASSET MANAGEMENT CO. LTD.

By: /s/ Eric Wu

Name: Eric Wu

Title: Partner

SCHEDULE 3.1

Chief Executive Office and Other Locations of Collateral

Chief Executive Office:

NOVABAY PHARMACEUTICALS, INC.
2000 Powell Street, Suite 1150
Emeryville, CA 94608

Other Locations of Collateral:

None