Table of Contents

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

FORM 10-K

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

For the fiscal year ended: December 31, 2010

OR

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

For the transition period from to

Commission File Number: 0-30235

EXELIXIS, INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware	**04-3257395**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification Number)**

170 Harbor Way
P.O. Box 511
South San Francisco, California 94083
(Address of Principal Executive Offices) (Zip Code)
(650) 837-7000
(Registrant's Telephone Number, including Area Code)

Securities Registered Pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock $.001 Par Value per Share	**The Nasdaq Stock Market LLC**

Securities Registered Pursuant to Section 12(g) of the Act:
None

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

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

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

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

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

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

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter: $255,581,057 (Based on the closing sales price of the registrant's common stock on that date. Excludes an aggregate of 30,717,749 shares of the registrant's common stock held by officers, directors and affiliated stockholders. For purposes of determining whether a stockholder was an affiliate of the registrant at July 2, 2010, the registrant assumed that a stockholder was an affiliate of the registrant at July 2, 2010 if such stockholder (i) beneficially owned 10% or more of the registrant's common stock, as determined based on public filings, and/or (ii) was an executive officer or director or was affiliated with an executive officer or director of the registrant at July 2, 2010. Exclusion of such shares should not be construed to indicate that any such person possesses the power, direct or indirect, to direct or cause the direction of the management or policies of the registrant or that such person is controlled by or under common control with the registrant.)

As of February 15, 2011, there were 109,487,223 shares of the registrant's common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Certain portions of the registrant's definitive proxy statement to be filed with the Securities and Exchange Commission pursuant to Regulation 14A, not later than April 30, 2011, in connection with the registrant's 2011 Annual Meeting of Stockholders are incorporated herein by reference into Part III of this Annual Report on Form 10-K.

Table of Contents

EXELIXIS, INC.

FORM 10-K

INDEX

PART I

Some of the statements under the captions "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Business" and elsewhere in this Annual Report on Form 10-K are forward-looking statements. These statements are based on our current expectations, assumptions, estimates and projections about our business and our industry and involve known and unknown risks, uncertainties and other factors that may cause our company's or our industry's results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied in, or contemplated by, the forward-looking statements. Words such as "believe," "anticipate," "expect," "intend," "plan," "focus," "assume," "goal," "objective," "will," "may" "should," "would," "could," "estimate," "predict," "potential," "continue," "encouraging" or the negative of such terms or other similar expressions identify forward-looking statements. Our actual results and the timing of events may differ significantly from the results discussed in the forward-looking statements. Factors that might cause such a difference include those discussed in "Item 1A. Risk Factors" as well as those discussed elsewhere in this Annual Report on Form 10-K. These and many other factors could affect our future financial and operating results. We undertake no obligation to update any forward-looking statement to reflect events after the date of this report.

Exelixis has adopted a 52- or 53-week fiscal year that ends on the Friday closest to December 31st. Fiscal year 2008, a 53-week year, ended on January 2, 2009, fiscal year 2009, a 52-week year, ended on January 1, 2010, and fiscal year 2010, a 52-week year, ended on December 31, 2010. Fiscal year 2011, a 52-week year, will end on December 30, 2011. For convenience, references in this report as of and for the fiscal years ended January 2, 2009, January 1, 2010 and December 31, 2010 are indicated on a calendar year basis, ended December 31, 2008, 2009 and 2010, respectively.

ITEM 1. BUSINESS

Overview

We are a biotechnology company committed to developing small molecule therapies for the treatment of cancer. We are focusing our resources and development efforts exclusively on cabozantinib (XL184), our most advanced solely-owned product candidate, in order to maximize the therapeutic and commercial potential of this compound. We believe cabozantinib has the potential to be a high-quality, differentiated pharmaceutical product that can make a meaningful difference in the lives of patients. We have also established a portfolio of other novel compounds that we believe have the potential to address serious unmet medical needs.

Cabozantinib inhibits MET, VEGFR2 and RET, proteins that are key drivers of tumor growth and/or vascularization. Cabozantinib is the most advanced inhibitor of MET in clinical development and is being evaluated in a broad development program encompassing multiple cancer indications. The current clinical program for cabozantinib is focused on the treatment of metastatic castration-resistant prostate cancer and ovarian cancer, based on encouraging interim data that has emerged from a randomized discontinuation trial investigating cabozantinib in nine distinct tumor types. Cabozantinib is also being studied in an ongoing global phase 3 registration trial in medullary thyroid cancer. We expect to release top-line results from the phase 3 trial in the first half of 2011 and to potentially submit a new drug application, or NDA, for cabozantinib as a treatment for medullary thyroid cancer in the United States in the second half of 2011.

Based on the strength of our expertise in biology, drug discovery and development, we have established collaborations with leading pharmaceutical and biotechnology companies, including Bristol-Myers Squibb Company, sanofi-aventis, Genentech, Inc. (a wholly owned member of the Roche Group), Boehringer Ingelheim GmbH, GlaxoSmithKline and Daiichi Sankyo Company Limited for the majority of the remaining compounds and programs in our portfolio. Pursuant to these collaborations, we have out-licensed compounds or programs to

a partner for further development and commercialization, generally have no further unfunded cost obligations related to such compounds or programs and may be entitled to receive research funding, milestones and royalties or a share of profits from commercialization.

Our strategy is to aggressively advance cabozantinib through development toward commercialization. In doing so, we will pursue a pragmatic development plan focused on those cancer indications where we believe cabozantinib has the greatest near-term therapeutic and commercial potential. We are aggressively managing our expenses to preserve our cash resources and ensure we are appropriately dedicating those resources towards successfully executing our strategy.

In furtherance of our decision to focus on cabozantinib and aggressively manage our expenses, in December 2010 we implemented a restructuring plan that resulted in a reduction of our workforce by 143 employees. Personnel reductions were made across our entire organization, including discovery, development and general & administrative, or G&A departments. Further personnel reductions are expected to be made through the end of 2012 as we complete our obligations under collaboration agreements and withdraw resources from completed projects. With the exception of activities related to cabozantinib, we are discontinuing efforts with respect to all of our compounds and programs that are not funded by partners pursuant to collaboration agreements and are actively pursuing collaborations or other external opportunities for the continued development of these compounds and programs. Discovery and clinical activities under various collaborations will continue at funded levels until we complete our contractual obligations. Such funded programs include XL147, XL765 and isoform-selective PI3K inhibitors in collaboration with sanofi-aventis, our sphingosine-1-phosphate type 1 receptor, or S1P1 receptor, collaboration with Boehringer Ingelheim and XL281 and our ROR collaboration with Bristol-Myers Squibb Company.

Cabozantinib

Cabozantinib is a first-in-class inhibitor of tumor growth, metastasis, and angiogenesis that simultaneously targets MET, VEGFR2 and RET, which are key kinases involved in the development and progression of many cancers. It has recently been shown in preclinical models that treatment with selective inhibitors of VEGF signaling can result in tumors that are more invasive and aggressive compared to control treatment. In preclinical studies, upregulation of MET has been shown to occur in concert with development of invasiveness after selective anti-VEGF therapy, and may constitute a mechanism of acquired or evasive resistance to agents that target VEGF signaling without inhibiting MET. Accordingly, treatment with cabozantinib in similar preclinical studies resulted in tumors that were less invasive and aggressive compared to control or selective anti-VEGF treatment. Therefore, we believe that cabozantinib has the potential for improving outcomes in a range of indications, including those where selective anti-VEGF therapy has shown minimal or no activity.

The current clinical program for cabozantinib is focused on the treatment of metastatic castration-resistant prostate cancer and ovarian cancer, based on encouraging interim data that has emerged from a randomized discontinuation trial, or RDT, investigating cabozantinib in nine distinct tumor types. Data from the RDT were released at Annual Meeting of the American Society of Clinical Oncology, or ASCO, Annual Meeting, in June 2010 and demonstrated broad activity for cabozantinib across multiple tumor types, in particular, metastatic castration-resistant prostate, ovarian, non-small cell lung and hepatocellular cancers and hepatoma. Updated interim data presented at the 22nd EORTC-NCI-AACR Symposium on Molecular Targets and Cancer Therapeutics in November 2010, or the 2010 EORTC Symposium, and at the ASCO 2011 Genitourinary Cancers Symposium in February 2011, suggest that cabozantinib has a novel and differentiated clinical profile in metastatic castration-resistant prostate cancer and ovarian cancer. The data presented indicate that cabozantinib has shown novel activity against bone and soft tissue lesions in metastatic castration-resistant prostate cancer. Another priority for us will be to generate additional data in the various other cohorts of the RDT, including melanoma, breast cancer, non-small cell lung cancer and hepatocellular cancer, to support further prioritization of our clinical and commercial options. In addition, we are conducting ongoing exploratory clinical trials for cabozantinib in other tumor types, including renal cell carcinoma.

We also are focusing our efforts on our ongoing phase 3 clinical trial of cabozantinib as a potential treatment for medullary thyroid cancer. This registration trial was initiated in July 3, 2008 following agreement between the United States Food and Drug Administration, or FDA, and us on the trial design through the FDA's Special Protocol Assessment process. We expect to release top-line results from the phase 3 trial in the first half of 2011 and to potentially submit an NDA for cabozantinib as a treatment for medullary thyroid cancer in the United States in the second half of 2011.

In January 2011, we announced that the FDA granted orphan drug designation to cabozantinib for the treatment of follicular, medullary, and anaplastic thyroid carcinoma, and metastatic or locally advanced papillary thyroid cancer. Orphan drug status is granted to treatments for diseases that affect fewer than 200,000 people in the U.S. and provides the benefits of potential market exclusivity for the orphan-designated product for the orphan designated indication for seven years, tax credits of up to 50% of the qualified clinical trial expenses and a waiver of FDA application user fees.

Corporate Collaborations

Based on the strength of our expertise in biology, drug discovery and development, we have established collaborations with leading pharmaceutical and biotechnology companies for the majority of the compounds and programs in our portfolio. Pursuant to these collaborations, we have out-licensed compounds or programs to a partner for further development and commercialization, generally have no further unfunded cost obligations related to such compounds or programs and may be entitled to receive research funding, milestones and royalties or a share of profits from commercialization. In aggregate, we are eligible to receive potential milestone payments under our collaborations totaling approximately $3.7 billion on a non-risk adjusted basis, of which 13% are related to clinical development milestones, 47% are related to regulatory milestones and 40% are related to commercial milestones. We are responsible for performing activities funded by partners under certain of our existing collaborations, and expect to make personnel reductions through the end of 2012 as we complete our obligations under these collaboration agreements and withdraw resources from completed projects. Funded programs under which we are continuing to perform our obligations include XL147, XL765 and isoform-selective PI3K inhibitors in collaboration with sanofi-aventis, our sphingosine-1-phosphate type 1 receptor, or S1P1 receptor, with Boehringer Ingelheim and XL281 and our ROR collaboration with Bristol-Myers Squibb Company. We do not expect to conduct funded activities for partners under future collaborations.

Bristol-Myers Squibb

TGR5 License Agreement. In October 2010, we entered into a global license agreement with Bristol-Myers Squibb pursuant to which we granted to Bristol-Myers Squibb a license to our small-molecule TGR5 agonist program, including rights to the program's lead compound, XL475, as well as potential backups. The license agreement became effective in November 2010 following clearance under the Hart-Scott-Rodino Antitrust Improvement Act of 1976, as amended.

Under the license agreement, Bristol-Myers Squibb received a worldwide exclusive license to XL475 and sole control and responsibility for all research, development, commercial and manufacturing activities. In November 2010 we received a nonrefundable upfront cash payment of $35.0 million from Bristol-Myers Squibb. Additionally, for each product developed by Bristol-Myers Squibb under the license, we will be eligible to receive development and regulatory milestones of up to $250.0 million in the aggregate and commercial milestones of up to $150.0 million in the aggregate, as well as royalties on commercial sales of any such products.

Bristol-Myers Squibb may at any time, upon specified prior notice to us, terminate the license on a product-by-product and country-by-country basis. In addition, either party may terminate the license agreement for the other party's uncured material breach. In the event of termination by Bristol-Myers Squibb at will or by us for Bristol-Myers Squibb's uncured material breach, the license granted to Bristol-Myers Squibb would terminate, the right to such product would revert to us and we would receive from Bristol-Myers Squibb a license to develop and commercialize such product in the related country. Such license would be royalty-free if the agreement is terminated by Bristol-Myers Squibb at will, or royalty-bearing if the agreement is terminated by us for Bristol-Myers Squibb's uncured material breach. In the event of termination by Bristol-Myers Squibb for our uncured material breach, Bristol-Myers Squibb would retain the right to such product and we would receive reduced royalties from Bristol-Myers Squibb on commercial sales of such product.

ROR Collaboration Agreement. In October 2010, we entered into a worldwide collaboration with Bristol-Myers Squibb pursuant to which each party granted to the other certain intellectual property licenses to enable the parties to discover, optimize and characterize ROR antagonists that may subsequently be developed and commercialized by Bristol-Myers Squibb. In November 2010 we received a nonrefundable upfront cash payment of $5.0 million from Bristol-Myers Squibb. Additionally, for each product developed by Bristol-Myers Squibb under the collaboration, we will be eligible to receive development and regulatory milestones of up to $255.0 million in the aggregate and commercialization milestones of up to $150.0 million in the aggregate, as well as royalties on commercial sales of any such products.

Under the terms of the collaboration agreement, we will be primarily responsible for activities related to the discovery, optimization and characterization of the ROR antagonists during the collaborative research period. The collaborative research period began on October 8, 2010 and will end on the earlier to occur of (i) October 8, 2013 if a compound has not satisfied certain specified criteria by such time or (ii) if by such time a compound has satisfied such specified criteria, the date when such compound satisfied the next level of specified criteria, or October 8, 2015, whichever is earlier. Following the collaborative research period, Bristol-Myers Squibb will have sole responsibility for any further research, development, manufacture and commercialization of products developed under the collaboration and will bear all costs and expenses associated with those activities.

Bristol-Myers Squibb may, at any time, terminate the collaboration agreement upon certain prior notice to us on a product-by-product and country-by-country basis. In addition, either party may terminate the agreement for the other party's uncured material breach. In the event of termination by Bristol-Myers Squibb at will or by us for Bristol-Myers Squibb's uncured material breach, the license granted to Bristol-Myers Squibb would terminate, the right to such product would revert to us and we would receive a royalty-bearing license for late-stage reverted compounds and a royalty-free license for early-stage reverted compounds from Bristol-Myers Squibb to develop and commercialize such product in the related country. In the event of termination by Bristol-Myers Squibb for our uncured material breach, Bristol-Myers Squibb would retain the right to such product, subject to continued payment of milestones and royalties.

2008 Cancer Collaboration. In December 2008, we entered into a worldwide collaboration with Bristol-Myers Squibb for cabozantinib and XL281 (BMS-908662), a RAF inhibitor. Upon effectiveness of the collaboration agreement in December 2008, Bristol-Myers Squibb made a nonrefundable upfront cash payment of $195.0 million for the development and commercialization rights to both programs. The agreement required Bristol-Myers Squibb to make additional license payments to us of $45.0 million, which were received during 2009.

Under the terms of the collaboration agreement, Bristol-Myers Squibb has an exclusive worldwide license to develop and commercialize XL281. We will carry out certain clinical trials of XL281 which may include a backup program on XL281. Bristol-Myers Squibb is responsible for funding all future development of XL281, including our activities. We are eligible for development and regulatory milestones of up to $315.0 million on XL281, sales performance milestones of up to $150.0 million and double-digit royalties on worldwide sales of XL281.

On June 18, 2010, we regained full rights to develop and commercialize cabozantinib under our collaboration agreement with Bristol-Myers Squibb following receipt of notice from Bristol-Myers Squibb of its decision to terminate the 2008 collaboration, solely as to cabozantinib, on a worldwide basis. Bristol-Myers Squibb informed us that the termination was based upon its review of cabozantinib in the context of Bristol-Myers Squibb's overall research and development priorities and pipeline products. On June 28, 2010, in connection with the termination, we received a $17.0 million transition payment from Bristol-Myers Squibb in satisfaction of its obligations under the collaboration agreement to continue to fund its share of development costs for cabozantinib for a period of three months following the notice of termination. As a result of the termination, Bristol-Myers Squibb's license relating to cabozantinib terminated and its rights to cabozantinib reverted to us, and we received, subject to certain terms and conditions, licenses from Bristol-Myers Squibb to research, develop and commercialize cabozantinib.

2007 Cancer Collaboration. In December 2006, we entered into a worldwide collaboration with Bristol-Myers Squibb, which became effective in January 2007, to discover, develop and commercialize novel targeted therapies for the treatment of cancer. We were responsible for discovery and preclinical development of small molecule drug candidates directed against mutually selected targets. In January 2007, Bristol-Myers Squibb made an upfront payment of $60.0 million to us for which we granted Bristol-Myers Squibb the right to select up to three investigational new drug, or IND, candidates from six future Exelixis compounds.

For each IND candidate selected, we were entitled to receive a $20.0 million selection milestone from Bristol-Myers Squibb. Once selected, Bristol-Myers Squibb became responsible for leading the further development and commercialization of the selected IND candidates. In addition, we had the right to opt in to co-promote the selected IND candidates, in which case we would equally share all development costs and profits in the United States. In January 2008 and November 2008, Bristol-Myers Squibb exercised its option under the collaboration to develop and commercialize XL139 (BMS-833923), a Hedgehog inhibitor, and XL413 (BMS-863233), a CDC7 inhibitor, respectively. Under the terms of the collaboration agreement, the selection of XL139 and XL413 by Bristol-Myers Squibb entitled us to milestone payments of $20.0 million each, which we received in February 2008 and December 2008, respectively. In addition, we exercised our option under the collaboration agreement to co-develop and co-commercialize each of XL139 and XL413 in the United States. However, in September 2010, we and Bristol-Myers Squibb terminated the XL413 program due to an unfavorable pharmacological profile observed in phase 1 clinical evaluation. Additionally, in connection with an amendment to the collaboration which became effective in November 2010, we exercised our right to opt-out of further co-development of XL139 in consideration for a cash payment of $20.0 million. We have no further responsibility for conducting new activities or funding new development or commercialization activities with respect to XL139 and will therefore no longer be eligible to share profits on sales of any commercialized products under the collaboration. We will continue to be eligible to receive regulatory and commercial milestones of up to $260.0 million as well as double-digit royalties on any future sales of any products commercialized under the collaboration. As a result of the November 2010 amendment to the collaboration, the research term has ended, and we have no further obligation to deliver to Bristol-Myers Squibb a third IND candidate under the collaboration.

Bristol-Myers Squibb may, upon notice to us, terminate the agreement as to any product containing or comprising the selected candidate. In the event of such termination election, Bristol-Myers Squibb's license relating to such product would terminate and revert to us, and we would receive, subject to certain terms and conditions, licenses from Bristol-Myers Squibb to research, develop and commercialize certain collaboration compounds that were discovered.

LXR Collaboration. In December 2005, we entered into a collaboration agreement with Bristol-Myers Squibb for the discovery, development and commercialization of novel therapies targeted against LXR, a nuclear hormone receptor implicated in a variety of cardiovascular and metabolic disorders. This agreement became effective in January 2006, at which time we granted Bristol-Myers Squibb an exclusive, worldwide license with respect to certain intellectual property primarily relating to compounds that modulate LXR. During the research

term, we jointly identified drug candidates with Bristol-Myers Squibb that were ready for IND-enabling studies. After the selection of a drug candidate for further clinical development by Bristol-Myers Squibb, Bristol-Myers Squibb agreed to be solely responsible for further preclinical development as well as clinical development, regulatory, manufacturing and sales/marketing activities for the selected drug candidate. We do not have rights to reacquire the drug candidates selected by Bristol-Myers Squibb. The research term expired in January 2010 and we are conducting a technology transfer to enable Bristol-Myers Squibb to continue the LXR program.

Under the collaboration agreement, Bristol-Myers Squibb paid us a nonrefundable upfront cash payment in the amount of $17.5 million and was obligated to provide research and development funding of $10.0 million per year for an initial research period of two years. In September 2007, the collaboration was extended at Bristol-Myers Squibb's request through January 12, 2009, and in November 2008, the collaboration was further extended at Bristol-Myers Squibb's request through January 12, 2010. Under the collaboration agreement, Bristol-Myers Squibb is required to pay us development and regulatory milestones of up to $138.0 million per product for up to two products from the collaboration. In addition, we are also entitled to receive sales milestones of up to $225.0 million and royalties on sales of any products commercialized under the collaboration. In connection with the extension of the collaboration through January 2009 and subsequently January 2010, Bristol-Myers Squibb paid us additional research funding of approximately $7.7 million and approximately $5.8 million, respectively. In December 2007, we received $5.0 million for achieving a development milestone.

sanofi-aventis

In May 2009, we entered into a global license agreement with sanofi-aventis for XL147 (SAR245408) and XL765 (SAR245409), leading inhibitors of phosphoinositide-3 kinase, or PI3K, and a broad collaboration for the discovery of inhibitors of PI3K for the treatment of cancer. The license agreement and collaboration agreement became effective on July 7, 2009. In connection with the effectiveness of the license and collaboration, on July 20, 2009, we received upfront payments of $140.0 million ($120.0 million for the license and $20.0 million for the collaboration), less applicable withholding taxes of $7.0 million, for a net receipt of $133.0 million. We expect to receive a refund payment from the French government in 2011 with respect to the withholding taxes previously withheld.

Under the license agreement, sanofi-aventis received a worldwide exclusive license to XL147 and XL765, which are in phase 1, phase 1b/2 and phase 2 clinical trials, and has sole responsibility for all subsequent clinical, regulatory, commercial and manufacturing activities. sanofi-aventis is responsible for funding all development activities with respect to XL147 and XL765, including our activities. Following the effectiveness of the license agreement, we have been conducting the majority of the clinical trials for XL147 and XL765 at the expense of sanofi-aventis. As provided for under the license agreement however, the parties have agreed to transition all future development activities for these compounds to sanofi-aventis. The parties anticipate that the transition will be completed by the end of the second quarter of 2011.

Under the collaboration agreement, the parties agreed to combine efforts in establishing several pre-clinical PI3K programs and jointly share responsibility for research and preclinical activities related to isoform-selective inhibitors of PI3K-a and -ß. sanofi-aventis will continue to provide us with guaranteed annual research and development funding during the research term and is responsible for funding all development activities for each product following approval of the IND filed with the applicable regulatory authorities for such product. We are entitled to receive guaranteed research funding of $21.0 million over three years to cover certain of our costs under the collaboration agreement. sanofi-aventis will have sole responsibility for all subsequent clinical, regulatory, commercial and manufacturing activities of any products arising from the collaboration; however, we may be requested to conduct certain clinical trials at sanofi-aventis' expense. The research term under the collaboration is three years, although sanofi-aventis has the right to extend the term for an additional one-year period upon prior written notice.

For both the license and the collaboration combined, we will be eligible to receive development, regulatory and commercial milestones of over $1.0 billion in the aggregate, as well as royalties on sales of any products commercialized under the license or collaboration.

sanofi-aventis may, upon certain prior notice to us, terminate the license as to products containing XL147 or XL765. In the event of such termination election, sanofi-aventis' license relating to such product would terminate and revert to us, and we would receive, subject to certain terms, conditions and potential payment obligations, licenses from sanofi-aventis to research, develop and commercialize such products.

The collaboration will automatically terminate under certain circumstances upon the expiration of the research term, in which case all licenses granted by the parties to each other would terminate and revert to the respective party, subject to sanofi-aventis' right to receive, under certain circumstances, the first opportunity to obtain a license from us to any isoform-selective PI3K inhibitor. In addition, sanofi-aventis may, upon certain prior written notice to us, terminate the collaboration in whole or as to certain products following expiration of the research term, in which case we would receive, subject to certain terms, conditions and potential payment obligations by us, licenses from sanofi-aventis to research, develop and commercialize such products.

Genentech

In December 2006, we entered into a worldwide co-development agreement with Genentech for the development and commercialization of XL518, a small-molecule inhibitor of MEK. Genentech paid upfront and milestone payments of $25.0 million in December 2006 and $15.0 million in January 2007 upon signing of the co-development agreement and with the submission of an IND for XL518.

Under the terms of the co-development agreement, we were responsible for developing XL518 through the end of a phase 1 clinical trial, and Genentech had the option to co-develop XL518, which Genentech could exercise after receipt of certain phase 1 data from us. In March 2008, Genentech exercised its option, triggering a payment to us of $3.0 million, which we received in April 2008. We were responsible for the phase 1 clinical trial until the point that a maximum tolerated dose, or MTD, was determined. After MTD was achieved, we granted to Genentech an exclusive worldwide revenue-bearing license to XL518 in March 2009 and Genentech is responsible for completing the phase 1 clinical trial and subsequent clinical development. We received an additional $7.0 million milestone payment in March 2010 under the terms of this agreement. Genentech is responsible for all further development costs of XL518 and we will share equally in the U.S. commercialization costs. On an annual basis, we are entitled to an initial equal share of U.S. profits and losses, which will decrease as sales increase, and we are also entitled to royalties on non-U.S. sales. We also have the option to co-promote in the United States. Genentech has the right to terminate the agreement without cause at any time. If Genentech terminates the co-development agreement without cause, all licenses that were granted to Genentech under the agreement terminate and revert to us. Additionally, we would receive, subject to certain conditions, licenses from Genentech to research, develop and commercialize reverted product candidates.

GlaxoSmithKline

In October 2002, we established a collaboration with GlaxoSmithKline to discover and develop novel therapeutics in the areas of vascular biology, inflammatory disease and oncology. The collaboration involved three agreements: (1) a product development and commercialization agreement, (2) a stock purchase and stock issuance agreement and (3) a loan and security agreement. During the term of the collaboration, we received $65.0 million in upfront and milestone payments, $85.0 million in research and development funding and loans in the principal amount of $85.0 million. In connection with the collaboration, GlaxoSmithKline purchased a total of three million shares of our common stock.

In October 2008, the development term under the collaboration concluded as scheduled. Under the terms of the collaboration, GlaxoSmithKline had the right to select up to two of the compounds in the collaboration for further development and commercialization. GlaxoSmithKline selected XL880 (foretinib), an inhibitor of MET and VEGFR2, and had the right to choose one additional compound from a pool of compounds, which consisted of cabozantinib, XL281, XL228, XL820 and XL844 as of the end of the development term.

In July 2008, we achieved proof-of-concept for cabozantinib and submitted the corresponding data report to GlaxoSmithKline. In October 2008, GlaxoSmithKline notified us in writing that it decided not to select cabozantinib for further development and commercialization and that it waived its right to select XL281, XL228, XL820 and XL844 for further development and commercialization. As a result, we retained the rights to develop, commercialize, and/or license all of the compounds, subject to payment to GlaxoSmithKline of a 3% royalty on net sales of any product incorporating cabozantinib. As described under " – Bristol-Myers Squibb – 2008 Cancer Collaboration," in December 2008, we entered into a worldwide collaboration with Bristol-Myers Squibb for cabozantinib and XL281, and in June 2010 regained full rights to develop and commercialize cabozantinib under the collaboration following receipt from Bristol-Myers Squibb of its decision to terminate the collaboration, solely as to cabozantinib, on a worldwide basis. We discontinued development of XL820 and XL844 in December 2008.

The $85.0 million loan we received from GlaxoSmithKline bears interest at a rate of 4.0% per annum and is secured by certain intellectual property, technology and equipment created or utilized pursuant to the collaboration. As of December 31, 2010, the aggregate principal and interest outstanding under our GlaxoSmithKline loan was $35.9 million, after giving effect to all repayments made. The final installment of principal and accrued interest under the loan is due on October 27, 2011. Repayment of all or any of the amounts advanced to us under the loan agreement may, at our election, be in the form of our common stock at fair market value, subject to certain conditions, or cash.

Boehringer Ingelheim

In May 2009, we entered into a collaboration agreement with Boehringer Ingelheim to discover, develop and commercialize products that consist of agonists of S1P1 receptor, a central mediator of multiple pathways implicated in a variety of autoimmune diseases.

Under the terms of the agreement, Boehringer Ingelheim paid us a nonrefundable upfront cash payment of $15.0 million for the development and commercialization rights to our S1P1R agonist program. We share responsibility for discovery activities under the collaboration with Boehringer Ingelheim. The agreement provides that the parties will each conduct research under a mutually agreed upon research plan until such time that we submit a compound that has met agreed-upon criteria, or such later time as agreed upon by the parties. The parties are each responsible for their respective costs and expenses incurred in connection with performing research under the collaboration. Under the collaboration, Boehringer Ingelheim also has the right, at its own expense, to conduct additional research on S1P1R agonists outside of the scope of the research plan agreed to by the parties. The agreement further provides that Boehringer Ingelheim will receive an exclusive worldwide license to further develop, commercialize and manufacture compounds developed under the collaboration and will have sole responsibility for, and shall bear all costs and expenses associated with, all subsequent pre-clinical, clinical, regulatory, commercial and manufacturing activities. In return, we will potentially receive up to $339.0 million in further development, regulatory and commercial milestones and are eligible to receive royalties on worldwide sales of products commercialized under the collaboration.

Boehringer Ingelheim may, upon certain prior notice to us, terminate the agreement as to any product developed under the collaboration. In the event of such termination election, Boehringer Ingelheim's license relating to such product would terminate and revert to us, and we would receive, subject to certain terms and conditions, licenses from Boehringer Ingelheim to research, develop and commercialize such product.

Daiichi Sankyo

In March 2006, we entered into a collaboration agreement with Daiichi Sankyo for the discovery, development and commercialization of novel therapies targeted against the mineralocorticoid receptor, or MR, a nuclear hormone receptor implicated in a variety of cardiovascular and metabolic diseases. Under the terms of the agreement, we granted to Daiichi Sankyo an exclusive, worldwide license to certain intellectual property primarily relating to compounds that modulate MR. Daiichi Sankyo is responsible for all further preclinical and clinical development, regulatory, manufacturing and commercialization activities for the compounds and we do not have rights to reacquire such compounds, except as described below.

Daiichi Sankyo paid us a nonrefundable upfront payment in the amount of $20.0 million and was obligated to provide research and development funding of $3.8 million over a 15-month research term. In June 2007, our collaboration agreement with Daiichi Sankyo was amended to extend the research term by six months over which Daiichi Sankyo was required to provide $1.5 million in research and development funding. In November 2007, the parties decided not to further extend the research term. For each product from the collaboration, we are also entitled to receive payments upon attainment of pre-specified development, regulatory and commercialization milestones. In December 2010, we received a milestone payment of $5.0 million in connection with an IND filing made by Daiichi Sankyo for a compound developed under the collaboration and are eligible to receive additional development, regulatory and commercialization milestones of up to $150.5 million. In addition, we are also entitled to receive royalties on any sales of certain products commercialized under the collaboration. Daiichi Sankyo may terminate the agreement upon 90 days' written notice in which case Daiichi Sankyo's payment obligations would cease, its license relating to compounds that modulate MR would terminate and revert to us and we would receive, subject to certain terms and conditions, licenses from Daiichi Sankyo to research, develop and commercialize compounds that were discovered under the collaboration.

Potential Collaboration Candidates

Consistent with our decision to focus on cabozantinib and aggressively manage our expenses, we are discontinuing development efforts with respect to our remaining unpartnered compounds and programs, which are identified below, and are actively pursuing collaborations or other external opportunities for the continued development of these compounds and programs.

- **XL228** targets IGF1R, an RTK that is highly expressed and activated in a broad range of human tumors and is thought to promote tumor growth, survival and resistance to chemotherapeutic agents. In addition, XL228 potently inhibits the T315I mutant form of BCR-ABL, which is resistant to inhibition by other targeted therapies approved for chronic myelogenous leukemia. XL228 also targets SRC, a tyrosine kinase that is activated and/or expressed in many tumors and plays an important role in tumor angiogenesis, progression and metastasis. XL228 exhibited activity in a variety of solid tumor xenograft models. We filed an IND for XL228 in August 2006. We subsequently observed formulation stability data resulting in the need for minor changes in formulation. We then initiated a phase 1 clinical trial in May 2007 in patients with chronic myelogenous leukemia who have failed or have been intolerant to imatinib and dasatinib therapy, and a phase 1 trial in patients with solid tumors in October 2007. Preliminary data from the trial in patients with chronic myelogenous leukemia were reported at the annual meeting of the American Society of Hematology in December 2007 and 2008. Preliminary data from the phase 1 trial in patients with solid tumors were presented at the EORTC Symposium in October 2008 and updated data were presented at the ASCO Annual Meetings in June 2009 and June 2010 and the EORTC Symposium in November 2009.
- **XL388** is a selective, ATP-competitive inhibitor of mTOR that targets both mTORC1 and mTORC2 kinase complexes. Dysregulation of mTOR signaling is common in tumor cells and may occur as a result of overexpression or mutational activation of receptor tyrosine kinases (i.e., EGFR and IGF1R), downstream signaling proteins (i.e., PI3K, RAS, RAF and MEK), or down-regulation of tumor

suppressors (i.e., PTEN, TSC1/TSC2 or LKB1). In addition, chemotherapy and radiation treatments have been shown to elevate mTORC2/AKT-mediated survival signaling, which plays a significant role in conferring resistance to these therapies. In preclinical tumor models, oral administration of XL388 results in dose-dependent inhibition of mTOR signaling, inhibition of tumor cell proliferation, and tumor growth inhibition or regression. XL388 was advanced to development candidate status in April 2009, and we filed an IND in December 2009.

- **XL499** is a potent and selective inhibitor of PI3K-d, a class 1A PI3K isoform expressed primarily in hematopoietic cells and some hematologic malignancies. PI3K-d plays important roles in various aspects of immune cell function, including mast cell degranulation, B lymphocyte maturation, and T lymphocyte differentiation. Targeting PI3K-d signaling has been shown to significantly reduce inflammation and disease progression in preclinical models of rheumatoid arthritis and allergic asthma. In addition, selectively targeting PI3K-d has been shown to lead to clinically relevant responses in some lymphoma patients. XL499 exhibits potent activity against PI3K-d in cells, and is highly selective when compared to other PI3K isoforms, protein kinases, or GPCRs. In addition, oral administration of XL499 results in robust anti-inflammatory activity in preclinical models of passive cutaneous anaphylaxis, inflammatory cytokine release, and systematic lupus erythematosus XL499 was advanced to development candidate status in January 2010.
- **XL541** is a selective antagonist of the S1P1 receptor, a member of a family of five GPCRs that modulate cellular function and survival in response to sphingosine-1-phosphate. S1P1 plays a critical role in vascular maturation, which is required for tumors to develop a functional vasculature. Accordingly, blockade of S1P1 function has been shown to impair vascularization and to decrease tumor growth and metastasis in preclinical tumor models. In addition to its role in the vasculature, S1P1 has been shown to play important roles in driving cell proliferation in a variety of human tumors including lung cancer, ovarian cancer, melanoma and glioma. In preclinical models, oral administration of XL541 results in substantial regression of the vasculature in tumors, and tumor growth inhibition, without any noticeable impact on the vasculature in normal tissue. In addition, combined administration of XL541 with chemotherapy results in synergistic and durable anti-tumor activity. XL541 was advanced to development candidate status in December 2008.
- **XL888** is a novel, synthetic inhibitor of HSP90, a chaperone protein that promotes the activity and stability of a range of key regulatory proteins including kinases. The activity of HSP90 is particularly prominent in tumor cells, where it promotes the activity of proteins controlling cell proliferation and survival. Natural product based inhibitors of HSP90 are in clinical trials and have shown encouraging signs of anti-tumor activity, but their utility is limited by poor pharmacokinetic properties and by their side effect profiles. XL888 inhibits HSP90 with potency comparable to natural product-based inhibitors, but has good oral bioavailability and an improved tolerability profile in preclinical models. XL888 exhibits substantial anti-tumor activity at well tolerated doses in multiple preclinical xenograft tumor models. XL888 was advanced to development candidate status in October 2007, and we filed an IND in October 2008 and initiated a phase 1 clinical trial in November 2008.

Manufacturing and Raw Materials

We do not have manufacturing capabilities necessary to enable us to produce materials for our clinical trials. Raw materials and supplies required for the production of our product candidates are generally available from multiple suppliers. However, in some instances materials are available only from one supplier. In those cases where raw materials are only available through one supplier, we manage supplies, to the extent feasible, by ordering raw materials in advance of scheduled needs. However, clinical trial schedules may be delayed due to interruptions of raw material supplies. To date, we have entered into arrangements with two different suppliers for the production of cabozantinib.

Government Regulation

The following section contains some general background information regarding the regulatory environment and processes affecting our industry and is designed to illustrate in general terms the nature of our business and the potential impact of government regulations on our business. It is not intended to be comprehensive or complete. Depending on specific circumstances, the information below may or may not apply to us or any of our product candidates. In addition, the information is not necessarily a description of activities that we have undertaken in the past or will undertake in the future. The regulatory context in which we operate is complex and constantly changing.

The FDA and comparable regulatory agencies in state and local jurisdictions and in foreign countries impose substantial requirements upon the clinical development, manufacture and marketing of pharmaceutical products. These agencies and other federal, state and local entities regulate research and development activities and the testing, manufacture, quality control, safety, effectiveness, labeling, storage, record keeping, approval, advertising and promotion of our products.

The process required by the FDA before product candidates may be marketed in the United States generally involves the following:

- preclinical laboratory and animal tests that must be conducted in accordance with Good Laboratory Practices;
- submission of an IND, which must become effective before clinical trials may begin;
- adequate and well-controlled human clinical trials to establish the safety and efficacy of the proposed drug candidate for its intended use;
- pre-approval inspection of manufacturing facilities and selected clinical investigators for their compliance with Good Manufacturing Practices, or GMP, and Good Clinical Practices; and
- FDA approval of an NDA for commercial marketing, or NDA supplement, for an approval of a new indication if the product is already approved for another indication.

The testing and approval process requires substantial time, effort and financial resources.

Prior to commencing the first clinical trial with a product candidate, we must submit an IND to the FDA. The IND automatically becomes effective 30 days after receipt by the FDA, unless the FDA, within the 30-day time period, raises concerns or questions about the conduct of the clinical trial. In such a case, the IND sponsor and the FDA must resolve any outstanding concerns before the clinical trial can begin. Submission of an IND may not result in FDA authorization to commence a clinical trial. A separate submission to the existing IND must be made for each successive clinical trial conducted during product development. Further, an independent institutional review board for each medical center proposing to conduct the clinical trial must review and approve the plan for any clinical trial and its informed consent form before the trial commences at that center. Regulatory authorities or an institutional review board or the sponsor may suspend a clinical trial at any time on various grounds, including a finding that the subjects or patients are being exposed to an unacceptable health risk.

For purposes of NDA approval, human clinical trials are typically conducted in three sequential phases that may overlap.

- Phase 1 – Studies are initially conducted in a limited patient population to test the product candidate for safety, dosage tolerance, absorption, metabolism, distribution and excretion in healthy humans or patients.
- Phase 2 – Studies are conducted with groups of patients afflicted with a specified disease in order to provide enough data to evaluate the preliminary efficacy, optimal dosages and expanded evidence of

safety. Multiple phase 2 clinical trials may be conducted by the sponsor to obtain information prior to beginning larger and more expensive phase 3 clinical trials. In some cases, a sponsor may decide to run what is referred to as a "phase 2b" evaluation, which is a second, confirmatory phase 2 trial that could, if positive, serve as a pivotal trial in the approval of a product candidate.

- Phase 3 – When phase 2 evaluations demonstrate that a dosage range of the product is effective and has an acceptable safety profile, phase 3 trials are undertaken in large patient populations to further evaluate dosage, to provide replicate statistically significant evidence of clinical efficacy and to further test for safety in an expanded patient population at multiple clinical trial sites.

The FDA may require, or companies may pursue, additional clinical trials after a product is approved. These so-called phase 4 studies may be made a condition to be satisfied after a drug receives approval. The results of phase 4 studies can confirm the effectiveness of a product candidate and can provide important safety information to augment the FDA's adverse drug reaction reporting system. The results of product development, preclinical studies and clinical trials are submitted to the FDA as part of an NDA, or as part of an NDA supplement. The submission of an NDA or NDA supplement requires payment of a substantial User Fee to FDA. The FDA may convene an advisory committee to provide clinical insight on NDA review questions. The FDA may deny approval of an NDA or NDA supplement by way of a Complete Response letter if the applicable regulatory criteria are not satisfied, or it may require additional clinical data and/or an additional pivotal phase 3 clinical trial. Even if such data are submitted, the FDA may ultimately decide that the NDA or NDA supplement does not satisfy the criteria for approval. An NDA may be approved with significant restrictions on its labeling, marketing and distribution under a Risk Evaluation and Mitigation Strategy. Once issued, the FDA may withdraw product approval if ongoing regulatory standards are not met or if safety problems occur after the product reaches the market. In addition, the FDA may require testing and surveillance programs to monitor the effect of approved products which have been commercialized, and the FDA has the power to prevent or limit further marketing of a product based on the results of these post-marketing programs.

Satisfaction of FDA requirements or similar requirements of state, local and foreign regulatory agencies typically takes several years and the actual time required may vary substantially based upon the type, complexity and novelty of the product or disease. Government regulation may delay or prevent marketing of product candidates or new diseases for a considerable period of time and impose costly procedures upon our activities. The FDA or any other regulatory agency may not grant approvals for new indications for our product candidates on a timely basis, if at all. Success in early stage clinical trials does not ensure success in later stage clinical trials. Targets and pathways identified in vitro may be determined to be less relevant in clinical studies and results in animal model studies may not be predictive of human clinical results. Data obtained from clinical activities is not always conclusive and may be susceptible to varying interpretations, which could delay, limit or prevent regulatory approval. Even if a product candidate receives regulatory approval, the approval may be significantly limited to specific disease states, patient populations and dosages. Further, even after regulatory approval is obtained, later discovery of previously unknown problems with a product may result in restrictions on the product or even complete withdrawal of the product from the market.

Any products manufactured or distributed by us pursuant to FDA approvals are subject to continuing regulation by the FDA, including record-keeping requirements and reporting of adverse experiences with the drug. Drug manufacturers and their subcontractors are required to register their establishments with the FDA and certain state agencies, and are subject to periodic unannounced inspections by the FDA and certain state agencies for compliance with GMP, which impose certain procedural and documentation requirements upon us and our third-party manufacturers. We cannot be certain that we or our present or future suppliers will be able to comply with the GMP regulations and other FDA regulatory requirements. If our present or future suppliers are not able to comply with these requirements, the FDA may halt our clinical trials, require us to recall a drug from distribution, or withdraw approval of the NDA for that drug.

The FDA closely regulates the marketing and promotion of drugs. A company can make only those claims relating to safety and efficacy that are approved by the FDA. Failure to comply with these requirements can result in adverse publicity, warning letters, corrective advertising and potential civil and criminal penalties. Physicians may prescribe legally available drugs for uses that are not described in the product's labeling and that differ from those tested by us and approved by the FDA. Such off-label uses are common across medical specialties. Physicians may believe that such off-label uses are the best treatment for many patients in varied circumstances. The FDA does not regulate the behavior of physicians in their choice of treatments. The FDA does, however, restrict manufacturer's communications on the subject of off-label use.

The FDA's policies may change and additional government regulations may be enacted which could prevent or delay regulatory approval of our product candidates or approval of new diseases for our product candidates. We cannot predict the likelihood, nature or extent of adverse governmental regulation that might arise from future legislative or administrative action, either in the United States or abroad.

The United States Orphan Drug Act promotes the development of products that demonstrate promise for the diagnosis and treatment of diseases or conditions that affect fewer than 200,000 people in the United States. Upon FDA receipt of Orphan Drug Designation, the sponsor is eligible for tax credits of up to 50% for qualified clinical trial expenses, the ability to apply for annual grant funding, waiver of Prescription Drug User Fee Act (PDUFA) application fee, and upon approval, the potential for seven years of market exclusivity for the orphan-designated product for the orphan-designated indication.

Competition

There are many companies focused on the development of small molecules and antibodies for cancer. Our potential competitors include major pharmaceutical and biotechnology companies, as well as academic research institutions, clinical reference laboratories and government agencies that are pursuing research activities similar to ours. Many of our potential competitors have significantly more financial, technical and other resources than we do, which may allow them to have a competitive advantage.

We believe that our ability to successfully compete will depend on, among other things:

- efficacy, safety and reliability of our product candidates;
- timing and scope of regulatory approval;
- the speed at which we develop product candidates;
- our ability to complete preclinical testing and clinical development and obtaining regulatory approvals for product candidates;
- our ability to manufacture and sell commercial quantities of a product to the market;
- the availability of reimbursement for product use in approved indications;
- product acceptance by physicians and other health care providers;
- quality and breadth of our technology;
- skills of our employees and our ability to recruit and retain skilled employees;
- protection of our intellectual property; and
- availability of substantial capital resources to fund development and commercialization activities.

We believe that the quality and breadth of our technology platform, the skill of our employees and our ability to recruit and retain skilled employees, our patent portfolio and our capabilities for research and drug development are competitive strengths. However, many large pharmaceutical and biotechnology companies have

significantly larger intellectual property estates than we do, more substantial capital resources than we have, and greater capabilities and experience than we do in preclinical and clinical development, sales, marketing, manufacturing and regulatory affairs.

Any products that we may develop or discover are likely to be in highly competitive markets. We are aware of products in research or development by our competitors that address all of the diseases we are targeting, and any of these products may compete with our drug candidates. Our competitors may succeed in developing their products before we do, obtaining approvals from the FDA or other regulatory agencies for their products more rapidly than we do, or developing products that are more effective than our products. These products or technologies might render our technology obsolete or noncompetitive. There may also be drug candidates of which we are not aware at an earlier stage of development that may compete with our drug candidates. In addition, any drug candidate that we successfully develop may compete with existing therapies that have long histories of use, such as chemotherapy and radiation treatments in cancer indications. Examples of potential competition for cabozantinib include AstraZeneca's development-stage VEGFR and EFGR inhibitor, vandetanib, other VEGF pathway inhibitors, including Genentech's bevacizumab, and other MET inhibitors, including Pfizer's crizotinib, ArQule Inc.'s ARQ197, GlaxoSmithKline's foretinib (XL880) and Genentech's Met MAb. We anticipate that cabozantinib would compete with any of these potential products on the basis of the factors described above.

Research and Development Expenses

Research and development expenses consist primarily of personnel expenses, laboratory supplies, consulting and facilities costs. Research and development expenses were $210.7 million for the year ended December 31, 2010, compared to $234.7 million for the year ended December 31, 2009 and $257.4 million for the year ended December 31, 2008.

Revenues from Significant Collaborators

In 2010, we derived 50% and 42% of our revenues from Bristol-Myers Squibb and sanofi-aventis, respectively.

Patents and Proprietary Rights

We actively seek patent protection in the United States, European Union, and selected other foreign countries to cover our drug candidates and related technologies. Patents extend for varying periods according to the date of patent filing or grant and the legal term of patents in the various countries where patent protection is obtained. The actual protection afforded by a patent, which can vary from country to country, depends on the type of patent, the scope of its coverage and the availability of legal remedies in the country. We have numerous patents and pending patent applications that relate to methods of screening drug targets, compounds that modulate drug targets, as well as methods of making and using such compounds. While many patent applications have been filed relating to the drug candidates that we have developed, the majority of these are not yet issued or allowed.

Cabozantinib is covered by an issued patent in the United States (U.S. Pat. No. 7,579,473) for the composition-of-matter of cabozantinib and pharmaceutical compositions thereof. This issued patent will expire in September 2024, subject to any available extensions. Foreign counterparts of this issued U.S. patent are pending in the European Union, Australia, Japan and Canada, which, if issued, are anticipated to expire in 2024. We have patent applications pending in the United States, European Union, Australia, Japan and Canada covering certain synthetic methods related to making cabozantinib, which if issued are anticipated to expire in 2024. We have filed patent applications in the United States and other selected countries covering certain salts, polymorphs and formulations of cabozantinib which if issued are anticipated to expire in approximately 2030. We have filed several patent applications in the United States and other selected countries relating to combinations of cabozantinib with certain other anti-cancer agents which if issued are anticipated to expire in approximately 2030.

We have pending patent applications in the United States and European Union covering the composition-of-matter of our other drug candidates in clinical or preclinical development which, if issued, are anticipated to expire between 2023 and 2030.

We have obtained licenses from various parties that give us rights to technologies that we deem to be necessary or desirable for our research and development. These licenses (both exclusive and non-exclusive) may require us to pay royalties as well as upfront and milestone payments.

While trade secret protection is an essential element of our business and we have taken security measures to protect our proprietary information and trade secrets, we cannot give assurance that our unpatented proprietary technology will afford us significant commercial protection. We seek to protect our trade secrets by entering into confidentiality agreements with third parties, employees and consultants. Our employees and consultants are also required to sign agreements obligating them to assign to us their interests in intellectual property arising from their work for us. All employees sign an agreement not to engage in any conflicting employment or activity during their employment with us and not to disclose or misuse our confidential information. However, it is possible that these agreements may be breached or invalidated, and if so, there may not be an adequate corrective remedy available. Accordingly, we cannot ensure that employees, consultants or third parties will not breach the confidentiality provisions in our contracts, infringe or misappropriate our trade secrets and other proprietary rights or that measures we are taking to protect our proprietary rights will be adequate.

In the future, third parties may file claims asserting that our technologies or products infringe on their intellectual property. We cannot predict whether third parties will assert such claims against us or against the licensors of technology licensed to us, or whether those claims will harm our business. If we are forced to defend ourselves against such claims, whether they are with or without merit and whether they are resolved in favor of, or against, our licensors or us, we may face costly litigation and the diversion of management's attention and resources. As a result of such disputes, we may have to develop costly non-infringing technology or enter into licensing agreements. These agreements, if necessary, may be unavailable on terms acceptable to us, or at all.

Employees

As of December 31, 2010, we had 383 full-time employees worldwide, 135 of whom held Ph.D. and/or M.D. degrees, most of whom were engaged in full-time research and development activities. After giving effect to the restructuring we implemented on December 1, 2010, as of February 4, 2011, we had 240 full-time employees worldwide, 93 of whom held Ph.D. and/or M.D. degrees, most of whom were engaged in full-time research and development activities. In addition, as of February 4, 2011, we continued to employ on a full-time basis 27 employees impacted by the December 2010 restructuring who are continuing to provide services through various dates in 2011. None of our employees are represented by a labor union, and we consider our employee relations to be good.

Available Information

We were incorporated in Delaware in November 1994 as Exelixis Pharmaceuticals, Inc., and we changed our name to Exelixis, Inc. in February 2000.

We maintain a site on the worldwide web at www.exelixis.com; however, information found on our website is not incorporated by reference into this report. We make available free of charge on or through our website our Securities and Exchange Commission, or SEC, filings, including our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. Further, copies of our filings with the SEC are available at the SEC's Public Reference Room at 100 F Street, NE, Washington, D.C. 20549. Information on the operation of the Public Reference Room can be obtained by calling the SEC at 1-800-SEC-0330. The SEC maintains a site on the worldwide web that contains reports, proxy and information statements and other information regarding our filings at www.sec.gov.

ITEM 1A. RISK FACTORS

In addition to the factors discussed elsewhere in this report and our other reports filed with the SEC, the following are important factors that could cause actual results or events to differ materially from those contained in any forward-looking statements made by us or on our behalf. The risks and uncertainties described below are not the only ones facing the company. Additional risks and uncertainties not presently known to us or that we deem immaterial also may impair our business operations. If any of the following risks or such other risks actually occurs, our business could be harmed.

Risks Related to Our Need for Additional Financing and Our Financial Results

If additional capital is not available to us, we would be forced to delay, reduce or eliminate our product development programs or commercialization efforts and we may breach our financial covenants.

We will need to raise additional capital to:

- fund our operations and clinical trials;
- continue our research and development efforts; and
- commercialize our product candidates, if any such candidates receive regulatory approval for commercial sale.

As of December 31, 2010, we had $256.4 million in cash and cash equivalents, marketable securities and long-term investments, which included restricted cash and investments of $6.4 million and approximately $96.9 million of cash and cash equivalents and marketable securities that we are required to maintain on deposit with Silicon Valley Bank pursuant to covenants in our loan and security agreement with Silicon Valley Bank. We anticipate that our current cash and cash equivalents, marketable securities, long-term investments and funding that we expect to receive from existing collaborators will enable us to maintain our operations for a period of at least 12 months following the filing date of this report. However, our future capital requirements will be substantial and will depend on many factors that may require us to use available capital resources significantly earlier than we currently anticipate. These factors include:

- the cabozantinib development program—We are focusing our resources and development efforts on cabozantinib, our most advanced solely-owned product candidate, which is being studied in a variety of tumor types, with the goal of rapidly commercializing the compound. The current clinical program for cabozantinib is focused on the treatment of metastatic castration-resistant prostate cancer and ovarian cancer, based on encouraging interim data that has emerged from the RDT. Data from the RDT were released at the ASCO Annual Meeting in June 2010 and demonstrated broad activity for cabozantinib across multiple tumor types, in particular, metastatic castration-resistant prostate, ovarian, non-small cell lung and hepatocellular cancers and hepatoma. Updated interim data presented at the 2010 EORTC Symposium and at the ASCO 2011 Genitourinary Cancers Symposium in February 2011, suggest that cabozantinib has a novel and differentiated clinical profile in metastatic castration-resistant prostate cancer and ovarian cancer. The data presented indicate that cabozantinib has shown novel activity against bone and soft tissue lesions in metastatic castration-resistant prostate cancer. Another priority for us will be to generate additional data in the various other cohorts of the RDT, including melanoma, breast cancer, non-small cell lung cancer and hepatocellular cancer, to support further prioritization of our clinical and commercial options. We also are focusing our efforts on our ongoing phase 3 clinical trial of cabozantinib as a potential treatment for medullary thyroid cancer. In addition, we are conducting ongoing exploratory clinical trials for cabozantinib in other tumor types, including renal cell carcinoma. Our development plan for cabozantinib is dependent on the extent of our available financial resources. There can be no assurance that we will have sufficient financial resources independently or through other arrangements to fund a broad development plan for cabozantinib. If adequate funds are not available, we may be required to delay, discontinue or elect not to pursue one or more trials for cabozantinib;

- repayment of our loan from GlaxoSmithKline—In October 2002, we entered into a collaboration agreement with GlaxoSmithKline. As part of the collaboration, we entered into a loan and security agreement with GlaxoSmithKline pursuant to which we borrowed $85.0 million for use in our efforts under the collaboration. The loan bears interest at a rate of 4.0% per annum and is secured by certain intellectual property, technology and equipment created or utilized pursuant to the collaboration. On October 27, 2010, we paid approximately $37.0 million in cash to GlaxoSmithKline as the second of three installments of principal and accrued interest due under the loan agreement. As of December 31, 2010, the aggregate principal and interest outstanding under the loan was $35.9 million. The final installment of principal and accrued interest under the loan is due on October 27, 2011. Repayment of all or any of the amounts advanced to us under the loan agreement may, at our election, be made in the form of our common stock at fair market value, subject to certain conditions, or cash. In the event the market price for our common stock is depressed, we may not be able to repay the loan in full using shares of our common stock due to restrictions in the agreement on the number of shares we may issue. In addition, the issuance of shares of our common stock to repay the loan may result in significant dilution to our stockholders. As a result, we may need to obtain additional funding to satisfy our repayment obligations. However, there can be no assurance that we will have sufficient funds to repay amounts outstanding under the loan when due or that we will satisfy the conditions to our ability to repay the loan in shares of our common stock;
- repayment of the notes under our note purchase agreement with Deerfield—On June 2, 2010, we entered into a note purchase agreement with entities affiliated with Deerfield Management Company, L.P., or Deerfield, pursuant to which, on July 1, 2010, we sold to Deerfield an aggregate of $124.0 million initial principal amount of our secured convertible notes, due June 2015, for an aggregate purchase price of $80.0 million, less closing fees and expenses. The outstanding principal amount of the notes bears interest in the annual amount of $6.0 million, payable quarterly in arrears. We will be required to make mandatory prepayments on the notes on an annual basis in 2013, 2014 and 2015 equal to 15% of our collaborative arrangements received during the prior fiscal year, subject to a maximum annual prepayment amount of $27.5 million and, for payments due in January 2013 and 2014, a minimum prepayment amount of $10.0 million. We may also prepay all or a portion (not less than $5.0 million) of the principal amount of the notes at an optional prepayment price based on a discounted principal amount (during the first three years of the term, subject to a prepayment premium) determined as of the date of prepayment, plus accrued and unpaid interest, plus in the case of a prepayment of the full principal amount of the notes (other than prepayments upon the occurrence of specified transactions relating to a change of control or a substantial sale of assets), all accrued interest that would have accrued between the date of such prepayment and the next anniversary of the note purchase agreement. In lieu of making any optional or mandatory prepayment in cash, at any time after July 1, 2011, subject to certain limitations, we have the right to convert all or a portion of the principal amount of the notes into, or satisfy all or any portion of the optional prepayment amounts or mandatory prepayment amounts (other than the first $10.0 million of mandatory prepayments required in 2013 and 2014) with shares of our common stock. Additionally, in lieu of making any payment of accrued and unpaid interest in respect of the notes in cash, at any time after July 1, 2011, subject to certain limitations, we may elect to satisfy any such payment with shares of our common stock. The number of shares of our common stock issuable upon conversion or in settlement of principal and interest obligations will be based upon the discounted trading price of our common stock over a specified trading period. In the event the market price for our common stock is depressed, we may not be able to convert the principal amount of the notes or satisfy our payment obligations in full using shares of our common stock due to restrictions in the agreement on the number of shares we may issue. In addition, the issuance of shares of our common stock to convert the notes or satisfy our payment obligations may result in significant dilution to our stockholders. As a result, we may need to obtain additional funding to satisfy our repayment obligations. There can be no assurance that we will have sufficient funds to repay the notes or satisfy our payment obligations under the note purchase agreement when due or that

we will comply with the conditions to our ability to convert the principal amount of the notes into or satisfy our payment obligations with shares of our common stock;

- repayment of our loan from Silicon Valley Bank—On June 2, 2010, we amended our loan and security agreement with Silicon Valley Bank to provide for a new seven-year term loan in an amount of $80.0 million. The principal amount outstanding under the term loan accrues interest at 1.0% per annum, which interest is due and payable monthly. We are required to repay the term loan in one balloon principal payment, representing 100% of the principal balance and accrued and unpaid interest, on May 31, 2017. We have the option to prepay all, but not less than all, of the amounts advanced under the term loan, provided that we pay all unpaid accrued interest thereon that is due through the date of such prepayment and the interest on the entire principal balance of the term loan that would otherwise have been paid after such prepayment date until the maturity date of the term loan. In accordance with the terms of the loan and security agreement, we are also required to maintain on deposit an amount equal to at least 100% of the outstanding principal balance of the term loan at all times as support for our obligations under the loan and security agreement. As a result, although the proceeds of the new term loan improve our ability to comply with minimum working capital and cash covenants imposed by our debt instruments with GlaxoSmithKline and Deerfield and thus provide us with more flexibility to use our other cash resources, the proceeds of the term loan cannot directly be used to satisfied our other obligations without causing a default under our loan and security agreement with Silicon Valley Bank;
- the level of payments received under existing collaboration agreements, licensing agreements and other arrangements;
- the degree to which we conduct funded development activity on behalf of partners to whom we have out-licensed compounds;
- whether we enter into new collaboration agreements, licensing agreements or other arrangements (including, in particular, with respect to cabozantinib) that provide additional capital;
- our ability to control costs;
- our ability to remain in compliance with, or amend or cause to be waived, financial covenants contained in agreements with third parties;
- the amount of our cash and cash equivalents and marketable securities that serve as collateral for bank lines of credit;
- future clinical trial results;
- our need to expand our product and clinical development efforts;
- our ability to share the costs of our clinical development efforts with third parties;
- the cost and timing of regulatory approvals;
- the cost of clinical and research supplies of our product candidates;
- the effect of competing technological and market developments;
- the filing, maintenance, prosecution, defense and enforcement of patent claims and other intellectual property rights; and
- the cost of any acquisitions of or investments in businesses, products and technologies.

One or more of these factors or changes to our current operating plan may require us to use available capital resources significantly earlier than we anticipate. If our capital resources are insufficient to meet future capital requirements, we will have to raise additional funds. We may seek to raise funds through the sale of equity or debt securities or through external borrowings. In addition, we may enter into additional strategic partnerships or

collaborative arrangements for the development and commercialization of our compounds. However, we may be unable to raise sufficient additional capital when we need it, on favorable terms or at all. The sale of equity or convertible debt securities in the future may be dilutive to our stockholders, and debt-financing arrangements may require us to pledge certain assets and enter into covenants that would restrict certain business activities or our ability to incur further indebtedness, and may contain other terms that are not favorable to our stockholders or us. If we are unable to obtain adequate funds on reasonable terms, we may be required to curtail operations significantly or obtain funds by entering into financing, supply or collaboration agreements on unattractive terms or we may be required to relinquish rights to technology or product candidates or to grant licenses on terms that are unfavorable to us.

We may need to obtain additional funding in order to stay in compliance with financial covenants contained in agreements with third parties. As described below under "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – Liquidity and Capital Resources – Cash Requirements," the terms of our debt owed to GlaxoSmithKline, Deerfield and Silicon Valley Bank each contain covenants requiring us to maintain specified cash balances or working capital. The failure to comply with these covenants could result in an acceleration of the underlying debt obligations. If we cannot raise additional capital in order to remain in compliance with such covenants or if we are unable to renegotiate such covenants and the lender exercises its remedies under the agreement, we would not be able to operate under our current operating plan.

We have a history of net losses. We expect to continue to incur net losses, and we may not achieve or maintain profitability.

We have incurred net losses since inception, including a net loss attributable to Exelixis, Inc. of $92.3 million for the year ended December 31, 2010. As of that date, we had an accumulated deficit of $1,182.1 million. We expect to continue to incur net losses and anticipate negative operating cash flow for the foreseeable future. We have not yet completed the development, including obtaining regulatory approval, of cabozantinib or any other product candidates and, consequently, have not generated revenues from the sale of pharmaceutical products. We have derived substantially all of our revenues to date from collaborative research and development agreements. Revenues from research and development collaborations depend upon continuation of the collaborations, research funding, the achievement of milestones and royalties we earn from any future products developed from the collaborative research. If research funding we receive from collaborators decreases, we are unable to successfully achieve milestones or our collaborators fail to develop successful products, we will not earn the revenues contemplated under such collaborative agreements. The amount of our net losses will depend, in part, on the rate of growth, if any, in our license and contract revenues and on the level of our expenses. These losses have had and will continue to have an adverse effect on our stockholders' equity and working capital. Our research and development expenditures and general and administrative expenses have exceeded our revenues to date, and we expect to spend significant additional amounts to fund the development of cabozantinib. As a result, we expect to continue to incur substantial operating expenses, and, consequently, we will need to generate significant additional revenues to achieve profitability. Because of the numerous risks and uncertainties associated with developing drugs, we are unable to predict the extent of any future losses or when we will become profitable, if at all.

We may not realize the expected benefits of our initiatives to control costs.

Managing costs is a key element of our business strategy. Consistent with this element of our strategy, on December 1, 2010 we implemented a restructuring that will result in a reduction of our workforce by approximately 65% over a two-year period. We anticipate that we will incur restructuring charges through the end of 2017 as we implement this restructuring.

We are still assessing our ability to sublease certain of our facilities in light of the workforce reduction as well as the potential for sublease income. Estimates for sublease income would require significant assumptions regarding the time required to contract with subtenants, the amount of idle space we would be able to sublease

and potential future sublease rates. If we are able to vacate certain of our facilities, we would need to continue to update our estimate of the lease exist costs in our financial statements until we were able to negotiate an exit to the lease or negotiate a sublease for the remaining term of the lease.

If we experience excessive unanticipated inefficiencies or incremental costs in connection with restructuring activities, such as unanticipated inefficiencies caused by reducing headcount, we may be unable to meaningfully realize cost savings and we may incur expenses in excess of what we anticipate. Either of these outcomes could prevent us from meeting our strategic objectives and could adversely impact our results of operations and financial condition.

We are exposed to risks related to foreign currency exchange rates.

Most of our foreign expenses incurred are associated with establishing and conducting clinical trials for cabozantinib. The amount of expenses incurred will be impacted by fluctuations in the currencies of those countries in which we conduct clinical trials. Our agreements with the foreign sites that conduct such clinical trials generally provide that payments for the services provided will be calculated in the currency of that country, and converted into U.S. dollars using various exchange rates based upon when services are rendered or the timing of invoices. When the U.S. dollar weakens against foreign currencies, the U.S. dollar value of the foreign-currency denominated expense increases, and when the U.S. dollar strengthens against these currencies, the U.S. dollar value of the foreign-currency denominated expense decreases. Consequently, changes in exchange rates may affect our results of operations.

Global credit and financial market conditions could negatively impact the value of our current portfolio of cash equivalents or short-term investments and our ability to meet our financing objectives.

Our cash and cash equivalents are maintained in highly liquid investments with remaining maturities of 90 days or less at the time of purchase. Our short-term and long-term investments consist primarily of readily marketable debt securities with remaining maturities of more than 90 days at the time of purchase. While as of the date of this filing we are not aware of any downgrades, material losses, or other significant deterioration in the fair value of our cash equivalents, short-term investments, or long-term investments since December 31, 2010, no assurance can be given that a deterioration in conditions of the global credit and financial markets would not negatively impact our current portfolio of cash equivalents or investments or our ability to meet our financing objectives.

Risks Related to Development of Cabozantinib

We are dependent on the successful development and commercialization of cabozantinib.

The success of our business is dependent upon the successful development and commercialization of cabozantinib. As part of our strategy, we intend to dedicate all of our proprietary resources to advance cabozantinib as aggressively as feasible. Our ability to realize the value of our investment is contingent on, among other things, successful clinical development, regulatory approval and market acceptance of cabozantinib. If we encounter difficulties in the development of cabozantinib due to any of the factors discussed in this “Risk Factors” section or otherwise, or we do not receive regulatory approval and are unable to commercialize cabozantinib, we will not have the resources necessary to continue our business in its current form.

Clinical testing of cabozantinib and other product candidates is a lengthy, costly, complex and uncertain process and may fail to demonstrate safety and efficacy.

Clinical trials are inherently risky and may reveal that our product candidates are ineffective or have unacceptable toxicity or other side effects that may significantly decrease the likelihood of regulatory approval.

The results of preliminary studies do not necessarily predict clinical or commercial success, and later-stage clinical trials may fail to confirm the results observed in earlier-stage trials or preliminary studies. Although we have established timelines for manufacturing and clinical development of cabozantinib based on existing knowledge of our compounds in development and industry metrics, we may not be able to meet those timelines.

We may experience numerous unforeseen events during, or as a result of, clinical testing that could delay or prevent commercialization of cabozantinib, including:

- cabozantinib may not prove to be efficacious or may cause, or potentially cause, harmful side effects;
- negative or inconclusive clinical trial results may require us to conduct further testing or to abandon projects that we had expected to be promising;
- our competitors may subsequently discover other compounds or therapies that we believe show significantly improved safety or efficacy compared to cabozantinib;
- patient registration or enrollment in our clinical testing may be lower than we anticipate, resulting in the delay or cancellation of clinical testing; and
- regulators or institutional review boards withhold authorization of, or delay, suspend or terminate clinical research for various reasons, including noncompliance with regulatory requirements or their determination that participating patients are being exposed to unacceptable health risks.

If any of the events described above were to occur and, as a result, we were to have significant delays in or termination of our clinical testing of cabozantinib, our expenses could increase or our ability to generate revenues from cabozantinib could be impaired, either of which could adversely impact our financial results.

We have limited experience in conducting clinical trials and may not be able to rapidly or effectively continue the further development of cabozantinib or meet current or future requirements identified based on our discussions with the FDA. Our planned clinical trials may not begin on time, or at all, may not be completed on schedule, or at all, may not be sufficient for registration of cabozantinib or may not result in an approvable product.

Completion of clinical trials may take several years or more, but the length of time generally varies substantially according to the type, complexity, novelty and intended use of cabozantinib as a product candidate. The duration and the cost of clinical trials may vary significantly over the life of a project as a result of factors relating to the clinical trial, including, among others:

- the number of patients that ultimately participate in the clinical trial;
- the duration of patient follow-up that is appropriate in view of the results;
- the number of clinical sites included in the trials; and
- the length of time required to enroll suitable patient subjects.

Any delay described above could limit our ability to generate revenues, cause us to incur additional expense and cause the market price of our common stock to decline significantly. Our partners may experience similar risks with respect to the compounds we have outlicensed to them. If any of the events described above were to occur with such programs or compounds, the likelihood of receipt of milestones and royalties under such collaboration agreements could decrease.

If third parties upon which we rely do not perform as contractually required or expected, we may not be able to obtain regulatory approval for or commercialize cabozantinib.

We do not have the ability to independently conduct clinical trials for cabozantinib, and we rely on third parties we do not control such as contract research organizations, medical institutions, clinical investigators and

contract laboratories to conduct our clinical trials. If these third parties do not successfully carry out their contractual duties or regulatory obligations or meet expected deadlines, if the third parties need to be replaced or if the quality or accuracy of the data they obtain is compromised due to the failure to adhere to our clinical protocols or regulatory requirements or for other reasons, our preclinical development activities or clinical trials may be extended, delayed, suspended or terminated, and we may not be able to obtain regulatory approval for or successfully commercialize cabozantinib.

We lack the capability to manufacture compounds for clinical trials and rely on third parties to manufacture cabozantinib, and we may be unable to obtain required material in a timely manner, at an acceptable cost or at a quality level required to receive regulatory approval.

We do not have the manufacturing capabilities or experience necessary to enable us to produce materials for our clinical trials. We rely on collaborators and third-party contractors to produce cabozantinib for clinical testing. These suppliers must comply with applicable regulatory requirements, including the FDA's current GMP. Our current and anticipated future dependence upon these third-party manufacturers may adversely affect our future profit margins and our ability to develop and commercialize product cabozantinib on a timely and competitive basis. These manufacturers may not be able to produce material on a timely basis or manufacture material at the quality or in the quantity required to meet our development timelines and applicable regulatory requirements. We may not be able to maintain or renew our existing third-party manufacturing arrangements, or enter into new arrangements, on acceptable terms, or at all. Our third-party manufacturers could terminate or decline to renew our manufacturing arrangements based on their own business priorities, at a time that is costly or inconvenient for us. If we are unable to contract for the production of materials in sufficient quantity and of sufficient quality on acceptable terms, our clinical trials may be delayed. Delays in preclinical or clinical testing could delay the initiation of clinical trials.

Our third-party manufacturers may not be able to comply with the GMP regulations, other applicable FDA regulatory requirements or similar regulations applicable outside of the United States. Additionally, if we are required to enter into new supply arrangements, we may not be able to obtain approval from the FDA of any alternate supplier in a timely manner, or at all, which could delay or prevent the clinical development and commercialization of cabozantinib. Failure of our third-party manufacturers or us to obtain approval from the FDA or to comply with applicable regulations could result in sanctions being imposed on us, including fines, civil penalties, delays in or failure to grant marketing approval of cabozantinib, injunctions, delays, suspension or withdrawal of approvals, license revocation, seizures or recalls of products and compounds, operating restrictions and criminal prosecutions, any of which could have a significant adverse affect on our business.

Materials necessary to manufacture cabozantinib may not be available on commercially reasonable terms, or at all, which may delay its development and commercialization.

Some of the materials necessary for the manufacture of cabozantinib may, from time to time, be available either in limited quantities, or from a limited number of manufacturers, or both. Our contract manufacturers need to obtain these materials for our clinical trials and, potentially, for commercial distribution when and if we obtain marketing approval for cabozantinib. Suppliers may not sell us these materials at the time we need them or on commercially reasonable terms. If we are unable to obtain the materials needed to conduct our clinical trials, product testing and potential regulatory approval could be delayed, adversely affecting our ability to develop cabozantinib. Similarly, if we are unable to obtain critical manufacturing materials after regulatory approval has been obtained, the commercial launch of cabozantinib could be delayed or there could be a shortage in supply, which could materially affect our ability to generate revenues from sales of cabozantinib. If suppliers increase the price of manufacturing materials, the price for cabozantinib may increase, which may make it less competitive in the marketplace. If it becomes necessary to change suppliers for any of these materials or if any of our suppliers experience a shutdown or disruption at the facilities used to produce these materials, due to technical, regulatory or other reasons, it could harm our ability to manufacture cabozantinib.

Risks Related to Our Relationships with Third Parties

We are dependent upon our collaborations with major companies, which subjects us to a number of risks.

We have established collaborations with leading pharmaceutical and biotechnology companies, including Bristol-Myers Squibb, sanofi-aventis, Genentech, Boehringer Ingelheim, GlaxoSmithKline and Daiichi Sankyo, for the development and ultimate commercialization of a significant number of compounds generated from our research and development efforts. We continue to pursue collaborations for selected unpartnered preclinical and clinical programs and compounds. Our dependence on our relationships with existing collaborators for the development and commercialization of our compounds subjects us to, and our dependence on future collaborators for development and commercialization of additional compounds will subject us to, a number of risks, including:

- we are not able to control the amount and timing of resources that our collaborators will devote to the development or commercialization of drug candidates or to their marketing and distribution;
- we may not be able to control the amount and timing of resources that our potential future collaborators may devote to the development or commercialization of drug candidates or to their marketing and distribution;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial program, stop a clinical trial or abandon a drug candidate, repeat or conduct new clinical trials or require a new formulation of a drug candidate for clinical testing;
- disputes may arise between us and our collaborators that result in the delay or termination of the research, development or commercialization of our drug candidates or that result in costly litigation or arbitration that diverts management's attention and resources;
- collaborators may experience financial difficulties;
- collaborators may not be successful in their efforts to obtain regulatory approvals in a timely manner, or at all;
- collaborators may not properly maintain or defend our intellectual property rights or may use our proprietary information in such a way as to invite litigation that could jeopardize or invalidate our proprietary information or expose us to potential litigation;
- business combinations or significant changes in a collaborator's business strategy may adversely affect a collaborator's willingness or ability to complete its obligations under any arrangement;
- a collaborator could independently move forward with a competing drug candidate developed either independently or in collaboration with others, including our competitors;
- we may be precluded from entering into additional collaboration arrangements with other parties in an area or field of exclusivity;
- future collaborators may require us to relinquish some important rights, such as marketing and distribution rights; and
- collaborations may be terminated (as occurred with respect to cabozantinib, that was previously subject to our 2008 collaboration with Bristol-Myers Squibb) or allowed to expire, which would delay the development and may increase the cost of developing our drug candidates.

If any of these risks materialize, our product development efforts could be delayed and otherwise adversely affected, which could adversely impact our business, operating results and financial condition.

If we are unable to continue current collaborations and achieve milestones or royalties, our revenues would suffer.

We have derived substantially all of our revenues to date from collaborative research and development agreements. Revenues from research and development collaborations depend upon continuation of the collaborations, the achievement of milestones and royalties we earn from any future products developed from the collaborative research. If we are unable to successfully achieve milestones or royalties, or our collaborators fail to develop successful products, we will not earn the revenues contemplated under such collaborative agreements.

If any of these agreements is terminated early (as occurred with respect to cabozantinib, which was previously subject to our 2008 collaboration with Bristol-Myers Squibb), whether unilaterally or by mutual agreement, our revenues could suffer. Most of our collaboration agreements contain early termination provisions. In addition, from time to time we review and assess certain aspects of our collaborations, partnerships and agreements and may amend or terminate, either by mutual agreement or pursuant to any applicable early termination provisions, such collaborations, partnerships or agreements if we deem them to be no longer in our economic or strategic interests. We may not be able to enter into new collaboration agreements on similar or superior financial terms to offset the loss of revenues from the termination or expiration of any of our existing or recently terminated arrangements.

We may be unable to establish collaborations for selected preclinical and clinical compounds.

Our strategy includes the pursuit of new collaborations with leading pharmaceutical and biotechnology companies for the development and ultimate commercialization of selected preclinical and clinical programs and compounds, particularly those drug candidates for which we believe that the capabilities and resources of a partner can accelerate development and help to fully realize their therapeutic and commercial potential. We face significant competition in seeking appropriate collaborators, and these collaborations are complex and time consuming to negotiate and document. We may not be able to negotiate additional collaborations on acceptable terms, or at all. We are unable to predict when, if ever, we will enter into any additional collaborations because of the numerous risks and uncertainties associated with establishing additional collaborations. If we are unable to negotiate additional collaborations, we may not be able to realize value from a particular drug candidate, particularly those drug candidates as to which we believe a broad development program is appropriate or for which we have determined not to continue to utilize our own resources to develop. As a result, our revenues, capital resources and product development efforts could be adversely affected.

Risks Related to Regulatory Approval of Cabozantinib

Cabozantinib is subject to a lengthy and uncertain regulatory process that may not result in the necessary regulatory approvals, which could adversely affect our ability to commercialize this product candidate.

Cabozantinib, as well as the activities associated with the research, development and commercialization of the product candidate, are subject to extensive regulation by the FDA and other regulatory agencies in the United States and by comparable authorities in other countries. Failure to obtain regulatory approval for cabozantinib would prevent us from commercializing this product candidate. We have not received regulatory approval to market cabozantinib in any jurisdiction and have only limited experience in preparing and filing the applications necessary to gain regulatory approvals. The process of obtaining regulatory approvals is expensive, and often takes many years, if approval is obtained at all, and can vary substantially based upon the type, complexity and novelty of the product candidates involved. Before an NDA can be submitted to the FDA, the product candidate must undergo extensive clinical trials, which can take many years and requires substantial expenditures. Any clinical trial may fail to produce results satisfactory to the FDA. For example, the FDA could determine that the design of a clinical trial is inadequate to produce reliable results. The regulatory process also requires preclinical testing, and data obtained from preclinical and clinical activities are susceptible to varying interpretations. The

FDA has substantial discretion in the approval process and may refuse to approve any NDA or decide that our data is insufficient for approval and require additional preclinical, clinical or other studies. For example, varying interpretations of the data obtained from preclinical and clinical testing could delay, limit or prevent regulatory approval of cabozantinib.

In addition, delays or rejections may be encountered based upon changes in regulatory policy for product approval during the period of product development and regulatory agency review. Changes in regulatory approval policy, regulations or statutes or the process for regulatory review during the development or approval periods of cabozantinib may cause delays in the approval or rejection of an application.

Even if the FDA or a comparable authority in another country approves cabozantinib, the approval may impose significant restrictions on the indicated uses, conditions for use, labeling, distribution, advertising, promotion, marketing and/or production of cabozantinib and may impose ongoing requirements for post- approval studies, including additional research and development and clinical trials. These agencies also may impose various civil or criminal sanctions for failure to comply with regulatory requirements, including withdrawal of product approval.

Risks Related to Commercialization of Cabozantinib

The commercial success of cabozantinib will depend upon the degree of market acceptance of the product candidate among physicians, patients, health care payors, private health insurers and the medical community.

Our ability to commercialize cabozantinib will be highly dependent upon the extent to which the product candidate gains market acceptance among physicians; patients; health care payors, such as Medicare and Medicaid; private health insurers, including managed care organizations and group purchasing organizations, and the medical community. If cabozantinib does not achieve an adequate level of acceptance, we may not generate adequate product revenues, if at all, and we may not become profitable. The degree of market acceptance of cabozantinib, if approved for commercial sale, will depend upon a number of factors, including:

- the effectiveness, or perceived effectiveness, of cabozantinib in comparison to competing products;
- the existence of any significant side effects of cabozantinib, as well as their severity in comparison to any competing products;
- potential advantages over alternative treatments;
- the ability to offer cabozantinib for sale at competitive prices;
- relative convenience and ease of administration;
- the strength of marketing and distribution support; and
- sufficient third-party coverage or reimbursement.

If we are unable to establish sales and marketing capabilities or enter into agreements with third parties to market and sell cabozantinib, we may be unable to generate product revenues.

We have no experience as a company in the sales, marketing and distribution of pharmaceutical products and do not have a sales and marketing organization. Developing a sales and marketing force would be expensive and time-consuming, could delay any product launch, and we may never be able to develop this capacity. To the extent that we enter into arrangements with third parties to provide sales, marketing and distribution services, our product revenues are likely to be lower than if we market and sell cabozantinib ourselves. If we are unable to establish adequate sales, marketing and distribution capabilities, independently or with others, we may not be able to generate product revenues.

If we are unable to obtain adequate coverage and reimbursement from third-party payors for cabozantinib, our revenues and prospects for profitability will suffer.

Our ability to commercialize cabozantinib will be highly dependent on the extent to which coverage and reimbursement for the product candidate will be available from third-party payors, including governmental payors, such as Medicare and Medicaid, and private health insurers, including managed care organizations and group purchasing organizations. Many patients will not be capable of paying themselves for cabozantinib and will rely on third-party payors to pay for, or subsidize, their medical needs. If third-party payors do not provide coverage or reimbursement for cabozantinib, our revenues and prospects for profitability will suffer. In addition, even if third-party payors provide some coverage or reimbursement for cabozantinib, the availability of such coverage or reimbursement for prescription drugs under private health insurance and managed care plans often varies based on the type of contract or plan purchased.

Another factor that may affect the pricing of drugs is proposed congressional action regarding drug reimportation into the United States. For example, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 gives discretion to the Secretary of Health and Human Services to allow drug reimportation into the United States under some circumstances from foreign countries, including countries where the drugs are sold at a lower price than in the United States. Proponents of drug reimportation may attempt to pass legislation, which would allow direct reimportation under certain circumstances. If legislation or regulations were passed allowing the reimportation of drugs, it could decrease the price we receive for cabozantinib, thereby negatively affecting our revenues and prospects for profitability.

In addition, in some foreign countries, particularly the countries in the European Union, the pricing of prescription pharmaceuticals is subject to governmental control. In these countries, price negotiations with governmental authorities can take six to twelve months or longer after the receipt of regulatory marketing approval for a product. To obtain reimbursement and/or pricing approval in some countries, we may be required to conduct a clinical trial that compares the cost effectiveness of cabozantinib to other available therapies. The conduct of such a clinical trial could be expensive and result in delays in the commercialization of cabozantinib. Third-party payors are challenging the prices charged for medical products and services, and many third-party payors limit reimbursement for newly approved health care products. In particular, third-party payors may limit the indications for which they will reimburse patients who use cabozantinib. Cost-control initiatives could decrease the price we might establish for cabozantinib, which would result in lower product revenues to us.

Current healthcare laws and regulations and future legislative or regulatory reforms to the healthcare system may affect our ability to sell cabozantinib profitably.

The U.S. and some foreign jurisdictions are considering or have enacted a number of legislative and regulatory proposals to change the healthcare system in ways that could affect our ability to sell our products profitably. Among policy makers and payors in the U.S. and elsewhere, there is significant interest in promoting changes in healthcare systems with the stated goals of containing healthcare costs, improving quality and/or expanding access. In the U.S., the pharmaceutical industry has been a particular focus of these efforts and has been significantly affected by major legislative initiatives.

In March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act, or collectively, PPACA, became law in the U.S. PPACA substantially changes the way healthcare is financed by both governmental and private insurers and significantly affects the pharmaceutical industry. Among the provisions of PPACA of greatest importance to the pharmaceutical industry are the following:

- an annual, nondeductible fee on any entity that manufactures or imports certain branded prescription drugs and biologic agents, apportioned among these entities according to their market share in certain government healthcare programs, beginning in 2011;

- an increase in the rebates a manufacturer must pay under the Medicaid Drug Rebate Program, retroactive to January 1, 2010, to 23.1% and 13% of the average manufacturer price for branded and generic drugs, respectively;
- a new Medicare Part D coverage gap discount program, in which manufacturers must agree to offer 50% point-of-sale discounts off negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for the manufacturer's outpatient drugs to be covered under Medicare Part D, beginning in 2011;
- extension of manufacturers' Medicaid rebate liability to covered drugs dispensed to individuals who are enrolled in Medicaid managed care organizations, effective March 23, 2010;
- expansion of eligibility criteria for Medicaid programs by, among other things, allowing states to offer Medicaid coverage to additional individuals beginning in April 2010 and by adding new mandatory eligibility categories for certain individuals with income at or below 133% of the Federal Poverty Level beginning in 2014, thereby potentially increasing manufacturers' Medicaid rebate liability;
- expansion of the entities eligible for discounts under the Public Health Service pharmaceutical pricing program, effective in January 2010;
- new requirements to report certain financial arrangements with physicians, including reporting any "transfer of value" made or distributed to prescribers and other healthcare providers, effective March 30, 2013, and reporting any investment interests held by physicians and their immediate family members during the preceding calendar year;
- a new requirement to annually report drug samples that manufacturers and distributors provide to physicians, effective April 1, 2012;
- a licensure framework for follow-on biologic products; and
- a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research.

We anticipate that the PPACA, as well as other healthcare reform measures that may be adopted in the future, may result in more rigorous coverage criteria and an additional downward pressure on the price that we receive for any approved product, and could seriously harm our business. Any reduction in reimbursement from Medicare or other government programs may result in a similar reduction in payments from private payors.

We also cannot be certain that cabozantinib will successfully be placed on the list of drugs covered by particular health plan formularies, nor can we predict the negotiated price for cabozantinib, which will be determined by market factors. Many states have also created preferred drug lists and include drugs on those lists only when the manufacturers agree to pay a supplemental rebate. If cabozantinib is not included on these preferred drug lists, physicians may not be inclined to prescribe it to their Medicaid patients, thereby diminishing the potential market for cabozantinib.

As a result of the PPACA and the trend towards cost-effectiveness criteria and managed healthcare in the United States, third-party payors are increasingly attempting to contain healthcare costs by limiting both coverage and the level of reimbursement of new drugs. They may also refuse to provide any coverage of uses of approved products for medical indications other than those for which the FDA has granted market approvals. As a result, significant uncertainty exists as to whether and how much third-party payors will reimburse for newly-approved drugs, which in turn will put pressure on the pricing of drugs. Further, we do not have experience in ensuring approval by applicable third-party payors outside of the United States for coverage and reimbursement of cabozantinib. We also anticipate pricing pressures in connection with the sale of our products due to the trend toward managed healthcare, the increasing influence of health maintenance organizations and additional legislative proposals.

Our competitors may develop products and technologies that make cabozantinib obsolete.

The biotechnology industry is highly fragmented and is characterized by rapid technological change. In particular, the area of kinase-targeted therapies is a rapidly evolving and competitive field. We face, and will continue to face, intense competition from biotechnology and pharmaceutical companies, as well as academic research institutions, clinical reference laboratories and government agencies that are pursuing research activities similar to ours. Some of our competitors have entered into collaborations with leading companies within our target markets, including some of our existing collaborators. In addition, significant delays in the development of cabozantinib could allow our competitors to bring products to market before us, which would impair our ability to commercialize cabozantinib. Our future success will depend upon our ability to maintain a competitive position with respect to technological advances. Any products that are developed through our technologies will compete in highly competitive markets. Further, our competitors may be more effective at using their technologies to develop commercial products. Many of the organizations competing with us have greater capital resources, larger research and development staff and facilities, more experience in obtaining regulatory approvals and more extensive product manufacturing and marketing capabilities. As a result, our competitors may be able to more easily develop technologies and products that would render our technologies and products, and those of our collaborators, obsolete and noncompetitive. There may also be drug candidates of which we are not aware at an earlier stage of development that may compete with cabozantinib. In addition, if cabozantinib is successfully developed, it may compete with existing therapies that have long histories of use, such as chemotherapy and radiation treatments in cancer indications. Examples of potential competition for cabozantinib include AstraZeneca's development-stage RET, VEGFR and EGFR inhibitor, vandetanib, other VEGF pathway inhibitors, including Genentech's bevacizumab, and other MET inhibitors, including Pfizer's crizotinib, ArQule's ARQ197, GlaxoSmithKline's foretinib (XL880) and Genentech's Met MAb.

We may not be able to manufacture cabozantinib in commercial quantities, which would prevent us from commercializing the product candidate.

To date, cabozantinib has been manufactured in small quantities for preclinical and clinical trials. If cabozantinib is approved by the FDA or other regulatory agencies for commercial sale, we will need to manufacture it in larger quantities. We may not be able to successfully increase the manufacturing capacity, whether in collaboration with third-party manufacturers or on our own, for cabozantinib in a timely or economic manner, or at all. Significant scale-up of manufacturing may require additional validation studies, which the FDA must review and approve. If we are unable to successfully increase the manufacturing capacity for cabozantinib, the regulatory approval or commercial launch of the product candidate may be delayed or there may be a shortage in supply. Cabozantinib require precise, high-quality manufacturing. The failure to achieve and maintain these high manufacturing standards, including the incidence of manufacturing errors, could result in patient injury or death, product recalls or withdrawals, delays or failures in product testing or delivery, cost overruns or other problems that could seriously hurt our business.

Risks Related to Our Intellectual Property

If we are unable to adequately protect our intellectual property, third parties may be able to use our technology, which could adversely affect our ability to compete in the market.

Our success will depend in part upon our ability to obtain patents and maintain adequate protection of the intellectual property related to our technologies and products. The patent positions of biotechnology companies, including our patent position, are generally uncertain and involve complex legal and factual questions. We will be able to protect our intellectual property rights from unauthorized use by third parties only to the extent that our technologies are covered by valid and enforceable patents or are effectively maintained as trade secrets. We will continue to apply for patents covering our technologies and products as and when we deem appropriate. However, these applications may be challenged or may fail to result in issued patents. In addition, because patent applications can take many years to issue, there may be pending applications, unknown to us, which may later

result in issued patents that cover the production, manufacture, commercialization or use of our product candidates. Our existing patents and any future patents we obtain may not be sufficiently broad to prevent others from practicing our technologies or from developing competing products. Furthermore, others may independently develop similar or alternative technologies or design around our patents. In addition, our patents may be challenged or invalidated or may fail to provide us with any competitive advantages, if, for example, others were the first to invent or to file patent applications for these inventions.

The laws of some foreign countries do not protect intellectual property rights to the same extent as the laws of the United States, and many companies have encountered significant problems in protecting and defending such rights in foreign jurisdictions. Many countries, including certain countries in Europe, have compulsory licensing laws under which a patent owner may be compelled to grant licenses to third parties (for example, the patent owner has failed to "work" the invention in that country or the third party has patented improvements). In addition, many countries limit the enforceability of patents against government agencies or government contractors. In these countries, the patent owner may have limited remedies, which could materially diminish the value of the patent. Compulsory licensing of life-saving drugs is also becoming increasingly popular in developing countries either through direct legislation or international initiatives. Such compulsory licenses could be extended to include some of our product candidates, which could limit our potential revenue opportunities. Moreover, the legal systems of certain countries, particularly certain developing countries, do not favor the aggressive enforcement of patent and other intellectual property protection, which makes it difficult to stop infringement. We rely on trade secret protection for our confidential and proprietary information. We have taken security measures to protect our proprietary information and trade secrets, but these measures may not provide adequate protection. While we seek to protect our proprietary information by entering into confidentiality agreements with employees, collaborators and consultants, we cannot assure you that our proprietary information will not be disclosed, or that we can meaningfully protect our trade secrets. In addition, our competitors may independently develop substantially equivalent proprietary information or may otherwise gain access to our trade secrets.

Litigation or third-party claims of intellectual property infringement could require us to spend substantial time and money and adversely affect our ability to develop and commercialize products.

Our commercial success depends in part upon our ability to avoid infringing patents and proprietary rights of third parties and not to breach any licenses that we have entered into with regard to our technologies. Other parties have filed, and in the future are likely to file, patent applications covering genes and gene fragments, techniques and methodologies relating to model systems and products and technologies that we have developed or intend to develop. If patents covering technologies required by our operations are issued to others, we may have to obtain licenses from third parties, which may not be available on commercially reasonable terms, or at all, and may require us to pay substantial royalties, grant a cross-license to some of our patents to another patent holder or redesign the formulation of a product candidate so that we do not infringe third-party patents, which may be impossible to obtain or could require substantial time and expense.

Third parties may accuse us of employing their proprietary technology without authorization. In addition, third parties may obtain patents that relate to our technologies and claim that use of such technologies infringes on their patents. Regardless of their merit, such claims could require us to incur substantial costs, including the diversion of management and technical personnel, in defending ourselves against any such claims or enforcing our patents. In the event that a successful claim of infringement is brought against us, we may be required to pay damages and obtain one or more licenses from third parties. We may not be able to obtain these licenses at a reasonable cost, or at all. Defense of any lawsuit or failure to obtain any of these licenses could adversely affect our ability to develop and commercialize products.

We may be subject to damages resulting from claims that we, our employees or independent contractors have wrongfully used or disclosed alleged trade secrets of their former employers.

Many of our employees and independent contractors were previously employed at universities, other biotechnology or pharmaceutical companies, including our competitors or potential competitors. We may be subject to claims that these employees, independent contractors or we have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of their former employers. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and divert management's attention. If we fail in defending such claims, in addition to paying money claims, we may lose valuable intellectual property rights or personnel. A loss of key research personnel and/or their work product could hamper or prevent our ability to commercialize certain product candidates, which could severely harm our business.

Risks Related to Employees and Location

The loss of key personnel or the inability to retain and, where necessary, attract additional personnel could impair our ability to expand our operations.

We are highly dependent upon the principal members of our management and scientific staff, the loss of whose services might adversely impact the achievement of our objectives and the continuation of existing collaborations. Also, we may not have sufficient personnel to execute our business plan. Retaining and, where necessary, recruiting qualified clinical and scientific personnel will be critical to support activities related to advancing our clinical and preclinical development programs, and supporting our collaborative arrangements and our internal proprietary research and development efforts. The restructuring that we implemented on December 1, 2010 could have an adverse impact on our ability to retain and recruit qualified personnel. Competition is intense for experienced clinical personnel, and we may be unable to retain or recruit clinical personnel with the expertise or experience necessary to allow us to pursue collaborations, develop our products and core technologies or expand our operations to the extent otherwise possible. Further, all of our employees are employed "at will" and, therefore, may leave our employment at any time.

Our collaborations with outside scientists may be subject to restriction and change.

We work with scientific and clinical advisors and collaborators at academic and other institutions that assist us in our research and development efforts. These advisors and collaborators are not our employees and may have other commitments that limit their availability to us. Although these advisors and collaborators generally agree not to do competing work, if a conflict of interest between their work for us and their work for another entity arises, we may lose their services. In such a circumstance, we may lose work performed by them, and our development efforts with respect to the matters on which they were working maybe significantly delayed or otherwise adversely affected. In addition, although our advisors and collaborators sign agreements not to disclose our confidential information, it is possible that valuable proprietary knowledge may become publicly known through them.

Our headquarters are located near known earthquake fault zones, and the occurrence of an earthquake or other disaster could damage our facilities and equipment, which could harm our operations.

Our headquarters are located in South San Francisco, California, and therefore our facilities are vulnerable to damage from earthquakes. We do not carry earthquake insurance. We are also vulnerable to damage from other types of disasters, including fire, floods, power loss, communications failures, terrorism and similar events since any insurance we may maintain may not be adequate to cover our losses. If any disaster were to occur, our ability to operate our business at our facilities could be seriously, or potentially completely, impaired. In addition, the unique nature of our research activities could cause significant delays in our programs and make it difficult for us to recover from a disaster. Accordingly, an earthquake or other disaster could materially and adversely harm our ability to conduct business.

Security breaches may disrupt our operations and harm our operating results.

Our network security and data recovery measures may not be adequate to protect against computer viruses, break-ins, and similar disruptions from unauthorized tampering with our computer systems. The misappropriation, theft, sabotage or any other type of security breach with respect to any of our proprietary and confidential information that is electronically stored, including research or clinical data, could have a material adverse impact on our business, operating results and financial condition. Additionally, any break-in or trespass of our facilities that results in the misappropriation, theft, sabotage or any other type of security breach with respect to our proprietary and confidential information, including research or clinical data, or that results in damage to our research and development equipment and assets could have a material adverse impact on our business, operating results and financial condition.

Risks Related to Environmental and Product Liability

We use hazardous chemicals and radioactive and biological materials in our business. Any claims relating to improper handling, storage or disposal of these materials could be time consuming and costly.

Our research and development processes involve the controlled use of hazardous materials, including chemicals and radioactive and biological materials. Our operations produce hazardous waste products. We cannot eliminate the risk of accidental contamination or discharge and any resultant injury from these materials. Federal, state and local laws and regulations govern the use, manufacture, storage, handling and disposal of hazardous materials. We may face liability for any injury or contamination that results from our use or the use by third parties of these materials, and such liability may exceed our insurance coverage and our total assets. Compliance with environmental laws and regulations may be expensive, and current or future environmental regulations may impair our research, development and production efforts.

In addition, our collaborators may use hazardous materials in connection with our collaborative efforts. In the event of a lawsuit or investigation, we could be held responsible for any injury caused to persons or property by exposure to, or release of, these hazardous materials used by these parties. Further, we may be required to indemnify our collaborators against all damages and other liabilities arising out of our development activities or products produced in connection with these collaborations.

We face potential product liability exposure far in excess of our limited insurance coverage.

We may be held liable if any product we or our collaborators develop causes injury or is found otherwise unsuitable during product testing, manufacturing, marketing or sale. Regardless of merit or eventual outcome, product liability claims could result in decreased demand for our product candidates, injury to our reputation, withdrawal of patients from our clinical trials, substantial monetary awards to trial participants and the inability to commercialize any products that we may develop. These claims might be made directly by consumers, health care providers, pharmaceutical companies or others selling or testing our products. We have obtained limited product liability insurance coverage for our clinical trials in the amount of $10.0 million per occurrence and $10.0 million in the aggregate. However, our insurance may not reimburse us or may not be sufficient to reimburse us for expenses or losses we may suffer. Moreover, if insurance coverage becomes more expensive, we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect us against losses due to liability. If we obtain marketing approval for cabozantinib, we intend to expand our insurance coverage to include the sale of commercial products, but we may be unable to obtain commercially reasonable product liability insurance for any products approved for marketing. On occasion, juries have awarded large judgments in class action lawsuits for claims based on drugs that had unanticipated side effects. In addition, the pharmaceutical and biotechnology industries, in general, have been subject to significant medical malpractice litigation. A successful product liability claim or series of claims brought against us could harm our reputation and business and would decrease our cash reserves.

Risks Related to Our Common Stock

We expect that our quarterly results of operations will fluctuate, and this fluctuation could cause our stock price to decline, causing investor losses.

Our quarterly operating results have fluctuated in the past and are likely to fluctuate in the future. A number of factors, many of which we cannot control, could subject our operating results to volatility, including:

- the scope of our research and development activities;
- recognition of upfront licensing or other fees or revenues;
- payments of non-refundable upfront or licensing fees, or payment for cost-sharing expenses, to third parties;
- acceptance of our technologies and platforms;
- the success rate of our efforts leading to milestone payments and royalties;
- the introduction of new technologies or products by our competitors;
- the timing and willingness of collaborators to further develop or, if approved, commercialize our product outlicensed to them;
- our ability to enter into new collaborative relationships;
- the termination or non-renewal of existing collaborations;
- the timing and amount of expenses incurred for clinical development and manufacturing cabozantinib;
- adjustments to expenses accrued in prior periods based on management's estimates after the actual level of activity relating to such expenses becomes more certain;
- the impairment of acquired goodwill and other assets;
- the impact of the restructuring of the company implemented on December 1, 2010; and
- general and industry-specific economic conditions that may affect our collaborators' research and development expenditures.

A large portion of our expenses, including expenses for facilities, equipment and personnel, are relatively fixed in the short term. If our revenues decline or do not grow as anticipated due to the expiration or termination of existing contracts, our failure to obtain new contracts or our inability to meet milestones or because of other factors, we may not be able to correspondingly reduce our operating expenses. Failure to achieve anticipated levels of revenues could therefore significantly harm our operating results for a particular fiscal period.

Due to the possibility of fluctuations in our revenues and expenses, we believe that quarter-to-quarter comparisons of our operating results are not a good indication of our future performance. As a result, in some future quarters, our operating results may not meet the expectations of securities analysts and investors, which could result in a decline in the price of our common stock.

Our stock price may be extremely volatile.

The trading price of our common stock has been highly volatile, and we believe the trading price of our common stock will remain highly volatile and may fluctuate substantially due to factors such as the following, many of which we cannot control:

- adverse results or delays in our or our collaborators' clinical trials;

- announcement of FDA approval or non-approval, or delays in the FDA review process, of cabozantinib or our collaborators' product candidates or those of our competitors or actions taken by regulatory agencies with respect to our, our collaborators' or our competitors' clinical trials;
- the timing of achievement of our clinical, regulatory, partnering and other milestones, such as the commencement of clinical development, the completion of a clinical trial, the filing for regulatory approval or the establishment of collaborative arrangements for one or more of our outlicensed programs and compounds;
- actions taken by regulatory agencies with respect to cabozantinib or our clinical trials for cabozantinib;
- the announcement of new products by our competitors;
- quarterly variations in our or our competitors' results of operations;
- developments in our relationships with our collaborators, including the termination or modification of our agreements;
- conflicts or litigation with our collaborators;
- litigation, including intellectual property infringement and product liability lawsuits, involving us;
- failure to achieve operating results projected by securities analysts;
- changes in earnings estimates or recommendations by securities analysts;
- financing transactions;
- developments in the biotechnology or pharmaceutical industry;
- sales of large blocks of our common stock or sales of our common stock by our executive officers, directors and significant stockholders;
- departures of key personnel or board members;
- developments concerning current or future collaborations;
- FDA or international regulatory actions;
- third-party reimbursement policies;
- disposition of any of our subsidiaries, technologies or compounds; and
- general market conditions and other factors, including factors unrelated to our operating performance or the operating performance of our competitors.

These factors, as well as general economic, political and market conditions, may materially adversely affect the market price of our common stock. Excessive volatility may continue for an extended period of time following the filing date of this report.

In the past, following periods of volatility in the market price of a company's securities, securities class action litigation has often been instituted. A securities class action suit against us could result in substantial costs and divert management's attention and resources, which could have a material and adverse effect on our business.

Future sales of our common stock may depress our stock price.

If our stockholders sell substantial amounts of our common stock (including shares issued upon the exercise of options and warrants or upon vesting of restricted stock units and shares issued under our employee stock purchase plan) in the public market, the market price of our common stock could fall. These sales also might make it more difficult for us to sell equity or equity-related securities in the future at a time and price that we deem appropriate.

Some of our existing stockholders can exert control over us, and their interests could conflict with the best interests of our other stockholders.

Due to their combined stock holdings, our officers, directors and principal stockholders (stockholders holding more than 5% of our common stock), acting together, may be able to exert significant influence over all matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. In addition, this concentration of ownership may delay or prevent a change in control of our company, even when a change may be in the best interests of our stockholders. In addition, the interests of these stockholders may not always coincide with our interests as a company or the interests of other stockholders. Accordingly, these stockholders could cause us to enter into transactions or agreements that would not be widely viewed as beneficial.

Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of us, which may be beneficial to our stockholders, more difficult and may prevent or deter attempts by our stockholders to replace or remove our current management.

Provisions in our corporate charter and bylaws may discourage, delay or prevent an acquisition of our company, a change in control, or attempts by our stockholders to replace or remove members of our current Board of Directors. Because our Board of Directors is responsible for appointing the members of our management team, these provisions could in turn affect any attempt by our stockholders to replace current members of our management team. These provisions include:

- a classified Board of Directors;
- a prohibition on actions by our stockholders by written consent;
- the inability of our stockholders to call special meetings of stockholders;
- the ability of our Board of Directors to issue preferred stock without stockholder approval, which could be used to institute a “poison pill” that would work to dilute the stock ownership of a potential hostile acquirer, effectively preventing acquisitions that have not been approved by our Board of Directors;
- limitations on the removal of directors; and
- advance notice requirements for director nominations and stockholder proposals.

Moreover, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which prohibits a person who owns in excess of 15% of our outstanding voting stock from merging or combining with us for a period of three years after the date of the transaction in which the person acquired in excess of 15% of our outstanding voting stock, unless the merger or combination is approved in a prescribed manner.

ITEM 1B. UNRESOLVED STAFF COMMENTS

Not applicable.

ITEM 2. PROPERTIES

We lease a total 367,773 square feet of office and laboratory facilities in South San Francisco, California. The leased premises are comprised of six buildings and covered by four lease agreements. The first two leases covering three buildings for a total of 179,964 square feet expire in 2017, with two five-year options to extend their respective terms prior to expiration. The third lease covering two buildings for a total of 116,063 square feet expires in 2018. A fourth lease covers a portion of one building containing 71,746 square feet that commenced in May 2008 and expires in 2015. In July 2010, we subleased approximately 68,738 square feet of the building covered by the fourth lease to Onyx Pharmaceuticals, Inc. The term of the sublease will expire at the end of our lease term.

In Guilford, Connecticut, we lease 3,000 square feet of office space, under a month-to-month lease, with a six-month termination notice. In February 2011, we provided notice of termination for the lease, which will terminate in August 2011.

We believe that our leased facilities have sufficient space to accommodate our current needs. We are in the process of consolidating our workforce in light of our December 2010 restructuring and expect to vacate and/or sublease at least two of our buildings in South San Francisco during the first half of 2011.

ITEM 3. LEGAL PROCEEDINGS

We are not a party to any material legal proceedings. We may from time to time become a party to various legal proceedings arising in the ordinary course of business.

ITEM 4. REMOVED AND RESERVED

PART II

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

Our common stock has traded on the NASDAQ Global Select Market (formerly the NASDAQ National Market) under the symbol "EXEL" since April 11, 2000. The following table sets forth, for the periods indicated, the high and low intraday sales prices for our common stock as reported by the NASDAQ Global Select Market:

	Common Stock Price	
	High	Low
Quarter ended December 31, 2010	$9.20	$3.84
Quarter ended October 1, 2010	$4.29	$2.86
Quarter ended July 2, 2010	$7.00	$3.11
Quarter ended April 2, 2010	$7.53	$5.77
Quarter ended January 1, 2010	$8.00	$5.30
Quarter ended October 2, 2009	$7.25	$4.25
Quarter ended July 3, 2009	$6.10	$4.09
Quarter ended April 3, 2009	$6.11	$4.18

On February 15, 2011, the last reported sale price on the NASDAQ Global Select Market for our common stock was $10.04 per share.

Holders

As of February 15, 2011, there were approximately 589 stockholders of record of our common stock.

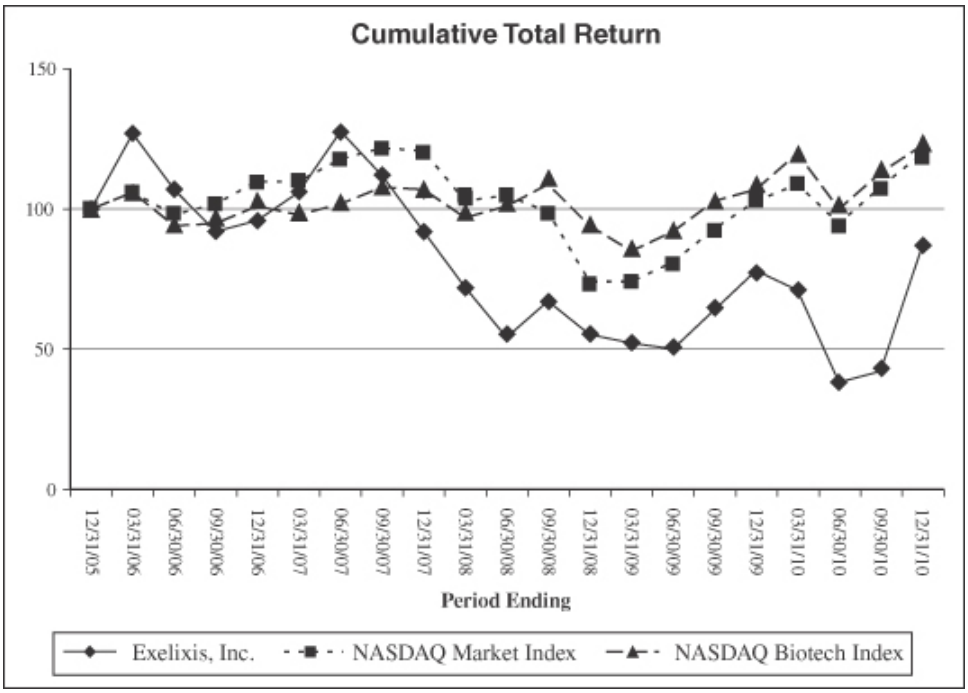
Dividends

Since inception, we have not paid dividends on our common stock. We currently intend to retain all future earnings, if any, for use in our business and currently do not plan to pay any cash dividends in the foreseeable future. Any future determination to pay dividends will be at the discretion of our Board of Directors.

Performance Graph

This performance graph shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities under that Section and shall not be deemed to be incorporated by reference into any filing of the company under the Securities Act of 1933, as amended.

The following graph compares, for the five year period ended December 31, 2010, the cumulative total stockholder return for our common stock, the NASDAQ Stock Market (U.S. companies) Index, or the NASDAQ Market Index, and the NASDAQ Biotech Index. The graph assumes that $100 was invested on December 31, 2005 in each of the common stock of the company, the NASDAQ Market Index and the NASDAQ Biotech Index and assumes reinvestment of any dividends. The stock price performance on the following graph is not necessarily indicative of future stock price performance.



	12/31/05	03/31/06	06/30/06	09/30/06	12/31/06	03/31/07	06/30/07
Exelixis, Inc.	100	127	107	92	96	106	128
NASDAQ Market Index	100	106	98	102	110	110	118
NASDAQ Biotech Index	100	106	94	95	101	98	102

	09/30/07	12/31/07	03/31/08	06/30/08	09/30/08	12/31/08	03/31/09
Exelixis, Inc.	112	92	72	54	67	55	52
NASDAQ Market Index	122	121	103	105	99	74	74
NASDAQ Biotech Index	108	107	97	101	109	94	85

	06/30/09	09/30/09	12/31/09	03/31/10	06/30/10	09/30/10	12/31/10
Exelixis, Inc.	50	64	78	71	38	42	87
NASDAQ Market Index	81	93	103	109	95	108	120
NASDAQ Biotech Index	92	103	107	120	100	113	123

ITEM 6. SELECTED FINANCIAL DATA

The following selected consolidated financial information has been derived from our audited consolidated financial statements. The financial information as of December 31, 2010 and 2009 and for each of the three years in the period ended December 31, 2010 are derived from audited consolidated financial statements included elsewhere in this Annual Report on Form 10-K. The following Selected Financial Data should be read in conjunction with "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Item 8. Financial Statements and Supplementary Data" included elsewhere in this Annual Report on Form 10-K. The historical results are not necessarily indicative of the results of operations to be expected in the future.

	Year Ended December 31,				
	2010	2009	2008	2007	2006
	(In thousands, except per share data)				
Consolidated Statement of Operations Data:					
Total revenues	$185,045	$ 151,759	$ 117,859	$ 113,470	$ 98,670
Operating expenses:					
Research and development	210,678	234,702	257,390	225,375	185,481
General and administrative	33,020	34,382	36,892	44,940	39,123
Collaboration cost sharing	—	4,582	—	—	—
Amortization of intangible assets	—	—	—	202	820
Restructuring charge	32,744	—	2,890	—	—
Total operating expenses	276,442	273,666	297,172	270,517	225,424
Loss from operations	(91,397)	(121,907)	(179,313)	(157,047)	(126,754)
Total other income (expense)(1)	(1,005)	(18,936)	3,743	46,025	3,565
Consolidated loss before taxes	(92,402)	(140,843)	(175,570)	(111,022)	(123,189)
Tax benefit	72	1,286	—	—	—
Consolidated net loss	(92,330)	(139,557)	(175,570)	(111,022)	(123,189)
Loss attributable to noncontrolling interest	—	4,337	12,716	24,641	21,697
Net loss attributable to Exelixis, Inc.	$ (92,330)	$(135,220)	$(162,854)	$ (86,381)	$(101,492)
Net loss per share, basic and diluted, attributable to Exelixis, Inc.	$ (0.85)	$ (1.26)	$ (1.54)	$ (0.87)	$ (1.17)
Shares used in computing basic and diluted net loss per share	108,522	107,073	105,498	99,147	86,602

(1) In June 2009 we recorded a $9.8 million loss upon deconsolidation of Symphony Evolution, Inc. as a result of the expiration of our purchase option. In addition, our credit facility with Deerfield expired in November 2009, resulting in our acceleration of interest expense of $5.2 million relating to the closing fee and outstanding warrants issued in connection with the facility. In 2007, we sold 80.1% of our former German subsidiary, Artemis Pharmaceuticals GmbH and our plant trait business, and recognized a gain of $18.1 million and $18.8 million in other income, respectively. In 2008, 2009 and 2010, in association with the sale of our plant trait business, we recognized an additional gain on the sale of the business of $4.5 million, $2.1 million and $7.2 million respectively.

	Year Ended December 31,				
	2010	2009	2008	2007	2006
	(In thousands)				
Consolidated Balance Sheet Data:					
Cash and cash equivalents, marketable securities, investments held by Symphony Evolution, Inc. and restricted cash and investments (1)	$ 256,377	$ 220,993	$ 284,185	$ 299,530	$ 263,180
Working capital (deficit)	(16,455)	22,882	82,028	150,898	150,814
Total assets	360,790	343,410	401,622	412,120	395,417
Long-term obligations, less current portion	186,702	57,688	97,339	130,671	128,565
Accumulated deficit	(1,182,054)	(1,089,724)	(954,504)	(791,650)	(705,269)
Total stockholders' (deficit) equity	(228,325)	(163,725))	(56,261)	85,511	90,611

(1) Amounts for the years ended December 31, 2008, 2007 and 2006 include $14.7 million, $30.9 million and $55.1 million, respectively in investments held Symphony Evolution, Inc.

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

Some of the statements under the captions "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Business" and elsewhere in this Annual Report on Form 10-K are forward-looking statements. These statements are based on our current expectations, assumptions, estimates and projections about our business and our industry and involve known and unknown risks, uncertainties and other factors that may cause our company's or our industry's results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied in, or contemplated by, the forward-looking statements. Words such as "believe," "anticipate," "expect," "intend," "plan," "focus," "assume," "goal," "objective," "will," "may" "should," "would," "could," "estimate," "predict," "potential," "continue," "encouraging" or the negative of such terms or other similar expressions identify forward-looking statements. Our actual results and the timing of events may differ significantly from the results discussed in the forward-looking statements. Factors that might cause such a difference include those discussed in "Item 1A. Risk Factors" as well as those discussed elsewhere in this Annual Report on Form 10-K. These and many other factors could affect our future financial and operating results. We undertake no obligation to update any forward-looking statement to reflect events after the date of this report.

Overview

We are a biotechnology company committed to developing small molecule therapies for the treatment of cancer. We are focusing our resources and development efforts exclusively on cabozantinib (XL184), our most advanced solely-owned product candidate, in order to maximize the therapeutic and commercial potential of this compound. We believe cabozantinib has the potential to be a high-quality, differentiated pharmaceutical product that can make a meaningful difference in the lives of patients. We have also established a portfolio of other novel compounds that we believe have the potential to address serious unmet medical needs.

Cabozantinib inhibits MET, VEGFR2 and RET, proteins that are key drivers of tumor growth and/or vascularization. Cabozantinib is the most advanced inhibitor of MET in clinical development and is being evaluated in a broad development program encompassing multiple cancer indications. The current clinical program for cabozantinib is focused on the treatment of metastatic castration-resistant prostate cancer and ovarian cancer, based on encouraging interim data that has emerged from a randomized discontinuation trial investigating cabozantinib in nine distinct tumor types. Cabozantinib is also being studied in an ongoing global phase 3 registration trial in medullary thyroid cancer. We expect to release top-line results from the phase 3 trial in the first half of 2011 and to potentially submit a new drug application, or NDA, for cabozantinib as a treatment for medullary thyroid cancer in the United States in the second half of 2011.

Based on the strength of our expertise in biology, drug discovery and development, we have established collaborations with leading pharmaceutical and biotechnology companies, including Bristol-Myers Squibb Company, sanofi-aventis, Genentech, Inc. (a wholly owned member of the Roche Group), Boehringer Ingelheim GmbH, GlaxoSmithKline and Daiichi Sankyo Company Limited for the majority of the remaining compounds and programs in our portfolio. Pursuant to these collaborations, we have out-licensed compounds or programs to a partner for further development and commercialization, generally have no further unfunded cost obligations related to such compounds or programs and may be entitled to receive research funding, milestones and royalties or a share of profits from commercialization.

Our strategy is to aggressively advance cabozantinib through development toward commercialization. In doing so, we will pursue a pragmatic development plan focused on those cancer indications where we believe cabozantinib has the greatest near-term therapeutic and commercial potential. We are aggressively managing our expenses to preserve our cash resources and ensure we are appropriately dedicating those resources towards successfully executing our strategy.

In furtherance of our decision to focus on cabozantinib and aggressively manage our expenses, in December 2010 we implemented a restructuring plan that resulted in a reduction of our workforce by 143 employees. Personnel reductions were made across our entire organization, including discovery, development and general & administrative, or G&A departments. Further personnel reductions are expected to be made through the end of 2012 as we complete our obligations under collaboration agreements and withdraw resources from completed projects. With the exception of activities related to cabozantinib, we are discontinuing efforts with respect to all of our compounds and programs that are not funded by partners pursuant to collaboration agreements and are actively pursuing collaborations or other external opportunities for the continued development of these compounds and programs. Discovery and clinical activities under various collaborations will continue at funded levels until we complete our contractual obligations. Such funded programs include XL147, XL765 and isoform-selective PI3K inhibitors in collaboration with sanofi-aventis, our sphingosine-1-phosphate type 1 receptor, or S1P1 receptor, collaboration with Boehringer Ingelheim and XL281 and our ROR collaboration with Bristol-Myers Squibb Company.

Certain Factors Important to Understanding Our Financial Condition and Results of Operations

Successful development of drugs is inherently difficult and uncertain. Our business requires significant investments in research and development over many years, often for products that fail during the research and development process. Our long-term prospects depend upon our ability, particularly with respect to cabozantinib, and the ability of our partners to successfully commercialize new therapeutics in highly competitive areas such as cancer treatment. Our financial performance is driven by many factors, including those described below.

Clinical Development of Cabozantinib and Other Product Candidates

In December 2008, we entered into a worldwide collaboration with Bristol-Myers Squibb for cabozantinib and XL281. Upon effectiveness of the collaboration agreement in December 2008, Bristol-Myers Squibb made a nonrefundable upfront cash payment of $195.0 million for the development and commercialization rights to both programs. The agreement required Bristol-Myers Squibb to make additional license payments to us of $45.0 million, which were received during 2009.

On June 18, 2010, we regained full rights to develop and commercialize cabozantinib under our collaboration agreement with Bristol-Myers Squibb following receipt of notice from Bristol-Myers Squibb of its decision to terminate the 2008 collaboration, solely as to cabozantinib, on a worldwide basis. Bristol-Myers Squibb informed us that the termination was based upon its review of cabozantinib in the context of Bristol-Myers Squibb's overall research and development priorities and pipeline products. On June 28, 2010, in connection with the termination, we received a $17.0 million transition payment from Bristol-Myers Squibb in satisfaction of its obligations under the collaboration agreement to continue to fund its share of development costs for cabozantinib for a period of three months following the notice of termination. As a result of the termination, Bristol-Myers Squibb's license relating to cabozantinib terminated and its rights to cabozantinib reverted to us, and we received, subject to certain terms and conditions, licenses from Bristol-Myers Squibb to research, develop and commercialize cabozantinib.

We are focusing our resources and development efforts on the development of cabozantinib. However, the product candidate may fail to show adequate safety or efficacy in clinical testing. Furthermore, predicting the timing of the initiation or completion of clinical trials is difficult, and our trials may be delayed due to many factors, including factors outside of our control. The future development path of cabozantinib depends upon the results of each stage of clinical development. We expect to incur increased expenses for the development of cabozantinib as it advances in clinical development.

With the exception of activities related to cabozantinib, we are discontinuing efforts with respect to all of our compounds and programs that are not funded by partners pursuant to collaboration agreements and are

actively pursuing collaborations or other external opportunities for the continued development of these compounds and programs. Discovery and clinical activities under various collaborations are expected to continue at funded levels until we complete our contractual obligations. We do not expect to conduct funded activities for partners under future collaborations.

Limited Sources of Revenues

We have no pharmaceutical products that have received marketing approval, and we have generated no revenues to date from the sale of such products. We do not expect to generate revenues from the sale of pharmaceutical products in the near term and expect that all of our near-term revenues, such as research and development funding, license fees and milestone payments and royalty revenues, will be generated from collaboration agreements with our current and potential future partners. Milestones under these agreements may be tied to factors that are outside of our control, such as significant clinical or regulatory events with respect to compounds that have been licensed to our partners.

Liquidity

As of December 31, 2010, we had $256.4 million in cash and cash equivalents, marketable securities and long-term investments, which included restricted cash and investments of $6.4 million and approximately $96.9 million of cash and cash equivalents and marketable securities that we are required to maintain on deposit with Silicon Valley Bank pursuant to covenants in our loan and security agreement with Silicon Valley Bank. We anticipate that our current cash and cash equivalents, marketable securities, long-term investments and funding that we expect to receive from existing collaborators will enable us to maintain our operations for a period of at least 12 months following the filing date of this report. However, our future capital requirements will be substantial and depend on many factors, including the following:

- the progress and scope of the development activity with respect to cabozantinib;
- whether we repay amounts outstanding under our loan and security agreement with GlaxoSmithKline in cash or shares of our common stock;
- whether we elect to pay cash or to issue shares of our common stock in respect of any conversion of our principal, prepayments or payments of interest in connection with the secured convertible notes we issued to entities affiliated with Deerfield Management Company, L.P., or Deerfield, under the note purchase agreement;
- whether we elect to prepay the amounts advanced under our loan from Silicon Valley Bank;
- the level of payments received under existing collaboration agreements, licensing agreements and other arrangements;
- the degree to which we conduct funded development activity on behalf of partners to whom we have out-licensed compounds; and
- whether we enter into new collaboration agreements, licensing agreements or other arrangements (including in particular with respect to cabozantinib) that provide additional capital.

Our minimum liquidity needs are also determined by financial covenants in our loan and security agreement, as amended, with GlaxoSmithKline, our loan and security agreement with Silicon Valley Bank and our note purchase agreement with the Deerfield, as well as other factors, which are described under "– Liquidity and Capital Resources – Cash Requirements".

Our ability to raise additional funds may be severely impaired if any of our product candidates fails to show adequate safety or efficacy in clinical testing.

Deerfield Facility

On June 2, 2010, we entered into a note purchase agreement with Deerfield pursuant to which, on July 1, 2010, we sold to Deerfield an aggregate of $124.0 million initial principal amount of our secured convertible notes due June 2015 for an aggregate purchase price of $80.0 million, less closing fees and expenses of approximately $2.0 million. The outstanding principal amount of the notes bears interest in the annual amount of $6.0 million, payable quarterly in arrears. We will be required to make mandatory prepayments on the notes on an annual basis in 2013, 2014 and 2015 equal to 15% of certain revenues from our collaborative arrangements received during the prior fiscal year, subject to a maximum annual prepayment amount of $27.5 million and, for payments due in January 2013 and 2014, a minimum prepayment amount of $10.0 million. We may also prepay all or a portion (not less than $5.0 million) of the principal amount of the notes at an optional prepayment price based on a discounted principal amount (during the first three years of the term, subject to a prepayment premium) determined as of the date of prepayment, plus accrued and unpaid interest, plus in the case of a prepayment of the full principal amount of the notes (other than prepayments upon the occurrence of specified transactions relating to a change of control or a substantial sale of assets), all accrued interest that would have accrued between the date of such prepayment and the next anniversary of the note purchase agreement. In lieu of making any optional or mandatory prepayment in cash, at any time after July 1, 2011, subject to certain limitations (including a cap on the number of shares issuable under the note purchase agreement), we have the right to convert all or a portion of the principal amount of the notes into, or satisfy all or any portion of the optional prepayment amounts or mandatory prepayment amounts (other than the first $10.0 million of mandatory prepayments required in 2013 and 2014) with shares of our common stock. Additionally, in lieu of making any payment of accrued and unpaid interest in respect of the notes in cash, at any time after July 1, 2011, subject to certain limitations, we may elect to satisfy any such payment with shares of our common stock. The number of shares of our common stock issuable upon conversion or in settlement of principal and interest obligations will be based upon the discounted trading price of our common stock over a specified trading period. Upon certain changes of control of our company, a sale or transfer of assets in one transaction or a series of related transactions for a purchase price of more than $400 million or a sale or transfer of more than 50% of our assets, Deerfield may require us to prepay the notes at the optional prepayment price, plus accrued and unpaid interest and any other accrued and reimbursable expenses, or the Put Price. Upon an event of default, Deerfield may declare all or a portion of the Put Price to be immediately due and payable.

We also entered into a security agreement in favor of Deerfield which provides that our obligations under the notes will be secured by substantially all of our assets except intellectual property. The note purchase agreement and the security agreement include customary representations and warranties and covenants made by us, including restrictions on the incurrence of additional indebtedness.

Loan Agreement with Silicon Valley Bank

On June 2, 2010, we amended our loan and security agreement with Silicon Valley Bank to provide for a new seven-year term loan in the amount of $80.0 million. The principal amount outstanding under the term loan accrues interest at 1.0% per annum, which interest is due and payable monthly. We are required to repay the term loan in one balloon principal payment, representing 100% of the principal balance and accrued and unpaid interest, on May 31, 2017. We have the option to prepay all, but not less than all, of the amounts advanced under the term loan, provided that we pay all unpaid accrued interest thereon that is due through the date of such prepayment and the interest on the entire principal balance of the term loan that would otherwise have been paid after such prepayment date until the maturity date of the term loan. We are required to maintain at all times on deposit in a non-interest bearing demand deposit account(s) with Silicon Valley Bank or one of its affiliates a compensating balance, which constitutes support for the obligations under the term loan, with a principal balance in value equal to at least 100% of the outstanding principal balance of the term loan. Any amounts outstanding under the term loan during the continuance of an event of default under the loan and security agreement will, at the election of Silicon Valley Bank, bear interest at a per annum rate equal to 6.00%. If one or more events of

default under the loan and security agreement occurs and continues beyond any applicable cure period, Silicon Valley Bank may declare all or part of the obligations under the loan and security agreement to be immediately due and payable and stop advancing money or extending credit to us under the loan and security agreement.

We are also required to maintain at all times on deposit in a non-interest bearing demand deposit account(s) with Silicon Valley Bank or one of its affiliates, funds equal to the amount of proceeds we have drawn with respect to equipment lines of credit under our loan and security agreement with Silicon Valley Bank.

sanofi-aventis

In May 2009, we entered into a global license agreement with sanofi-aventis for XL147 and XL765 and a broad collaboration for the discovery of inhibitors of PI3K for the treatment of cancer. The license agreement and collaboration agreement became effective on July 7, 2009. In connection with the effectiveness of the license and collaboration, on July 20, 2009, we received upfront payments of $140.0 million ($120.0 million for the license and $20.0 million for the collaboration), less applicable withholding taxes of $7.0 million, for a net receipt of $133.0 million. We expect to receive a refund payment from the French government in 2011 with respect to the withholding taxes previously withheld.

Under the license agreement, sanofi-aventis received a worldwide exclusive license to XL147 and XL765, which are in phase 1, phase 1b/2 and phase 2 clinical trials, and has sole responsibility for all subsequent clinical, regulatory, commercial and manufacturing activities. sanofi-aventis is responsible for funding all development activities with respect to XL147 and XL765, including our activities. Following the effectiveness of the license agreement, we have been conducting the majority of the clinical trials for XL147 and XL765 at the expense of sanofi-aventis. As provided for under the license agreement however, the parties have agreed to transition all future development activities for these compounds to sanofi-aventis. The parties anticipate that the transition will be completed by the end of the second quarter of 2011. As a result of the transition of development activities to sanofi-aventis, we expect to no longer receive reimbursements from sanofi-aventis with respect to XL147 and XL765 and we plan to reduce our development capacity such that no further operating expenses will be incurred in connection with these programs once the transition is complete.

Under the collaboration agreement, the parties agreed to combine efforts in establishing several pre-clinical PI3K programs and jointly share responsibility for research and preclinical activities related to isoform-selective inhibitors of PI3K-a and -ß. sanofi-aventis will continue to provide us with guaranteed annual research and development funding during the research term and is responsible for funding all development activities for each product following approval of the investigational new drug, or IND, application filed with the applicable regulatory authorities for such product. We are entitled to receive guaranteed research funding of $21.0 million over three years to cover certain of our costs under the collaboration agreement. sanofi-aventis will have sole responsibility for all subsequent clinical, regulatory, commercial and manufacturing activities of any products arising from the collaboration; however, we may be requested to conduct certain clinical trials at sanofi-aventis' expense. The research term under the collaboration is three years, although sanofi-aventis has the right to extend the term for an additional one-year period upon prior written notice.

For both the license and the collaboration combined, we will be eligible to receive development, regulatory and commercial milestones of over $1.0 billion in the aggregate, as well as royalties on sales of any products commercialized under the license or collaboration.

sanofi-aventis may, upon certain prior notice to us, terminate the license as to products containing XL147 or XL765. In the event of such termination election, sanofi-aventis' license relating to such product would terminate and revert to us, and we would receive, subject to certain terms, conditions and potential payment obligations, licenses from sanofi-aventis to research, develop and commercialize such products.

The collaboration will automatically terminate under certain circumstances upon the expiration of the research term, in which case all licenses granted by the parties to each other would terminate and revert to the respective party, subject to sanofi-aventis' right to receive, under certain circumstances, the first opportunity to obtain a license from us to any isoform-selective PI3K inhibitor. In addition, sanofi-aventis may, upon certain prior written notice to us, terminate the collaboration in whole or as to certain products following expiration of the research term, in which case we would receive, subject to certain terms, conditions and potential payment obligations by us, licenses from sanofi-aventis to research, develop and commercialize such products.

2010 Restructurings

As a consequence of our ongoing efforts to manage costs and our strategy to focus our resources and development efforts on the development of our most advanced solely-owned product candidate, cabozantinib, we implemented two restructuring plans during 2010 resulting in an aggregate reduction of 399 employees. In connection with the December 2010 restructuring plan, further personnel reductions are expected to be made through the end of 2012 as we complete our obligations under collaboration agreements and withdraw resources from completed projects.

We have recorded aggregate restructuring charges of approximately $32.7 million during 2010 of which $17.7 million related to termination benefits and $15.0 million related to facility-related charges and other impairment charges. With respect to the March 2010 restructuring, we expect to incur an additional restructuring charge of $1.7 million relating to the sublease and exit of one of our South San Francisco buildings. With respect to the December 2010 restructuring, we expect to incur additional restructuring charges in the range of $25 million to $30 million, including facility-related charges in connection with the anticipated sublease and exit of two of our South San Francisco buildings and $1.4 million related to additional termination benefits.

As of December 31, 2010, the restructuring plans have resulted in aggregate cash expenditures of $14.3 million. For the March 2010 restructuring, we expect to pay an additional $10.5 million, of which $10.2 million relates to facility costs, net of cash received from our subtenant. For the December 2010 restructuring plan, we expect to incur aggregate cash expenditures in the range of $35 million to $40 million, of which approximately $0.1 million related to termination benefits was paid in the fourth quarter of 2010, approximately $6.4 million related to termination benefits is expected to be paid during the first three quarters of 2011 and the balance, related to facility costs, is expected to be paid through 2017.

The restructuring charges that we expect to incur in connection with the restructuring plans are subject to a number of assumptions, and actual results may materially differ. We may also incur other material charges not currently contemplated due to events that may occur as a result of, or associated with, the restructuring plan.

GlaxoSmithKline Loan Repayment Obligations

In October 2002, we entered into a collaboration with GlaxoSmithKline to discover and develop novel therapeutics in the areas of vascular biology, inflammatory disease and oncology. As part of the collaboration, we entered into a loan and security agreement with GlaxoSmithKline, pursuant to which we borrowed $85.0 million for use in our efforts under the collaboration. The loan bears interest at a rate of 4.0% per annum and is secured by certain intellectual property, technology and equipment created or utilized pursuant to the collaboration. On October 27, 2010, we paid approximately $37.0 million in cash to GlaxoSmithKline as the second of three installments of principal and accrued interest due under the loan agreement. After giving effect to all repayments made, as of December 31, 2010, the aggregate principal and interest outstanding under the loan was $35.9 million. The final installment of principal and accrued interest under the loan is due October 27, 2011. Repayment of all or any of the amounts advanced to us under the loan agreement may, at our election, be made in the form of our common stock at fair market value, subject to certain conditions, or cash. In the event the market price for our common stock is depressed, we may not be able to repay the loan in full using shares of our common stock due to restrictions in the agreement on the number of shares we may issue. In addition, the issuance of shares of our common stock to repay the loan may result in significant dilution to our stockholders.

As a result, we may need to obtain additional funding to satisfy our repayment obligations. There can be no assurance that we will have sufficient funds to repay amounts outstanding under the loan when due or that we will satisfy the conditions to our ability to repay the loan in shares of our common stock.

Critical Accounting Estimates

Our consolidated financial statements and related notes are prepared in accordance with U.S. generally accepted accounting principles, or GAAP, which require us to make judgments, estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses and related disclosure of contingent assets and liabilities. We have based our estimates on historical experience and on various other assumptions that we believe 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. Our senior management has discussed the development, selection and disclosure of these estimates with the Audit Committee of our Board of Directors. Actual results may differ from these estimates under different assumptions or conditions.

An accounting policy is considered to be critical if it requires an accounting estimate to be made based on assumptions about matters that are highly uncertain at the time the estimate is made, and if different estimates that reasonably could have been used, or changes in the accounting estimates that are reasonably likely to occur periodically, could materially impact the financial statements. We believe the following critical accounting policies reflect the more significant estimates and assumptions used in the preparation of our consolidated financial statements:

Revenue Recognition

Our revenues are derived from three primary sources: license fees, milestone payments and collaborative agreement reimbursements.

Revenues from license fees and milestone payments primarily consist of up-front license fees and milestone payments received under various collaboration agreements. We initially recognize upfront fees received from third party collaborators as unearned revenues and then recognize these amounts on a ratable basis over the expected term of the research collaboration. Therefore, any changes in the expected term of the research collaboration will impact revenue recognition for the given period. For example, in the second quarter of 2010, the estimated research term under our collaboration agreement with Boehringer Ingelheim was extended through March 2011, resulting in an extension in the period over which we will recognize license revenues and decreasing our license revenues recognized each quarter to $0.7 million, down from $1.4 million. Often, the total research term is not contractually defined and an estimate of the term of our total obligation must be made. For example, under the 2008 cancer collaboration with Bristol-Myers Squibb, we estimated our term to be through August 2013, which is the estimated term of our performance obligations for XL281. We estimate that this is the period over which we are obligated to perform services and therefore the appropriate term with which to ratably recognize any license fees. During the fourth quarter of 2010, this estimate was extended to April 2014 as a result of the decision with Bristol-Myers Squibb to complete additional phase 1 trial programs for XL281. License fees are classified as license revenues in our consolidated statement of operations.

Although milestone payments are generally non-refundable once the milestone is achieved, we recognize milestone revenues on a straight-line basis over the expected research term of the arrangement. This typically results in a portion of a milestone being recognized on the date the milestone is achieved, with the balance being recognized over the remaining research term of the agreement. There is diversity in practice on the recognition of milestone revenues. Other companies have adopted an alternative milestone revenue recognition policy, whereby the full milestone fee is recognized upon completion of the milestone. If we had adopted such a policy, our revenues recorded to date would have increased and our deferred revenues would have decreased by a material amount compared to total revenues recognized. In certain situations, we may receive milestone payments after

the end of our period of continued involvement. In such circumstances, we would recognize 100% of the milestone revenues when the milestone is achieved. Milestones are classified as contract revenues in our consolidated statement of operations.

Collaborative agreement reimbursement revenues consist of research and development support received from collaborators. Collaborative agreement reimbursement revenues are recorded as earned based on the performance requirements by both parties under the respective contracts. Under the 2008 cancer collaboration with Bristol-Myers Squibb and prior to its termination by Bristol-Myers Squibb as to cabozantinib, certain research and development expenses were partially reimbursable to us. On an annual basis, the amounts that Bristol-Myers Squibb owed us, net of amounts reimbursable to Bristol-Myers Squibb by us on those projects, were recorded as revenues. Conversely, research and development expenses included the net settlement of amounts we owed Bristol-Myers Squibb for research and development expenses that Bristol-Myers Squibb incurred on joint development projects, less amounts reimbursable to us by Bristol-Myers Squibb on such projects. In annual periods when net research and development funding payments were payable to Bristol-Myers Squibb, these payments were presented as collaboration cost-sharing expense. Reimbursements under co-development agreements were classified as collaboration reimbursement revenues, while reimbursements under other arrangements were classified as contract revenues in our consolidated statement of operations. Notwithstanding termination by Bristol-Myers Squibb, revenues from the 2008 cancer collaboration will continue to be determined and reflected on an annual basis.

Some of our research and licensing arrangements have multiple deliverables in order to meet our customer's needs. For example, the arrangements may include a combination of intellectual property rights and research and development services. Multiple element revenue agreements are evaluated to determine whether the delivered item has value to the customer on a stand-alone basis and whether objective and reliable evidence of the fair value of the undelivered item exists. Deliverables in an arrangement that do not meet the separation criteria are treated as one unit of accounting for purposes of revenue recognition. Generally, the revenue recognition guidance applicable to the final deliverable is followed for the combined unit of accounting. For certain arrangements, the period of time over which certain deliverables will be provided is not contractually defined. Accordingly, management is required to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. For example, in 2008, under our collaboration with GlaxoSmithKline, we accelerated $18.5 million in previously deferred revenue as a result of the development term concluding on the earliest scheduled end date of October 27, 2008, instead of the previously estimated end date of October 27, 2010.

Clinical Trial Accruals

Substantial portions of our preclinical studies and all of our clinical trials have been performed by third-party contract research organizations, or CROs, and other vendors. We accrue expenses for preclinical studies performed by our vendors based on certain estimates over the term of the service period and adjust our estimates as required. We accrue expenses for clinical trial activities performed by CROs based upon the estimated amount of work completed on each study. For clinical trial expenses, the significant factors used in estimating accruals include the number of patients enrolled, the number of active clinical sites, and the duration for which the patients will be enrolled in the study. We monitor patient enrollment levels and related activities to the extent possible through internal reviews, review of contractual terms and correspondence with CROs. We base our estimates on the best information available at the time. However, additional information may become available to us which will allow us to make a more accurate estimate in future periods. In this event, we may be required to record adjustments to research and development expenses in future periods when the actual level of activity becomes more certain. Such increases or decreases in expenses are generally considered to be changes in estimates and will be reflected in research and development expenses in the period first known. For example, during the year ended December 31, 2010, we recorded a reduction related to prior periods of approximately $0.9 million to our accrued clinical trial liabilities and research and development expenses primarily related to our phase 2 and phase 3 clinical trials for cabozantinib.

Restructuring Liability

In connection with our 2010 restructuring activities, we estimate facility-related restructuring charges which represent the present value of the estimated facility costs for which we would obtain no future economic benefit offset by estimated future sublease income, including any credit or debit relating to existing deferred rent balances associated with the vacated building.

We derive our estimates based primarily on discussions with our brokers and our own view of market conditions based in part on discussions with potential subtenants. These estimates require significant assumptions regarding the time required to contract with subtenants, the amount of idle space we would be able to sublease and potential future sublease rates. The present value factor, which also affects the level of accreted interest expense that we will recognize as additional restructuring charges over the term of the lease, is based on our estimate of our credit-risk adjusted borrowing rate at the time the initial lease-related restructuring liability is calculated.

Changes in the assumptions underlying our estimates could have a material impact on our restructuring charge and restructuring liability. We are required to continue to update our estimate of our restructuring liability in future periods as conditions warrant, and we expect to further revise our estimate in future periods as we continue our discussions with potential subtenants.

In addition, in connection with our sublease efforts for two of our buildings in South San Francisco, if we sublease these facilities for rates that are not significantly in excess of our costs, we would not likely recover the carrying value of certain assets associated with these facilities. As such, we could potentially recognize additional asset impairment charges, in future periods, if we were to sublease parts of both of these buildings.

Stock Option Valuation

Our estimate of compensation expense requires us to determine the appropriate fair value model and a number of complex and subjective assumptions including our stock price volatility, employee exercise patterns, future forfeitures and related tax effects. The most significant assumptions are our estimates of the expected volatility and the expected term of the award. We have limited historical information available to support the underlying estimates of certain assumptions required to value stock options. The value of a stock option is derived from its potential for appreciation. The more volatile the stock, the more valuable the option becomes because of the greater possibility of significant changes in stock price. Because there is a market for options on our common stock, we have considered implied volatilities as well as our historical realized volatilities when developing an estimate of expected volatility. The expected option term also has a significant effect on the value of the option. The longer the term, the more time the option holder has to allow the stock price to increase without a cash investment and thus, the more valuable the option. Further, lengthier option terms provide more opportunity to exploit market highs. However, empirical data shows that employees, for a variety of reasons, typically do not wait until the end of the contractual term of a nontransferable option to exercise. Accordingly, companies are required to estimate the expected term of the option for input to an option-pricing model. As required under the accounting rules, we review our valuation assumptions at each grant date and, as a result, from time to time we will likely change the valuation assumptions we use to value stock based awards granted in future periods. The assumptions used in calculating the fair value of share-based payment awards represent management’s best estimates, but these estimates involve inherent uncertainties and the application of management judgment. As a result, if factors change and we use different assumptions, our stock-based compensation expense could be materially different in the future. In addition, we are required to estimate the expected forfeiture rate and recognize expense only for those shares expected to vest. If our actual forfeiture rate is materially different from our estimate, the stock-based compensation expense could be materially different from what we have recorded in the current period. As of December 31, 2010, $12.0 million of total unrecognized compensation expense related to stock options was expected to be recognized over a weighted-average period of

2.2 years in addition to $8.6 million of total unrecognized compensation expense relating to restricted stock units, or RSUs, which was expected to be recognized over 3.2 years. See Note 11 of the Notes to our Consolidated Financial Statements for a further discussion regarding stock-based compensation.

Fiscal Year Convention

Exelixis has adopted a 52- or 53-week fiscal year that ends on the Friday closest to December 31st. Fiscal year 2008, a 53-week year, ended on January 2, 2009, fiscal year 2009, a 52-week year, ended on January 1, 2010 and fiscal year 2010, a 52-week year, ended on December 31, 2010. Fiscal year 2011, a 52-week year, will end on December 30, 2011. For convenience, references in this report as of and for the fiscal years ended January 2, 2009, January 1, 2010 and December 31, 2010 are indicated on a calendar year basis, ended December 31, 2008, 2009 and 2010, respectively.

Results of Operations – Comparison of Years Ended December 31, 2010, 2009 and 2008

Revenues

Total revenues by category, as compared to the prior year, were as follows (dollar amounts are presented in millions):

	Year Ended December 31,		
	2010	2009	2008
Contract revenues:			
Research and development funding	$ 42.8	$ 36.6	$ 24.8
Milestones	18.4	17.6	45.8
Collaboration reimbursements	27.4	—	0.3
Delivery of compounds under chemistry collaborations	—	—	0.2
License revenues, amortization of upfront payments, including amortization of premiums for equity purchases	96.4	97.6	46.8
Total revenues	$185.0	$151.8	$117.9
Dollar increase	$ 33.2	$ 33.9	$ 4.4
Percentage increase	22%	29%	4%

Total revenues by customer, as compared to the prior year, were as follows (dollar amounts are presented in millions):

	Year Ended December 31,		
	2010	2009	2008
Bristol-Myers Squibb	$ 91.9	$ 81.4	$ 54.8
sanofi-aventis	77.6	46.9	—
Genentech	7.0	12.0	19.6
GlaxoSmithKline	—	0.5	43.1
Daiichi Sankyo	5.0	—	—
Boehringer Ingelheim	3.5	10.8	—
All other revenue sources	—	0.2	0.4
Total revenues	$185.0	$151.8	$117.9
Dollar increase	$ 33.2	$ 33.9	$ 4.4
Percentage increase	22%	29%	4%

The increase in revenues from 2009 to 2010 was primarily due to our collaboration agreements with sanofi-aventis for XL147, XL765 and the discovery of inhibitors of PI3K. In addition to the increase resulting from our collaboration agreements with sanofi-aventis, we also recognized increases in revenues of $27.4 million due to increased collaboration cost-sharing reimbursements relating to our 2008 cancer collaboration agreement with Bristol Myers-Squibb for cabozantinib and XL281. These increases in revenues were partially offset by a reduction in license revenues relating to our 2009 collaboration with Boehringer Ingelheim and our amended 2007 cancer collaboration with Bristol-Myers Squibb, as well as the conclusion of our MEK collaboration with Genentech. In addition, we had a decline in milestone and contract revenues related to our 2007 cancer collaboration with Bristol-Myers Squibb and the completion of revenue recognition under our LXR collaboration with Bristol-Myers Squibb.

The increase in revenues from 2008 to 2009 was primarily due to our May 2009 collaboration agreement with sanofi-aventis for the discovery of inhibitors of PI3K. We also recognized increases of $45.9 million in revenues from our 2008 cancer collaboration with Bristol-Myers Squibb relating to cabozantinib and XL281 and $10.8 million in revenues from our May 2009 collaboration with Boehringer Ingelheim. These increases in revenues were partially offset by decreases in milestone and contract revenues relating to the conclusion of certain collaborations with GlaxoSmithKline, Genentech and Bristol-Myers Squibb, in addition to a decline in research and development funding relating to fewer full-time equivalent employees under our LXR collaboration with Bristol-Myers Squibb.

Research and Development Expenses

Total research and development expenses were as follows (dollar amounts are presented in millions):

	Year Ended December 31,		
	2010	2009	2008
Research and development expenses	$210.7	$234.7	$257.4
Dollar (decrease) increase	$ (24.0)	$ (22.7)	$ 32.0
Percentage (decrease) increase	(10%)	(9%)	14%

Research and development expenses consist primarily of clinical trial expenses, personnel expenses, consulting expenses, laboratory supplies, general corporate costs, stock-based compensation and facility costs. The decrease in 2010 compared to 2009 resulted primarily from the following:

- Personnel – Personnel expense, which includes salaries, bonuses, related fringe benefits, recruiting and relocation costs, decreased by $23.4 million, or 32%, primarily due to a reduction in headcount resulting from our restructuring implemented in March 2010.
- General Corporate Costs – There was a decrease of $8.5 million, or 19%, in the allocation of general corporate costs (such as facility costs, property taxes and insurance) to research and development, primarily as a result of a decrease in personnel and the exit of certain facilities in San Diego and South San Francisco, as a result of our March 2010 restructuring plan, and the resulting decrease in costs to be allocated.
- Laboratory Supplies – Laboratory supplies decreased by $7.1 million, or 46%, primarily due to the decrease in headcount and other cost cutting measures as a result of our March 2010 restructuring plan.
- Stock-Based Compensation – Stock-based compensation expense decreased by $4.2 million, or 26%, as a result of our reduction in headcount from our restructuring implemented in March 2010.

These decreases were partially offset by an increase in clinical trial expenses and a decline in cost reimbursements. Clinical trial expenses, which include services performed by third-party contract research organizations and other vendors, increased by $17.8 million, or 27%, primarily due to increased phase 2 and

phase 3 clinical trial activity for cabozantinib and increased phase 2 clinical trial activity for XL147. These increases were partially offset by reduced activities associated with SEI-related compounds, for which the arrangement ended in 2009, as well as a decline in activities associated with various other compounds. In addition, an increase in research and development funding of $7.0 was recognized as a reduction to research and development expenses in 2009, which primarily related to our 2007 contract research agreement with Agrigenetics, Inc., or Agrigenetics, which ended in 2009. The 2010 research and development funding, which stems from our agreement with a third party relating to the sale of our cell factory business, ended in the second quarter of 2010.

The change in 2009 compared to 2008 resulted primarily from the following:

- Clinical Trials – Clinical trial expenses, which include services performed by third-party contract research organizations and other vendors, decreased by $9.9 million, or 13%, primarily due to the wind down of activities associated with XL647, XL820, XL784 and XL844 clinical trials, the transfer of XL880 to GlaxoSmithKline in 2008, the transfer of XL518 to Genentech in March 2009, and non-clinical toxicology studies conducted in 2008 on XL019. These decreases were partially offset by an increase in phase 2 and phase 3 clinical trial activities for cabozantinib, IND activity for XL388, increased phase 1 clinical trial activity for XL281 and increased phase 1 clinical trial activity related to XL765, XL147 and XL139.
- Personnel – Personnel expense, which includes salaries, bonuses, related fringe benefits, recruiting and relocation costs, decreased by $6.8 million, or 9%, primarily due to a reduction in headcount related to our restructuring in November 2008.
- Laboratory Supplies – Laboratory supplies decreased by $2.6 million, or 15%, primarily due to the decrease in headcount and other cost cutting measures as a result of our November 2008 restructuring plan.
- Cost Reimbursement – Primarily as a result of our contract research agreement with Agrigenetics, we received an increase in research and development funding of $2.3 million that was recognized as a reduction to research and development expense.

We do not track total research and development expenses separately for each of our research and development programs. We group our research and development expenses into three categories: drug discovery, development and other. Our drug discovery group utilizes a variety of high-throughput technologies to enable the rapid discovery, optimization and extensive characterization of lead compounds such that we are able to select development candidates with the best potential for further evaluation and advancement into clinical development. Drug discovery expenses relate primarily to personnel expense, lab supplies and general corporate costs. Our development group leads the development and implementation of our clinical and regulatory strategies and prioritizes disease indications in which our compounds may be studied in clinical trials. Development expenses relate primarily to clinical trial, personnel and general corporate costs. The other category primarily includes stock-based compensation expense.

In addition to reviewing the three categories of research and development expenses described above, we principally consider qualitative factors in making decisions regarding our research and development programs. Such factors include enrollment in clinical trials for our drug candidates, the results of and data from clinical trials, the potential indications for our drug candidates, the therapeutic and commercial potential for our drug candidates and competitive dynamics. We also make our research and development decisions in the context of our overall business strategy, which historically included the pursuit of commercial collaborations with major pharmaceutical and biotechnology companies for the development of our drug candidates. As noted under “— Overview,” we are focusing our resources and development efforts exclusively on cabozantinib in order to maximize the therapeutic and commercial potential of this compound. Our strategy is to aggressively advance cabozantinib through development toward commercialization, and as a result, we expect nearly all of our future research and development expenses to relate to the clinical development of cabozantinib.

The expenditures summarized in the following table reflect total research and development expenses by category, including allocations for general and administrative expense (dollar amounts are presented in millions):

	2010	2009	2008	Inception to date (1)
Drug Discovery	$ 54.1	$ 88.0	$102.5	$ 438.6
Development	142.9	126.8	138.0	581.0
Other	13.7	19.9	16.9	94.1
Total	$210.7	$234.7	$257.4	$1,113.7

(1) Inception is as of January 1, 2006, the date on which we began tracking research and development expenses by category.

While we do not track total research and development expenses separately for each program, beginning in fiscal 2006, we began tracking third party expenditures directly relating to each program as a way of monitoring external costs. Our third party research and development expenditures relate principally to our clinical trial and related development activities, such as preclinical and clinical studies and contract manufacturing, and represent only a portion of the costs related to each program. Third party expenditures for programs initiated prior to the beginning of fiscal 2006 have not been tracked from project inception, and therefore such expenditures from the actual inception for most of our programs are not available. We do not accumulate on a program-specific basis internal research and development expenses, such as salaries and personnel expenses, facilities overhead expenses and external costs not directly attributable to a specific project. Nevertheless, we believe that third party expenditures by program provide a reasonable estimate of the percentage of our total research and development expenses that are attributable to each such program. For fiscal year 2010, the programs representing the greatest portion of our external third party research and development expenditures were cabozantinib (66%), XL147 (14%), XL765 (7%), XL228 (4%) and XL281 (3%). The expenses for these programs were primarily included in the development category of our research and development expenses and exclude the impact of any amounts reimbursed by our partners.

We do not have reliable estimates regarding the timing of our clinical trials. We estimate that typical phase 1 clinical trials last approximately one year, phase 2 clinical trials last approximately one to two years and phase 3 clinical trials last approximately two to four years. However, the length of time may vary substantially according to factors relating to the particular clinical trial, such as the type and intended use of the drug candidate, the clinical trial design and the ability to enroll suitable patients. In general, we will incur increased research and development expenses for compounds that advance in clinical development, whereas expenses will end for compounds that do not warrant further clinical development.

We do not have reliable estimates of total costs for a particular drug candidate to reach the market. Our potential therapeutic products are subject to a lengthy and uncertain regulatory process that may involve unanticipated additional clinical trials and may not result in receipt of the necessary regulatory approvals. Failure to receive the necessary regulatory approvals would prevent us from commercializing the product candidates affected. In addition, clinical trials of our potential products may fail to demonstrate safety and efficacy, which could prevent or significantly delay regulatory approval.

General and Administrative Expenses

Total general and administrative expenses were as follows (dollar amounts are presented in millions):

	Year Ended December 31,		
	2010	2009	2008
General and administrative expenses	$33.0	$34.4	$36.9
Dollar decrease	$ (1.4)	$ (2.5)	$ (8.0)
Percentage decrease	(4)%	(7)%	(18)%

General and administrative expenses consist primarily of personnel expenses, employee stock-based compensation expense, facility costs and consulting and professional expenses, such as legal and accounting fees. The decrease in 2010 from 2009 was primarily due to decreased personnel and facility costs related to our March 2010 restructuring, partially offset by a change in the allocation of overhead expenses as a result of our March restructuring in addition to a slight increase in patent costs.

The decrease in 2009 from 2008 was primarily due to a reduction in headcount related to our restructuring in November 2008, reduced consulting and outside service costs, and other cost saving measures. These decreases were partially offset by an increase in rent and other facility costs associated with our properties.

Collaboration Reimbursement Revenues (Cost-Sharing Expenses)

Total collaboration reimbursement revenues (cost-sharing expenses) were as follows (dollar amounts are presented in millions):

	Year Ended December 31,		
	2010	2009	2008
Collaboration reimbursements (cost-sharing expenses)	$ 27.4	$ (4.6)	$ 0.3
Dollar change	$ 32.0	$ (4.9)	$ 0.3
Percentage change	Not Meaningful	Not Meaningful	Not Meaningful

Collaboration reimbursement revenues (cost-sharing expenses) consist of research and development expenses and reimbursements related to our 2008 cancer collaboration agreement with Bristol Myers-Squibb for cabozantinib and XL281. To the extent that net annual research and development funding payments are expected to be received from Bristol-Myers Squibb, these payments will be presented as collaboration reimbursement revenues. For the year ended December 31, 2009, when net research and development expenses were payable to Bristol-Myers Squibb, these payments were presented as collaboration cost-sharing expenses. For the year ending December 31, 2010, we received net collaboration reimbursements and have recorded collaboration reimbursement revenues of $27.4 million which included the $17.0 million transition payment received from Bristol-Myers Squibb upon termination of our 2008 cancer collaboration with respect to cabozantinib. We do not expect any further collaboration cost-sharing reimbursements to be recognized as revenues with respect to cabozantinib. For the year ended December 31, 2009, we recorded a net payable to Bristol-Myers Squibb, resulting in an increase in operating expenses of $4.6 million.

Restructuring Charge

Total restructuring charge expenses from restructurings plans were as follows (dollar amounts are presented in millions):

	Year Ended December 31,		
	2010	2009	2008
Restructuring charge	$ 32.7	$ —	$ 2.9
Dollar change	$ 32.7	$ (2.9)	$ —
Percentage change	Not Meaningful	Not Meaningful	Not Meaningful

December 2010

On December 1, 2010, we implemented a restructuring plan that resulted in a reduction of our workforce by 143 employees, of which, as of February 4, 2011, 27 employees are continuing to provide services through

various dates in 2011. Further personnel reductions are expected to be made through the end of 2012 as we complete our obligations under collaboration agreements and withdraw resources from completed projects. The restructuring plan is a consequence of our decision to focus our resources and development efforts on the late-stage development and commercialization of our most advanced solely-owned product candidate, cabozantinib.

In connection with the December 2010 restructuring plan, we expect to record an aggregate restructuring charge related to termination benefits and equipment write-downs of approximately $8.4 million, of which $6.9 million was recorded in the fourth quarter of 2010 and the remainder is expected to be recorded in the first three quarters of 2011. This includes an aggregate charge of $0.7 million, $0.5 million of which was recorded in 2010, relating to the modification of certain stock option awards previously granted to the terminated employees, extending the time period over which the employees are allowed to exercise their options through the end of September 2011. In addition, we recorded approximately $1.0 million in impairment charges related to leasehold improvements and excess laboratory equipment.

We expect to incur additional charges in the range of $25 million to $30 million as a result of the December 2010 restructuring plan, including facility-related charges in connection with the anticipated sublease and exit of two of our buildings in South San Francisco, California and $1.4 million related to additional termination benefits. We expect to record the termination benefits and a majority of the facility-related charges as they are determined during the fiscal year 2011. We also plan to auction off any excess equipment, the net proceeds of which may offset some of these future charges. We expect that the December 2010 restructuring plan will result in aggregate cash expenditures in the range of $35 million to $40 million, of which approximately $0.1 million related to termination benefits was paid in the fourth quarter of 2010, approximately $6.4 million related to termination benefits is expected to be paid during the first three quarters of 2011 and the balance, related to facility costs, is expected to be paid through 2017. See Note 8 to the Notes to our Consolidated Financial Statements for additional information.

March 2010

On March 8, 2010, we implemented a restructuring plan that resulted in a reduction of our workforce by approximately 40%, or 270 employees. A small number of the terminated employees were subsequently recalled and the termination of a small group of employees was delayed until February 2011. The remaining impacted employees were terminated immediately upon implementation of the plan or by March 31, 2010. The decision to restructure our operations in March 2010 was based on our early 2010 corporate strategy to focus our efforts on our lead clinical compounds, cabozantinib, XL147 and XL765, by dedicating the majority of our resources to aggressively drive these drug candidates through development towards commercialization.

In connection with the March 2010 restructuring plan, we recorded a charge of approximately $25.8 million in 2010, of which approximately $16.1 million was recorded in the first quarter of 2010 primarily related to termination benefits, which includes the modification of certain stock option awards previously granted to the terminated employees. The modification accelerates the vesting of any stock options that would have vested over the period beginning from cessation of employment through August 5, 2010. Employees also received an additional two months to exercise their options, for which a small charge was taken. The remainder of the charge was principally for the impairment of various assets and for non-cash charges relating to the closure of our facility in San Diego, California and the exit from one of our buildings in South San Francisco, California.

We expect that the March 2010 restructuring plan will result in total cash expenditures of approximately $24.8 million, of which approximately $14.2 million was paid in 2010. The balance will be paid over an additional five years and primarily relates to net payments due under the lease for the building we exited in South San Francisco. See Note 8 to the Notes to our Consolidated Financial Statements for additional information.

The restructuring charges that we expect to incur in connection with our March and December 2010 restructuring plans are subject to a number of assumptions, and actual results may materially differ. We may also incur other material charges not currently contemplated due to events that may occur as a result of, or associated with, the restructuring plans. See Note 8 to the Notes to our Consolidated Financial Statements for additional information.

Total Other Income (Expense), net

Total other income (expense), net was as follows (dollar amounts are presented in millions):

	Year Ended December 31,		
	2010	2009	2008
Interest income and other, net	$ 0.1	$ 1.5	$ 5.9
Interest expense	(9.3)	(12.7)	(6.8)
Gain on sale of businesses	8.2	2.1	4.6
Loss on deconsolidation of Symphony Evolution, Inc.	—	(9.8)	—
Total other income (expense), net	$ (1.0)	$(18.9)	$ 3.7
Dollar increase (decrease)	$17.9	$(22.6)	$(42.3)

Total other income (expense), net consists primarily of interest income earned on our marketable securities and gains on asset sales, offset by interest expense incurred on our notes payable, bank obligations, capital lease obligations, convertible notes and loans and our credit facility. The change in total other income (expense), net for 2010 compared to 2009, resulted primarily from the recording of a $9.8 million loss upon deconsolidation of SEI as a result of the expiration of our purchase option for SEI in June 2009 as well as an $8.2 million gain in 2010 relating to the sale of our plant trait business and our cell factory business. In addition, interest expense declined with the termination of our facility agreement with Deerfield in November 2009 and the payment of $37.0 million in cash to GlaxoSmithKline in October 2010 as the second of three installments of principal and accrued interest due under our loan agreement with GlaxoSmithKline. This was partially offset by increased interest in association with the new Deerfield loan entered into in June 2010.

The change in total other income (expense), net for 2009 compared to 2008 resulted primarily from the recording of a $9.8 million loss upon deconsolidation of SEI as a result of the expiration of our purchase option for SEI in June 2009 and $5.2 million in interest expense relating to the termination of our facility agreement with Deerfield in November 2009. Lower interest rates led to a decline in interest income of $4.9 million and we also recorded a net adjustment of $2.5 million to the gain on the sale of our plant trait business, and the sale of our 80.1% stake in Artemis Pharmaceuticals GmbH, which represents the difference between the $4.6 million recorded in 2008 and the $2.1 million recorded in 2009.

Income Tax Benefit (Provision)

	Year Ended December 31,		
	2010	2009	2008
Tax benefit	$ 0.1	$ 1.3	$ —
Dollar change	$ (1.2)	$ 1.3	$ —
Percentage change	Not Meaningful	Not Meaningful	Not Meaningful

The income tax benefit for 2010 is an adjustment of $0.1 million relating to $1.3 million tax credit recorded in 2009 as a result of the Housing and Economic Recovery Act of 2008. This act was not extended beyond 2009, so no further tax benefits are expected. We have incurred net losses since inception and have therefore not recorded any tax provision for 2010, 2009 or 2008.

Under the Internal Revenue Code and similar state provisions, certain substantial changes in our ownership could result in an annual limitation on the amount of net operating loss and credit carryforwards that can be utilized in future years to offset future taxable income. Annual limitations may result in the expiration of net operating loss and credit carryforwards before they are used.

Loss attributed to noncontrolling interest

In 2005, we licensed three of our compounds, XL647, XL784 and XL999, to SEI in return for an $80.0 million investment for the clinical development of these compounds. As part of the agreement, we received an exclusive purchase option to acquire all of the equity of SEI, thereby allowing us to reacquire XL647, XL784 and XL999 at our sole discretion. The purchase option expired on June 9, 2009. The expiration of the purchase option triggered a reconsideration event regarding our need to consolidate SEI, a variable interest entity. Upon the expiration of the purchase option, we no longer held a variable interest in the variable interest entity. Accordingly, we deconsolidated SEI and derecognized the SEI assets, liabilities and noncontrolling interest from our financial statements. For the years ended December 31, 2010, 2009, and 2008, the losses attributed to the noncontrolling interest holders were zero, $4.3 million, and $12.7 million, respectively.

The decrease in 2009 from 2008 in the losses attributable to noncontrolling interest holders was due to the deconsolidation of SEI in June 2009. The decrease in 2008 from 2007 in the losses attributed to the noncontrolling interest holders was primarily due to decreased development expenses associated with XL784 and XL999.

Liquidity and Capital Resources

Sources and Uses of Cash

The following table summarizes our cash flow activities for the years ended December 31, 2010, 2009 and 2008 (dollar amounts are presented in thousands):

	Year Ended December 31,		
	2010	2009	2008
Consolidated net loss	$ (92,330)	$(139,557)	$(175,570)
Adjustments to reconcile net loss to net cash used in operating activities	33,615	44,894	32,510
Changes in operating assets and liabilities	(42,333)	80,072	133,376
Net cash used in operating activities	(101,048)	(14,591)	(9,684)
Net cash (used in) provided by investing activities	(19,569)	(112,322)	121,295
Net cash provided by (used in) financing activities	131,261	(33,989)	630
Net increase (decrease) in cash and cash equivalents	10,644	(160,902)	112,241
Cash and cash equivalents, at beginning of year	86,796	247,698	135,457
Cash and cash equivalents, at end of year	$ 97,440	$ 86,796	$ 247,698

To date, we have financed our operations primarily through the sale of equity, payments and loans from collaborators and banks, and equipment financing facilities. We have also financed certain of our research and development activities under our agreements with various collaborators and SEI. As of December 31, 2010, we had $256.4 million in cash and cash equivalents, marketable securities and long-term investments, which included restricted cash and investments of $6.4 million and approximately $96.9 million of cash and cash equivalents and marketable securities that we are required to maintain on deposit with Silicon Valley Bank pursuant to covenants in our loan and security agreement with Silicon Valley Bank.

Operating Activities

Our operating activities used cash of $101.0 million for the year ended December 31, 2010, compared to $14.6 million for the year ended December 31, 2009, and $9.7 million for 2008. Cash used in operating activities during 2010 related primarily to our consolidated net loss of $92.3 million, to decreases in deferred revenues of $42.9 million, to declines in accounts payable and other accrued expenses and gains recognized in association with our transaction with Agrigenetics and for the sale of our plant trait business. These uses of cash were partially offset by non-cash charges totaling $38.6 million relating to stock-based compensation, depreciation and amortization, accretion of implied interest under our 2010 note purchase agreement with Deerfield, and impairment of assets due to our March and December 2010 restructuring plans. In addition, we recognized a restructuring liability of $14.3 million primarily relating to the exit from one of our South San Francisco buildings in connection with our March 2010 restructuring plan and termination benefits from our December 2010 restructuring plan, in addition to a decrease in other receivables.

Cash used in operating activities during 2009 related primarily to our consolidated net loss of $139.6 million offset by increases in deferred revenues and other non-cash charges. The decrease in our consolidated net loss was driven by an increase in revenues primarily due to our 2009 collaboration with sanofi-aventis relating to XL147 and XL765 and our 2008 cancer collaboration with Bristol-Myers Squibb relating to cabozantinib and XL281, in addition to an overall decrease in operating expenses. These uses of cash were primarily offset by a net increase in deferred revenue of $85.8 million, primarily driven by receipt of an upfront cash payment of $140.0 million related to the global license agreement and collaboration with sanofi-aventis, partially offset by a decrease in deferred revenue from the ratable recognition of deferred revenues over the period of continuing involvement from our various collaborations. In addition, cash uses were offset by non-cash charges totaling $45.3 million relating to stock-based compensation, depreciation and amortization, and a $9.8 million loss that we recorded upon deconsolidation of SEI.

Cash used in operating activities during 2008 related primarily to our consolidated net loss of $175.6 million. The increase in our net loss was primarily driven by the continued advancement and expansion of our clinical trial activity in addition to the inclusion in 2007 of the $18.8 million gain on the sale of assets recognized in conjunction with our transaction with Agrigenetics, which was accounted for as a sale of our plant trait business, and $18.1 million gain on the sale of 80.1% of Artemis. These uses of cash were primarily offset by a net increase in deferred revenue of $132.8 million primarily driven by receipt of an upfront cash payment of $195.0 million related to the cabozantinib and XL281 collaboration with Bristol-Myers Squibb, partially offset by a decrease in deferred revenue from the ratable recognition of deferred revenues over the period of continuing involvement from our various collaborations. In particular, we accelerated $18.5 million in previously deferred revenue relating to the conclusion of our collaboration with GlaxoSmithKline, for which the development term concluded on October 27, 2008. In addition, cash uses were offset by increases in accounts payable and other accrued expenses as well as non-cash charges totaling $36.1 million relating to stock-based compensation and depreciation and amortization.

While cash used in operating activities is primarily driven by our consolidated net loss, operating cash flows differ from our consolidated net loss as a result of differences in the timing of cash receipts and earnings recognition and non-cash charges. We expect to use cash for operating activities for at least the next several years as we continue to incur net losses associated with our research and development activities, primarily with respect to manufacturing and development expenses for cabozantinib.

Investing Activities

Our investing activities used cash of $19.6 million for the year ended December 31, 2010, compared to cash used of $112.3 million for the year ended December 31, 2009, and cash provided of $121.3 million for 2008.

Cash used by investing activities for 2010 was primarily driven by the purchase of $167.3 million of marketable securities and certificates of deposit. These uses of cash were offset by proceeds from the maturity of

marketable securities of $127.6 million in addition to the sale of investments prior to maturity of $12.8 million and proceeds of $9.0 million associated with our 2007 transaction with Agrigenetics and the sale of our cell factory business in 2010. The proceeds provided by the sale and maturity of our investments were used to fund our operations. Additionally, in line with our focus on managing our cash resources, purchase of property and equipment were significantly lower in 2010 and 2009 than compared to prior years.

Cash used in investing activities for 2009 was primarily driven by purchases of marketable securities of $161.2 million. Most of the cash invested in marketable securities was generated by payments received from collaborators. These uses of cash were partially offset by proceeds from maturities of marketable securities and on sales of investments held by SEI, for a combined cash inflow of $54.3 million used to fund our operations.

Cash provided in investing activities for 2008 was primarily driven by proceeds from the sale and maturities of marketable securities of $110.0 million and the sale of $16.9 million of investments held by SEI, partially offset by purchases of property and equipment of $15.2 million. In addition, in September 2008 we received a $4.5 million anniversary payment plus an additional $4.5 million of contingent consideration in association with our transaction with Agrigenetics. The proceeds provided by maturities or sale of our marketable securities and the sale of investments by SEI were used to fund our operations. We expect to continue to make moderate investments in property and equipment to support our operations.

Financing Activities

Our financing activities provided cash of $131.3 million for the year ended December 31, 2010, compared to cash used of $34.0 million for the year ended December 31, 2009, and cash provided of $0.6 million for 2008.

Cash provided by our financing activities for 2010 was primarily due to our loan agreement with Silicon Valley Bank, the sale of secured convertible notes to Deerfield for proceeds of $165.0 million, proceeds from the sale of Exelixis stock under our employee stock purchase plan of $3.1 million and proceeds from employee option exercises of $2.7 million. These cash inflows were offset by principal payments on notes payable and bank obligations of $39.6 million.

Cash used by our financing activities for 2009 was primarily due to principal payments on notes payable and bank obligations of $43.1 million partially offset by proceeds from notes payable and bank obligations of $5.0 million and proceeds from employee stock purchase plan purchases of $3.8 million.

Cash provided by our financing activities for 2008 was primarily due to proceeds of $13.6 million from our notes payable and bank obligations and $4.5 million from the exercise of stock options and the issuance of stock under the employee stock purchase plan. These increases were partially offset by principal payments on notes payable and bank obligations of $17.5 million.

Proceeds from collaboration loans and common stock issuances are used for general working capital purposes, such as research and development activities and other general corporate purposes. Over the next several years, we are required to make certain payments on notes, bank obligations and our loan from GlaxoSmithKline. In June 2008, we entered into the facility agreement with Deerfield for which Deerfield agreed to loan us up to $150.0 million, subject to certain conditions. The facility agreement was terminated in November 2009, resulting in a $5.2 million charge to interest expense relating to a cancellation fee and outstanding warrants. We did not draw on the facility agreement at any time prior to its termination. In 2010, we amended our loan and security agreement with Silicon Valley Bank to provide for a new seven-year term loan in the amount of $80.0 million. In addition, we entered into a note purchase agreement with Deerfield pursuant to which we sold to Deerfield, an aggregate $124.0 million initial principal amount of our secured convertible notes for an aggregate purchase price of $80.0 million, less closing fees and expenses of approximately $2.0 million. See Note 9 for additional details on these agreements.

Cash Requirements

We have incurred net losses since inception, including a net loss attributable to Exelixis, Inc. of $92.3 million for the year ended December 31, 2010. While we expect our net loss in 2011 to decrease compared to 2010, we anticipate negative operating cash flow for the foreseeable future. As of December 31, 2010, we had $256.4 million in cash and cash equivalents, marketable securities and long-term investments, which included restricted cash and investments of $6.4 million and approximately $96.9 million of cash and cash equivalents and marketable securities that we are required to maintain on deposit with Silicon Valley Bank pursuant to covenants in our loan and security agreement with Silicon Valley Bank. We anticipate that our current cash and cash equivalents, marketable securities, long-term investments and funding that we expect to receive from existing collaborators will enable us to maintain our operations for a period of at least 12 months following the filing date of this report. However, our future capital requirements will be substantial and will depend on many factors that may require us to use available capital resources significantly earlier than we currently anticipate. These factors include:

- the cabozantinib development program—We are focusing our resources and development efforts on cabozantinib, our most advanced solely-owned product candidate, which is being studied in a variety of tumor types, with the goal of rapidly commercializing the compound. The current clinical program for cabozantinib is focused on the treatment of metastatic castration-resistant prostate cancer and ovarian cancer, based on encouraging interim data that has emerged from the RDT. Data from the RDT were released at the ASCO Annual Meeting in June 2010 and demonstrated broad activity for cabozantinib across multiple tumor types, in particular, metastatic castration-resistant prostate, ovarian, non-small cell lung and hepatocellular cancers and hepatoma. Updated interim data presented at the 2010 EORTC Symposium and at the ASCO 2011 Genitourinary Cancers Symposium in February 2011, suggest that cabozantinib has a novel and differentiated clinical profile in metastatic castration-resistant prostate cancer and ovarian cancer. The data presented indicate that cabozantinib has shown novel activity against bone and soft tissue lesions in metastatic castration-resistant prostate cancer. Another priority for us will be to generate additional data in the various other cohorts of the RDT, including melanoma, breast cancer, non-small cell lung cancer and hepatocellular cancer, to support further prioritization of our clinical and commercial options. We also are focusing our efforts on our ongoing phase 3 clinical trial of cabozantinib as a potential treatment for medullary thyroid cancer. In addition, we are conducting ongoing exploratory clinical trials for cabozantinib in other tumor types, including renal cell carcinoma. Our development plan for cabozantinib is dependent on the extent of our available financial resources. There can be no assurance that we will have sufficient financial resources independently or through other arrangements to fund a broad development plan for cabozantinib. If adequate funds are not available, we may be required to delay, discontinue or elect not to pursue one or more trials for cabozantinib;
- repayment of our loan from GlaxoSmithKline—In October 2002, we entered into a collaboration agreement with GlaxoSmithKline. As part of the collaboration, we entered into a loan and security agreement with GlaxoSmithKline, pursuant to which we borrowed $85.0 million for use in our efforts under the collaboration. The loan bears interest at a rate of 4.0% per annum and is secured by certain intellectual property, technology and equipment created or utilized pursuant to the collaboration. On October 27, 2010, we paid approximately $37.0 million in cash to GlaxoSmithKline as the second of three installments of principal and accrued interest due under the loan agreement. As of December 31, 2010, the aggregate principal and interest outstanding under the loan was $35.9 million. The final installment of principal and accrued interest under the loan is due on October 27, 2011. Repayment of all or any of the amounts advanced to us under the loan agreement may, at our election, be made in the form of our common stock at fair market value, subject to certain conditions, or cash. In the event the market price for our common stock is depressed, we may not be able to repay the loan in full using shares of our common stock due to restrictions in the agreement on the number of shares we may issue. In addition, the issuance of shares of our common stock to repay the loan may result in significant dilution to our stockholders. As a result, we may need to obtain additional funding to satisfy our

repayment obligations. However, there can be no assurance that we will have sufficient funds to repay amounts outstanding under the loan when due or that we will satisfy the conditions to our ability to repay the loan in shares of our common stock;

- repayment of the notes under our note purchase agreement with Deerfield—On June 2, 2010, we entered into a note purchase agreement with Deerfield, pursuant to which, on July 1, 2010, we sold to Deerfield an aggregate of $124.0 million initial principal amount of our secured convertible notes, due June 2015, for an aggregate purchase price of $80.0 million, less closing fees and expenses. The outstanding principal amount of the notes bears interest in the annual amount of $6.0 million, payable quarterly in arrears. We will be required to make mandatory prepayments on the notes on an annual basis in 2013, 2014 and 2015 equal to 15% of our collaborative arrangements received during the prior fiscal year, subject to a maximum annual prepayment amount of $27.5 million and, for payments due in January 2013 and 2014, a minimum prepayment amount of $10.0 million. We may also prepay all or a portion (not less than $5.0 million) of the principal amount of the notes at an optional prepayment price based on a discounted principal amount (during the first three years of the term, subject to a prepayment premium) determined as of the date of prepayment, plus accrued and unpaid interest, plus in the case of a prepayment of the full principal amount of the notes (other than prepayments upon the occurrence of specified transactions relating to a change of control or a substantial sale of assets), all accrued interest that would have accrued between the date of such prepayment and the next anniversary of the note purchase agreement. In lieu of making any optional or mandatory prepayment in cash, at any time after July 1, 2011, subject to certain limitations, we have the right to convert all or a portion of the principal amount of the notes into, or satisfy all or any portion of the optional prepayment amounts or mandatory prepayment amounts (other than the first $10.0 million of mandatory prepayments required in 2013 and 2014) with shares of our common stock. Additionally, in lieu of making any payment of accrued and unpaid interest in respect of the notes in cash, at any time after July 1, 2011, subject to certain limitations, we may elect to satisfy any such payment with shares of our common stock. The number of shares of our common stock issuable upon conversion or in settlement of principal and interest obligations will be based upon the discounted trading price of our common stock over a specified trading period. In the event the market price for our common stock is depressed, we may not be able to convert the principal amount of the notes or satisfy our payment obligations in full using shares of our common stock due to restrictions in the agreement on the number of shares we may issue. In addition, the issuance of shares of our common stock to convert the notes or satisfy our payment obligations may result in significant dilution to our stockholders. As a result, we may need to obtain additional funding to satisfy our repayment obligations. There can be no assurance that we will have sufficient funds to repay the notes or satisfy our payment obligations under the note purchase agreement when due or that we will comply with the conditions to our ability to convert the principal amount of the notes into or satisfy our payment obligations with shares of our common stock;
- repayment of our loan from Silicon Valley Bank—On June 2, 2010, we amended our loan and security agreement with Silicon Valley Bank to provide for a new seven-year term loan in an amount of $80.0 million. The principal amount outstanding under the term loan accrues interest at 1.0% per annum, which interest is due and payable monthly. We are required to repay the term loan in one balloon principal payment, representing 100% of the principal balance and accrued and unpaid interest, on May 31, 2017. We have the option to prepay all, but not less than all, of the amounts advanced under the term loan, provided that we pay all unpaid accrued interest thereon that is due through the date of such prepayment and the interest on the entire principal balance of the term loan that would otherwise have been paid after such prepayment date until the maturity date of the term loan. In accordance with the terms of the loan and security agreement, we are also required to maintain on deposit an amount equal to at least 100% of the outstanding principal balance of the term loan at all times as support for our obligations under the loan and security agreement. As a result, although the proceeds of the new term loan improve our ability to comply with minimum working capital and cash covenants imposed by our debt instruments with GlaxoSmithKline and Deerfield and thus provide us with more flexibility to use our other cash resources, the proceeds of the term loan cannot directly be used to satisfied our

other obligations without causing a default under our loan and security agreement with Silicon Valley Bank;

- the level of payments received under existing collaboration agreements, licensing agreements and other arrangements;
- the degree to which we conduct funded development activity on behalf of partners to whom we have out-licensed compounds;
- whether we enter into new collaboration agreements, licensing agreements or other arrangements (including, in particular, with respect to cabozantinib) that provide additional capital;
- our ability to control costs;
- our ability to remain in compliance with, or amend or cause to be waived, financial covenants contained in agreements with third parties;
- the amount of our cash and cash equivalents and marketable securities that serve as collateral for bank lines of credit;
- future clinical trial results;
- our need to expand our product and clinical development efforts;
- our ability to share the costs of our clinical development efforts with third parties;
- the cost and timing of regulatory approvals;
- the cost of clinical and research supplies of our product candidates;
- the effect of competing technological and market developments;
- the filing, maintenance, prosecution, defense and enforcement of patent claims and other intellectual property rights; and
- the cost of any acquisitions of or investments in businesses, products and technologies.

One or more of these factors or changes to our current operating plan may require us to use available capital resources significantly earlier than we anticipate. If our capital resources are insufficient to meet future capital requirements, we will have to raise additional funds. We may seek to raise funds through the sale of equity or debt securities or through external borrowings. In addition, we may enter into additional strategic partnerships or collaborative arrangements for the development and commercialization of our compounds. However, we may be unable to raise sufficient additional capital when we need it, on favorable terms or at all. The sale of equity or convertible debt securities in the future may be dilutive to our stockholders, and debt-financing arrangements may require us to pledge certain assets and enter into covenants that would restrict certain business activities or our ability to incur further indebtedness, and may contain other terms that are not favorable to our stockholders or us. If we are unable to obtain adequate funds on reasonable terms, we may be required to curtail operations significantly or obtain funds by entering into financing, supply or collaboration agreements on unattractive terms or we may be required to relinquish rights to technology or product candidates or to grant licenses on terms that are unfavorable to us.

We may need to obtain additional funding in order to stay in compliance with financial covenants contained in agreements with third parties. As described below, the terms of our debt owed to GlaxoSmithKline, Deerfield and Silicon Valley Bank each contain covenants requiring us to maintain specified cash balances or levels of working capital:

- GlaxoSmithKline—Our loan and security agreement with GlaxoSmithKline contains financial covenants pursuant to which our “working capital” (the amount by which our current assets exceed our current liabilities as defined by the agreement, which excludes restricted cash and deferred revenue)

must not be less than $25.0 million and our "cash and investments" (total cash, cash equivalents and investments as defined by the agreement, which excludes restricted cash) must not be less than $50.0 million. As of December 31, 2010, our "working capital" was $83.8 million and our "cash and investments" were $250.0 million. If we default on the financial covenants under the loan and security agreement, GlaxoSmithKline may, among other remedies, declare immediately due and payable all obligations under the loan and security agreement. Outstanding borrowings and accrued interest under the loan and security agreement totaled $35.9 million at December 31, 2010. The final installment of principal and accrued interest under the loan is due on October 27, 2011.

- Deerfield—Our note purchase agreement with Deerfield contains an event of default that would be triggered if our "cash and cash equivalents" fall below $10.0 million as of December 30, 2011, subject to a cure period. Upon such an event of default, Deerfield may declare all or a portion of the Put Price to be immediately due and payable. "Cash and cash equivalents" for purposes of our note purchase agreement includes our total cash, cash equivalents and short-term and long-term marketable securities. As of December 31, 2010, our "cash and cash equivalents" were $256.4 million.
- Silicon Valley Bank—Our loan and security agreement with Silicon Valley Bank requires that we maintain $80.0 million at all times on deposit in a non-interest bearing demand deposit account(s) as support for our obligations under the loan and security agreement. If the balance on our deposit account(s) falls below $80.0 million for more than 10 days, Silicon Valley Bank may declare all or part of the obligations under the loan and security agreement to be immediately due and payable and stop advancing money or extending credit to us. Our loan and security agreement with Silicon Valley Bank also contains similar deposit covenants with respect to funds drawn under our equipment lines of credit.

If we cannot raise additional capital in order to remain in compliance with our financial covenants or if we are unable to renegotiate such covenants and the lender exercises its remedies under the agreement, we would not be able to operate under our current operating plan.

We have contractual obligations in the form of operating leases, notes payable and licensing agreements. The following chart details our contractual obligations as of December 31, 2010 (dollar amounts are presented in thousands):

	Payments Due by Period				
Contractual Obligations(1)	Total	Less than 1 year	1-3 Years	4-5 years	After 5 years
Notes payable and bank obligations	$101,523	9,755	8,043	2,576	$ 81,149
Convertible loans(1) (2)	160,895	36,895	27,500	96,500	—
Operating leases (3)	113,644	16,900	34,054	34,829	27,861
Total contractual cash obligations	$376,062	$63,550	$69,597	$133,905	$109,010

(1) Includes total interest payable at maturity on convertible loans to GlaxoSmithKline of $8.0 million. The debt and interest payable can be repaid in cash or common stock at our election. The development term under our collaboration with GlaxoSmithKline concluded on October 27, 2008. On October 27, 2010, we paid approximately $37.0 million in cash to GlaxoSmithKline as the second of three installments of principal and accrued interest due under the loan agreement. After giving effect to all repayments made, as of December 31, 2010, the aggregate principal and interest outstanding under the loan was $35.9 million. The third installment of principal and accrued interest under the loan is due on October 27, 2011.

(2) See Note 9 to the Notes to our Consolidated Financial Statements regarding the terms of the Deerfield financing.

(3) The operating lease payments are net of $9.7 million to be received through 2015 in connection with our sublease for one of our South San Francisco buildings.

Recent Accounting Pronouncements

In October 2009, the FASB issued ASU No. 2009-13, Revenue Recognition – *Multiple Deliverable Revenue Arrangements* ("ASU 2009-13"). ASU 2009-13 provides application guidance on whether multiple deliverables exist, how the deliverables should be separated and how the consideration should be allocated to one or more units of accounting. This update establishes a selling price hierarchy for determining the selling price of a deliverable. The selling price used for each deliverable will be based on vendor-specific objective evidence, if available, third-party evidence if vendor-specific objective evidence is not available, or estimated selling price if neither vendor-specific or third-party evidence is available. We expect to adopt this guidance prospectively beginning on January 1, 2011. Under ASU 2009-13, we may be required to exercise considerable judgment in determining the estimated selling price of delivered items under new agreements and our revenue under new agreements may be more accelerated as compared to the prior accounting standard. As such, the adoption of ASU 2009-13 could have a material impact on our financial statements going forward.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements (as defined by applicable SEC regulations) that are reasonably likely to have a current or future material effect on our financial condition, results of operations, liquidity, capital expenditures or capital resources, except warrants and stock options. Our off-balance sheet arrangements are described in further detail in Notes 10 and 11 of the Notes to our Consolidated Financial Statements.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our exposure to market risk for changes in interest rates relates primarily to our investment portfolio and our long-term debt. As of December 31, 2010, we had cash and cash equivalents, marketable securities, long-term investments and restricted cash and investments of $256.4 million. Our marketable securities and our investments are subject to interest rate risk, and our interest income may fluctuate due to changes in U.S. interest rates. We manage market risk through diversification requirements mandated by our investment policy, which limits the amount of our portfolio that can be invested in a single issuer. We limit our credit risk by limiting purchases to high-quality issuers. At December 31, 2010 and 2009, we had debt outstanding of $208.5 million and $79.6 million, respectively. Our payment commitments associated with these debt instruments are primarily fixed and are comprised of interest payments, principal payments, or a combination of both. The fair value of our debt will fluctuate with movements of interest rates. We have estimated the effects on our interest rate sensitive assets and liabilities based on a one percentage point hypothetical adverse change in interest rates as of December 31, 2010 and December 31, 2009. As of December 31, 2010 and December 31, 2009, a decrease in the interest rates of one percentage point would have had a net adverse change in the fair value of interest rate sensitive assets and liabilities of $9.7 million and $0.3 million, respectively.

In addition, we have exposure to fluctuations in certain foreign currencies in countries in which we conduct clinical trials. Most of our foreign expenses incurred are associated with establishing and conducting clinical trials for cabozantinib and various other compounds in our pipeline at sites outside of the United States. Our agreements with the foreign sites that conduct such clinical trials generally provide that payments for the services provided will be calculated in the currency of that country, and converted into U.S. dollars using various exchange rates based upon when services are rendered or the timing of invoices. When the U.S. dollar weakens against foreign currencies, the U.S. dollar value of the foreign-currency denominated expense increases, and when the U.S. dollar strengthens against these currencies, the U.S. dollar value of the foreign-currency denominated expense decreases. As of December 31, 2010, approximately $3.1 million of our clinical accrual balance related to foreign currencies. As of December 31, 2010, an adverse change of one percentage point in the in foreign currency exchange rates would have resulted in a net loss of $31,000. We did not incur any gains or losses relating to foreign exchange fluctuations for the fiscal year ended December 31, 2010 and there were no material clinical amounts exposed to foreign currencies for the period ending December 31, 2009.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

EXELIXIS, INC.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders of Exelixis, Inc.

We have audited the accompanying consolidated balance sheets of Exelixis, Inc. as of December 31, 2010 and January 1, 2010, and the related consolidated statements of operations, stockholders' equity (deficit) and cash flows for each of the three fiscal years in the period ended December 31, 2010. These financial statements are the responsibility of Exelixis, Inc.'s management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Exelixis, Inc. at December 31, 2010 and January 1, 2010, and the consolidated results of its operations and its cash flows for each of the three fiscal years in the period ended December 31, 2010, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of Exelixis, Inc.'s internal control over financial reporting as of December 31, 2010, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 22, 2011 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Palo Alto, California
February 22, 2011

EXELIXIS, INC.

CONSOLIDATED BALANCE SHEETS
(in thousands, except share data)

	December 31, 2010	December 31, 2009
ASSETS		
Current assets:		
Cash and cash equivalents	$ 97,440	$ 86,796
Marketable securities	65,224	116,290
Other receivables	5,896	11,864
Prepaid expenses and other current assets	14,926	15,050
Total current assets	183,486	230,000
Restricted cash and investments	6,399	6,444
Long-term investments	87,314	11,463
Property and equipment, net	15,811	29,392
Goodwill	63,684	63,684
Other assets	4,096	2,427
Total assets	$ 360,790	$ 343,410
LIABILITIES AND STOCKHOLDERS' DEFICIT		
Current liabilities:		
Accounts payable	$ 2,046	$ 7,403
Accrued clinical trial liabilities	30,975	24,000
Other accrued liabilities	16,797	16,399
Accrued compensation and benefits	12,078	16,677
Current portion of notes payable and bank obligations	8,848	11,204
Current portion of convertible loans	28,900	28,050
Deferred revenue	100,297	103,385
Total current liabilities	199,941	207,118
Notes payable and bank obligations	87,314	11,463
Convertible loans	83,396	28,900
Other long-term liabilities	15,992	17,325
Deferred revenue	202,472	242,329
Total liabilities	589,115	507,135
Commitments (Note 13)		
Stockholders' deficit:		
Preferred stock, $0.001 par value, 10,000,000 shares authorized and no shares issued	—	—
Common stock, $0.001 par value; 200,000,000 shares authorized; issued and outstanding: 109,287,160 and 107,918,334 shares at December 31, 2010 and 2009, respectively	109	108
Additional paid-in-capital	953,608	925,736
Accumulated other comprehensive income	12	155
Accumulated deficit	(1,182,054)	(1,089,724)
Total stockholders' deficit	(228,325)	(163,725)
Total liabilities and stockholders' deficit	$ 360,790	$ 343,410

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

EXELIXIS, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data)

	Year Ended December 31,		
	2010	2009	2008
Revenues:			
Contract	$ 61,271	$ 54,141	$ 70,746
License	96,363	97,618	46,793
Collaboration reimbursement	27,411	—	320
Total revenues	185,045	151,759	117,859
Operating expenses:			
Research and development	210,678	234,702	257,390
General and administrative	33,020	34,382	36,892
Collaboration cost sharing	—	4,582	—
Restructuring charge	32,744	—	2,890
Total operating expenses	276,442	273,666	297,172
Loss from operations	(91,397)	(121,907)	(179,313)
Other income (expense):			
Interest income and other, net	138	1,510	5,935
Interest expense	(9,340)	(12,672)	(6,762)
Gain on sale of businesses	8,197	2,052	4,570
Loss on deconsolidation of Symphony Evolution, Inc.	—	(9,826)	—
Total other income (expense), net	(1,005)	(18,936)	3,743
Consolidated loss before taxes	(92,402)	(140,843)	(175,570)
Tax benefit	72	1,286	—
Consolidated net loss	(92,330)	(139,557)	(175,570)
Loss attributed to noncontrolling interest	—	4,337	12,716
Net loss attributable to Exelixis, Inc.	$ (92,330)	$(135,220)	$(162,854)
Net loss per share, basic and diluted, attributable to Exelixis, Inc.	$ (0.85)	$ (1.26)	$ (1.54)
Shares used in computing basic and diluted loss per share amounts	108,522	107,073	105,498

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

EXELIXIS, INC.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)
(in thousands, except share data)

	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Income	Accumulated Deficit	Non-Controlling Interest	Total Stockholders' Equity (Deficit)
Balance at December 31, 2007	104,744,732	$ 105	$ 863,127	$ 499	$ (791,650)	$ 13,430	$ 85,511
Consolidated net loss	—	—	—	—	(162,854)	(12,716)	(175,570)
Change in unrealized gains on available-for-sale securities	—	—	—	(499)	—	—	(499)
Comprehensive loss							(176,069)
Issuance of common stock under stock plans	1,586,451	1	7,951	—	—	—	7,952
Issuance of warrants to Deerfield	—		3,438	—	—	—	3,438
Stock-based compensation expense	—	—	22,907	—	—	—	22,907
Balance at December 31, 2008	106,331,183	106	897,423	—	(954,504)	714	(56,261)
Consolidated net loss	—	—	—	—	(135,220)	(4,337)	(139,557)
Change in unrealized gains on available-for-sale securities	—	—	—	155	—	—	155
Comprehensive loss							(139,402)
Issuance of common stock under stock plans	1,587,151	2	5,407	—	—	—	5,409
Deconsolidation of Symphony Evolution Inc.	—	—		—	—	3,623	3,623
Stock-based compensation expense	—	—	22,906	—	—	—	22,906
Balance at December 31, 2009	107,918,334	108	925,736	155	(1,089,724)	—	(163,725)
Consolidated net loss	—	—	—	—	(92,330)		(92,330)
Change in unrealized gains on available-for-sale securities	—	—	—	(143)	—	—	(143)
Comprehensive loss							(92,473)
Issuance of common stock under stock plans	1,368,826	1	6,760	—	—	—	6,761
Stock-based compensation expense	—	—	21,112	—	—	—	21,112
Balance at December 31, 2010	109,287,160	$ 109	$ 953,608	$ 12	$ (1,182,054)	$ —	$ (228,325)

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

EXELIXIS, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Year Ended December 31,		
	2010	2009	2008
Cash flows from operating activities:			
Consolidated net loss	$ (92,330)	$(139,557)	$(175,570)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	10,543	12,595	13,227
Stock-based compensation expense	21,112	22,906	22,907
Impairment of assets	3,327	—	—
Accretion of debt discount	3,596	—	—
Gain on sale of plant trait business and Artemis Pharmaceuticals	(8,197)	(2,052)	(4,570)
Loss on deconsolidation of Symphony Evolution, Inc.	—	9,826	—
Other	3,234	1,619	946
Changes in assets and liabilities:			
Other receivables	5,968	(8,505)	201
Prepaid expenses and other current assets	(66)	(7,338)	(1,562)
Other assets	(1,807)	6,424	(2,775)
Accounts payable and other accrued expenses	(9,444)	9,008	7,036
Restructure liability	14,281	—	—
Other long-term liabilities	(8,320)	(5,294)	(2,304)
Deferred revenue	(42,945)	85,777	132,780
Net cash used in operating activities	(101,048)	(14,591)	(9,684)
Cash flows from investing activities:			
Purchases of investments held by Symphony Evolution, Inc.	—	(49)	(707)
Proceeds on sale of investments held by Symphony Evolution, Inc.	—	4,497	16,939
Purchases of property and equipment	(1,811)	(5,908)	(15,205)
Proceeds on sale of property and equipment	165	—	—
Proceeds on sale of business	9,000	2,200	9,000
Decrease (increase) in restricted cash and investments	45	(2,429)	3,223
Proceeds from sale of marketable securities	12,780	766	58,818
Proceeds from maturities of marketable securities	127,569	49,767	51,181
Purchases of marketable securities	(167,317)	(161,166)	(1,954)
Net cash (used in) provided by investing activities	(19,569)	(112,322)	121,295
Cash flows from financing activities:			
Proceeds from exercise of stock options and warrants	2,684	273	310
Proceeds from employee stock purchase plan	3,132	3,826	4,154
Proceeds from notes payable and bank obligations	165,008	5,002	13,619
Principal payments on notes payable and bank obligations	(39,563)	(43,065)	(17,453)
Repayments, net from deconsolidation of Symphony Evolution, Inc.	—	(25)	—
Net cash provided by (used in) financing activities	131,261	(33,989)	630
Net increase (decrease) in cash and cash equivalents	10,644	(160,902)	112,241
Cash and cash equivalents, at beginning of year	86,796	247,698	135,457
Cash and cash equivalents, at end of year	$ 97,440	$ 86,796	$ 247,698
Supplemental cash flow disclosure:			
Cash paid for interest	$ 11,059	$ 10,532	$ 355
Warrants issued in conjunction with Deerfield financing agreement	—	—	3,438

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

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization

Exelixis, Inc. (“Exelixis,” “we,” “our” or “us”) is a biotechnology company committed to developing small molecule therapies for the treatment of cancer. We are focusing our resources and development efforts exclusively on cabozantinib (XL184), our most advanced solely-owned product candidate, in order to maximize the therapeutic and commercial potential of this compound. We believe cabozantinib has the potential to be a high-quality, differentiated pharmaceutical product that can make a meaningful difference in the lives of patients. Cabozantinib inhibits MET, VEGFR2 and RET, proteins that are key drivers of tumor growth and/or vascularization. Cabozantinib is the most advanced inhibitor of MET in clinical development and is being evaluated in a broad development program encompassing multiple cancer indications. We have also established a portfolio of other novel compounds that we believe have the potential to address serious unmet medical needs.

Basis of Consolidation

The consolidated financial statements include the accounts of Exelixis and our wholly owned subsidiaries as well as one former variable interest entity, Symphony Evolution, Inc. (“SEI”), for which we were the primary beneficiary. As of June 9, 2009, our purchase option for SEI expired and as a result, we were no longer considered to be the primary beneficiary. (Refer to Note 4). All significant intercompany balances and transactions have been eliminated.

Exelixis adopted a 52- or 53-week fiscal year that ends on the Friday closest to December 31. Fiscal year 2008, a 53-week year, ended on January 2, 2009, fiscal year 2009, a 52-week year, ended on January 1, 2010, and fiscal year 2010, a 52-week year, ended on December 31, 2010. Fiscal year 2011, a 52-week year, will end on December 30, 2011. For convenience, references in this report as of and for the fiscal years ended January 2, 2009, January 1, 2010, and December 31, 2010 are indicated on a calendar year basis, ended December 31, 2008, 2009 and 2010, respectively.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States (“GAAP”) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ significantly from those estimates.

Cash and Investments

We consider all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents. We invest in high-grade, short-term commercial paper and money market funds, which are subject to minimal credit and market risk.

All marketable securities are classified as available-for-sale and are carried at fair value. We view our available-for-sale portfolio as available for use in current operations. Accordingly, we have classified certain investments as short-term marketable securities, even though the stated maturity date may be one year or more beyond the current balance sheet date. Available-for-sale securities are stated at fair value based upon quoted market prices of the securities. We have classified certain investments as cash and cash equivalents or marketable securities that collateralize loan balances; however they are not restricted to withdrawal. Funds that are used to collateralize equipment lines of credit that extend for over 12 months have been classified as long term investments,

in association with the loan arrangement. Unrealized gains and losses on available-for-sale investments are reported as a separate component of stockholders' equity. Realized gains and losses, net, on available-for-sale securities are included in interest income. The cost of securities sold is based on the specific identification method. Interest and dividends on securities classified as available-for-sale are included in interest income.

The following summarizes available-for-sale securities included in cash and cash equivalents and restricted cash and investments as of December 31, 2010 (in thousands):

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Money market funds	$171,048	$ —	$ —	$171,048
Commercial paper	19,283	—	—	19,283
Corporate bonds	36,869	18	(10)	36,877
U.S. Government sponsored enterprises	18,811	5	—	18,816
Municipal bonds	10,913	—	(1)	10,912
Total	$256,924	$ 23	$ (11)	$256,936

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
As reported:				
Cash equivalents	$ 98,001	$ —	$ (2)	$ 97,999
Marketable securities	65,210	23	(9)	65,224
Long-term investments	87,314	—	—	87,314
Restricted cash and investments	6,399	—	—	6,399
Total	$256,924	$ 23	$ (11)	$256,936

The following summarizes available-for-sale securities included in cash and cash equivalents and restricted cash and investments as of December 31, 2009 (in thousands):

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Money market funds	$ 74,465	$ —	$ —	$ 74,465
Commercial paper	24,277	—	—	24,277
Corporate bonds	55,808	152	(17)	55,943
U.S. Government agency securities	11,077	8	—	11,085
U.S. Government sponsored enterprises	37,990	17	(1)	38,006
Municipal bonds	17,769	—	(3)	17,766
Total	$221,386	$ 177	$ (21)	$221,542

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
As reported:				
Cash equivalents	$ 87,354	$ —	$ (9)	$ 87,345
Marketable securities	116,125	177	(12)	116,290
Long-term investments	11,463	—	—	11,463
Restricted cash and investments	6,444	—	—	6,444
Total	$221,386	$ 177	$ (21)	$221,542

As of December 31, 2010, all securities have a remaining maturity of less than one year and were in an unrealized loss position for less than one year. The unrealized losses were not attributed to credit risk. Based on the scheduled maturities of our marketable securities, we concluded that the unrealized losses in our investment securities are not other-than-temporary, as it is more likely than not that we will hold these investments for a period of time sufficient for a recovery of our cost basis.

Foreign Currency Forward Contract

We have entered into foreign currency forward contracts to reduce our net exposure to Eurodollar currency fluctuations. We entered into a contract in February 2010 which had a notional amount of approximately $7.0 million that expired in June 2010. In June 2010, we settled this contract for a net gain and cash receipt of $0.7 million and entered into a second foreign contract for a notional amount of $6.1 million that expired in October 2010. In October 2010, we settled this contract for a net loss and cash payment of $0.7 million and entered into a third foreign contract for a notional amount of $6.9 million that will expire in March 2011. The fair value of the foreign currency contracts is estimated based on pricing models using readily observable inputs from actively quoted markets. As of December 31, 2010, the fair value of the current foreign currency forward contract was a loss of approximately $0.2 million, and was classified in other accrued liabilities on our consolidated balance sheet. The net unrealized gain/loss on our foreign currency forward contracts, neither of which was designated as a hedge, was recorded in our consolidated statement of operations as Interest income and other (net).

Fair Value Measurements

The fair value of our financial instruments reflects the amounts that would be received upon sale of an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price). The fair value hierarchy has the following three levels:

Level 1 – quoted prices in active markets for identical assets and liabilities.

Level 2 – observable inputs other than quoted prices in active markets for identical assets and liabilities.

Level 3 – unobservable inputs.

Our financial instruments are valued using quoted prices in active markets or based upon other observable inputs. The following table sets forth the fair value of our financial assets that were measured on a recurring basis as of December 31, 2010 and 2009, respectively (in thousands):

As of December 31, 2010:

	Level 1	Level 2	Level 3	Total
Money market funds	$171,048	$ —	$ —	$171,048
Commercial paper	—	19,283	—	19,283
Corporate bonds	—	36,877	—	36,877
U.S. Government sponsored enterprises	—	18,816	—	18,816
Municipal bonds	—	10,912	—	10,912
Foreign currency forward contract	—	(156)	—	(156)
Total	$171,048	$85,732	$ —	$256,780

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

As of December 31, 2009:

	Level 1	Level 2	Level 3	Total
Money market funds	$74,465	$ —	$ —	$ 74,465
Commercial paper	—	24,277	—	24,277
Corporate bonds	—	55,943	—	55,943
U.S. Government agency securities	—	11,085	—	11,085
U.S. Government sponsored enterprises	—	38,006	—	38,006
Municipal bonds	—	17,766	—	17,766
Total	$74,465	$147,077	$ —	$221,542

We have estimated the fair value of our long-term debt instruments, where possible, using the net present value of the payments discounted at an interest rate that is consistent with our current borrowing rate for similar long-term debt. However, due to the unique structure of our 2010 financing agreement with entities affiliated with Deerfield Management Company L.P. (“Deerfield”) and the current non-liquid market in structured notes, there is no practicable method to determine the fair value of this instrument. See Note 9 for details on the structure and terms of our 2010 financing with Deerfield. The estimated fair value of our outstanding debt as of December 31, 2010 and 2009, excluding our 2010 financing with Deerfield, was as follows (in thousands):

	December 31, 2010	December 31, 2009
GlaxoSmithKline loan	$ 26,693	$ 50,191
Equipment lines of credit	16,064	22,530
Silicon Valley Bank loan	77,480	—
Total	$ 120,237	$ 72,721

At December 31, 2010 and 2009, the book value of our debt outstanding, including our 2010 financing with Deerfield, was $208.5 million and $79.6 million, respectively. These items are described in further detail in Note 9 of the Notes to the Consolidated Financial Statements. Our payment commitments associated with these debt instruments are fixed during the corresponding terms and are comprised of interest payments, principal payments or a combination thereof. The fair value of our debt will fluctuate with movements of interest rates, increasing in periods of declining rates of interest, and declining in periods of increasing rates of interest.

Property and Equipment

Property and equipment are recorded at cost and depreciated using the straight-line method over the following estimated useful lives:

Equipment and furniture	5 years
Computer equipment and software	3 years
Leasehold improvements	Shorter of lease life or 7 years

Repairs and maintenance costs are charged to expense as incurred.

Intangible Assets

Goodwill amounts have been recorded as the excess purchase price over tangible assets, liabilities and intangible assets acquired based on their estimated fair value, by applying the purchase method. We evaluate

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

goodwill for impairment on an annual basis and on an interim basis if events or changes in circumstances between annual impairment tests indicate that the asset might be impaired. When evaluating goodwill for impairment we must determine the reporting units that exist within Exelixis. We determined that our reporting units are consistent with our operating segments. We have allocated goodwill to our reporting units based on the relative fair value of the reporting units. We also evaluate other intangibles for impairment when impairment indicators are identified.

Long-lived Assets

The carrying value of our long-lived assets is reviewed for impairment whenever events or changes in circumstances indicate that the asset may not be recoverable. An impairment loss would be recognized when estimated future cash flows expected to result from the use of the asset and its eventual disposition is less than its carrying amount. Long-lived assets include property and equipment and identified intangible assets. In 2010, we wrote down property and equipment in the amount of approximately $3.2 million in connection with our March and December 2010 restructuring plans. Refer to Note 8 for further information on the restructuring plans.

Concentration of Credit Risk

Financial instruments that potentially subject us to concentrations of credit risk are primarily cash and cash equivalents, accounts receivable and investments in marketable securities. Cash equivalents and marketable securities consist of money market funds, taxable commercial paper, corporate bonds with high credit quality, U.S. government agency obligations and U.S. government sponsored enterprises. All cash and cash equivalents, and marketable securities are maintained with financial institutions that management believes are creditworthy. Other receivables are typically unsecured and are concentrated in the pharmaceutical and biotechnology industries. Accordingly, we may be exposed to credit risk generally associated with pharmaceutical and biotechnology companies. We have incurred no bad debt expense since inception.

The following table sets forth revenues recognized under our collaboration agreements that are 10% or more of total revenues during the years ending December 31, 2010, 2009 and 2008:

Collaborator	2010	2009	2008
Bristol-Myers Squibb	50%	54%	46%
sanofi-aventis	42%	31%	0%
Genentech	4%	8%	17%
GlaxoSmithKline	0%	0%	37%

Revenue Recognition

License, research commitment and other non-refundable payments received in connection with research collaboration agreements are deferred and recognized on a straight-line basis over the period of continuing involvement, generally the research term specified in the agreement. Contract research revenues are recognized as services are performed pursuant to the terms of the agreements. Any amounts received in advance of performance are recorded as deferred revenue. Payments are not refundable if research is not successful. License fees are classified as license revenues in our consolidated statement of operations.

We enter into corporate collaborations under which we may obtain up-front license fees, research funding, and contingent milestone payments and royalties. Our deliverables under these arrangements typically consist of intellectual property rights and research and development services. We evaluate whether the delivered elements

under these arrangements have value to our collaboration partner on a stand-alone basis and whether objective and reliable evidence of fair value of the undelivered item exists. Deliverables that do not meet these criteria are not evaluated separately for the purpose of revenue recognition. For a combined unit of accounting, non-refundable up-front fees and milestones are recognized in a manner consistent with the final deliverable, which is generally ratably over the period of the research and development obligation. Milestone payments are non-refundable and recognized as revenues over the period of the research arrangement. This typically results in a portion of the milestone being recognized at the date the milestone is achieved, which portion is equal to the applicable percentage of the research term that has elapsed at the date the milestone is achieved, and the balance being recognized over the remaining research term of the agreement. In certain situations, we may receive milestone payments after the end of our period of continued involvement. In such circumstances, we would recognize 100% of the milestone revenues when the milestone is achieved. Milestones are classified as contract revenues in our consolidated statement of operations.

Collaborative agreement reimbursement revenues are recorded as earned based on the performance requirements under the respective contracts. For arrangements in which we and our collaborative partner are active participants in the agreement and for which both parties are exposed to significant risks and rewards depending on the commercial success of the activity, we present payments between the parties on a net basis. On an annual basis, to the extent that net research and development funding payments are received, Exelixis will record the net cash inflow as revenue. In annual periods when the net research and development funding payments result in a payable, these amounts are presented as collaboration cost-sharing expense. Agreement reimbursements are classified as either contract revenues or collaboration reimbursement in our consolidated statement of operations, depending on the terms of the agreement.

Research and Development Expenses

Research and development costs are expensed as incurred and include costs associated with research performed pursuant to collaborative agreements. Research and development costs consist of direct and indirect internal costs related to specific projects as well as fees paid to other entities that conduct certain research activities on our behalf.

Substantial portions of our preclinical studies and all of our clinical trials have been performed by third-party contract research organizations (“CROs”) and other vendors. We accrue expenses for preclinical studies performed by our vendors based on certain estimates over the term of the service period and adjust our estimates as required. We accrue expenses for clinical trial activities performed by CROs based upon the estimated amount of work completed on each study. For clinical trial expenses, the significant factors used in estimating accruals include the number of patients enrolled, the number of active clinical sites, and the duration for which the patients will be enrolled in the study. We monitor patient enrollment levels and related activities to the extent possible through internal reviews, review of contractual terms and correspondence with CROs We base our estimates on the best information available at the time. However, additional information may become available to us which will allow us to make a more accurate estimate in future periods. In this event, we may be required to record adjustments to research and development expenses in future periods when the actual level of activity becomes more certain, such increases or decreases in cost are generally considered to be changes in estimates and will be reflected in research and development expenses in the period first known. For example, during the year ended December 31, 2010, we recorded a reduction related to prior periods of approximately $0.9 million to our accrued clinical trial liabilities and research and development expenses primarily related to our phase 2 and phase 3 clinical trials for cabozantinib.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Collaboration Arrangements

Collaborative agreement reimbursement revenues or collaboration cost sharing expenses are recorded as earned or owed based on the performance requirements by both parties under the respective contracts. Prior to the termination of our 2008 cancer collaboration with Bristol-Myers Squibb Company ("Bristol-Myers Squibb") as to cabozantinib, both parties were actively involved with compound development and certain research and development expenses were partially reimbursable to us on a net basis by compound. On an annual basis, amounts owed by Bristol-Myers Squibb to us, net of amounts reimbursable to Bristol-Myers Squibb by us on those projects, are recorded as collaboration reimbursement revenues. Conversely, research and development expenses may include the net settlement of amounts we owe Bristol-Myers Squibb for research and development expenses that Bristol-Myers Squibb incurred on joint development projects, less amounts reimbursable to us by Bristol-Myers Squibb on these projects. In 2009, when net research and development expenses were payable to Bristol-Myers Squibb, these payments were presented as collaboration cost-sharing expense. However, during the fiscal year ended December 31, 2010 and in future fiscal years, we are and will be in a net receivable position, and will therefore present reimbursement payments as collaboration reimbursement revenues. Revenues and expenses from collaborations that are not co-development agreements are recorded as contract revenues or research and development expenses in the period incurred.

Net Loss Per Share

Basic and diluted net loss per share are computed by dividing the net loss attributable to Exelixis, Inc. for the period by the weighted average number of shares of common stock outstanding during the period. The calculation of diluted net loss per share excludes potential common stock because their effect is antidilutive. Potential common stock consists of incremental common shares issuable upon the exercise of stock options and warrants, vesting of restricted stock units ("RSUs") and conversion of our convertible loans. The following table sets forth potential shares of common stock that are not included in the computation of diluted net loss per share because to do so would be antidilutive for the years ended December 31 2010, 2009 and 2008:

	2010	2009	2008
Restricted stock units and options to purchase common stock	21,802,461	27,072,822	24,141,186
Conversion of loans	6,725,296	10,277,428	32,133,864
Warrants	2,250,000	3,000,000	2,500,000
	30,777,757	40,350,250	58,775,050

Foreign Currency Translation and Remeasurement

Assets and liabilities denominated in currencies other than the functional currency are remeasured using exchange rates in effect at the end of the period and related gains or losses are recorded in interest income and other, net. Gains and losses on the remeasurement of foreign currency assets and liabilities were not material for the periods presented.

Stock-Based Compensation

Stock-based compensation expense for all stock-based compensation awards is based on the grant date fair value estimated using the Black-Scholes option pricing model. We have limited historical information available to support the underlying estimates of certain assumptions required to value stock options. Because there is a market for options on our common stock, we have considered implied volatilities as well as our historical

realized volatilities when developing an estimate of expected volatility. We estimate the term using historical data and peer data. We recognize compensation expense on a straight-line basis over the requisite service period. We have elected to use the simplified method to calculate the beginning pool of excess tax benefits.

We have employee and director stock option plans that are more fully described in Note 11.

Comprehensive Loss

Comprehensive loss represents net loss plus the results of certain stockholders' equity changes, which are comprised of unrealized gains and losses on available-for-sale securities and cumulative translation adjustments, not reflected in the consolidated statement of operations. Comprehensive loss for the years ended December 31, 2010, 2009 and 2008 was as follows (in thousands):

	Year Ended December 31,		
	2010	2009	2008
Consolidated net loss	$(92,330)	$(139,557)	$(175,570)
(Decrease)/Increase in net unrealized gains on available-for-sale securities	(143)	155	(185)
Reclassification for unrealized gains on marketable securities recognized in earnings	—	—	(314)
Comprehensive loss	(92,473)	(139,402)	(176,069)
Comprehensive loss attributable to noncontrolling interest	—	4,337	12,716
Comprehensive loss attributable to Exelixis, Inc.	$(92,473)	$(135,065)	$(163,353)

Accumulated other comprehensive income consisted solely of unrealized gains (losses) on available for sale securities for the periods presented.

Need to Raise Additional Capital

We have incurred cumulative net losses of $1,182.1 million through December 31, 2010 and expect to incur losses for the next several years. Our ultimate success depends on the outcome of our research and development activities. We may seek to raise funds through the sale of equity or debt securities or through external borrowings. In addition, we may enter into additional strategic partnerships or collaborative arrangements for the development and commercialization of our compounds. If adequate funds are not available, we will be required to delay, reduce the scope of, or eliminate one or more of our development programs.

Recent Accounting Pronouncements

In October 2009, the FASB issued ASU No. 2009-13, Revenue Recognition – *Multiple Deliverable Revenue Arrangements* ("ASU 2009-13"). ASU 2009-13 provides application guidance on whether multiple deliverables exist, how the deliverables should be separated and how the consideration should be allocated to one or more units of accounting. This update establishes a selling price hierarchy for determining the selling price of a deliverable. The selling price used for each deliverable will be based on vendor-specific objective evidence, if available, third-party evidence if vendor-specific objective evidence is not available, or estimated selling price if neither vendor-specific or third-party evidence is available. We expect to adopt this guidance prospectively beginning on January 1, 2011. Under ASU 2009-13, we may be required to exercise considerable judgment in

determining the estimated selling price of delivered items under new agreements and our revenue under new agreements may be more accelerated as compared to the prior accounting standard. As such, the adoption of ASU 2009-13 could have a material impact on our financial statements going forward.

NOTE 2. DISPOSITIONS

Sale of Plant Trait Business

On September 4, 2007, we entered into an asset purchase and license agreement (the "APA"), with Agrigenetics, Inc., a wholly-owned subsidiary of The Dow Chemical Company ("Agrigenetics"). Under the terms of the APA, we sold to Agrigenetics a major portion of our assets used for crop trait discovery, including a facility, and granted to Agrigenetics licenses to certain other related assets and intellectual property. As consideration for these assets and licenses, Agrigenetics paid us $18.0 million upon execution and $4.5 million in September 2008, for an aggregate of $22.5 million. Under the APA, we have agreed to indemnify Agrigenetics and its affiliates up to a specified amount if they incur damages due to any infringement or alleged infringement of certain patents.

Concurrently with the execution of the APA, we also entered into a contract research agreement (the "CRA"), with Agrigenetics. Agrigenetics agreed to pay us up to $24.7 million in research and development funding over the term of the CRA to cover employee costs, facilities expenses and capital expenditures. After September 4, 2007, the closing date for the transaction, the research and development funding received over the term of the CRA was recognized as a reduction to expenses incurred by us in connection with our performance under the CRA. In addition to the $22.5 million consideration above, in September 2008, we received $4.5 million from Agrigenetics as contingent consideration upon development of a designated additional asset. In the second quarter of 2009, we signed an amendment to this arrangement for which we received $1.8 million in July 2009. In March and May 2010, we received $4.5 million and $2.7 million, respectively, as contingent consideration upon development of two additional designated assets. We recognized all of these payments as additional gain on the sale of the business. In November 2009 we received $0.4 million for the purchase of leasehold improvements and recognized an additional net gain on the sale of the business of approximately $0.3 million. This agreement was terminated in 2009 and we expect no further reimbursements or contingent consideration going forward.

Artemis Pharmaceuticals

On November 20, 2007 (the "Taconic Closing Date"), we entered into a share sale and transfer agreement with Taconic Farms, Inc., ("Taconic"), pursuant to which Taconic acquired from Exelixis, for $19.8 million in cash, 80.1% of the outstanding share capital in our former subsidiary, Artemis. In December 2008, we recognized an additional $70,000 purchase price adjustment resulting in additional gain on the 2007 sale of Artemis.

We also entered into a Shareholders' Agreement and amended articles of association that govern the relationship between Exelixis and Taconic as shareholders of Artemis, particularly with respect to matters of corporate governance and the transfer of their respective ownership interests. The Shareholders' Agreement provides that we may require Taconic to purchase our remaining 19.9% interest in Artemis (the "Minority Interest") between 2010 and 2015 or in the event of a change in control of Taconic, and that Taconic may require us to sell our Minority Interest to Taconic between 2013 and 2015 or in the event of a change in control of Exelixis, in each case subject to certain conditions set forth in the shareholders' agreement. The amended articles of association provide for the establishment of a shareholders' committee, in which we participate based on our 19.9% ownership, to assist in the management of Artemis.

As we believe we have significant influence over the operations of Artemis through our rights under the Shareholders' Agreement and the amended articles of association, we account for our remaining 19.9% equity interest in Artemis under the equity method of accounting. We adjust our investment balance to recognize our share of Artemis earnings or losses. As of December 31, 2010 and 2009, the carrying value of our investment in Artemis was approximately $727,000 and $665,000, respectively. We recognized approximately $62,000 and $514,000 in annual income as a result of our 19.9% equity interest in 2010 and 2009, respectively.

NOTE 3. RESEARCH AND COLLABORATION AGREEMENTS

Bristol-Myers Squibb

2010 Collaboration Agreements

TGR5 License Agreement

We entered into a global license agreement with Bristol-Myers Squibb for XL475 (and any potential backups), a preclinical compound that modulates the metabolic target known as TGR5 (the "TGR5 License Agreement"). Pursuant to the terms of the TGR5 License Agreement, Bristol-Myers Squibb will have a worldwide exclusive license to XL475 and will have sole control and responsibility for all subsequent research, development, commercial and manufacturing activities. The TGR5 License Agreement became effective in November 2010 following clearance under the Hart-Scott-Rodino Antitrust Improvement Act of 1976, as amended.

Under the license agreement, Bristol-Myers Squibb received a worldwide exclusive license to XL475 and sole control and responsibility for all research, development, commercial and manufacturing activities. In November 2010 we received a nonrefundable upfront cash payment of $35.0 million from Bristol-Myers Squibb. Additionally, for each product developed by Bristol-Myers Squibb under the license, we will be eligible to receive development and regulatory milestones of up to $250.0 million in the aggregate and commercial milestones of up to $150.0 million in the aggregate, as well as royalties on commercial sales of any such products.

ROR Collaboration Agreement

In October 2010, we entered into a worldwide collaboration with Bristol-Myers Squibb pursuant to which each party granted to the other certain intellectual property licenses to enable the parties to discover, optimize and characterize ROR antagonists that may subsequently be developed and commercialized by Bristol-Myers Squibb. In November 2010 we received a nonrefundable upfront cash payment of $5.0 million from Bristol-Myers Squibb. Additionally, for each product developed by Bristol-Myers Squibb under the collaboration, we will be eligible to receive development and regulatory milestones of up to $255.0 million in the aggregate and commercial milestones of up to $150.0 million in the aggregate, as well as royalties on commercial sales of any such products.

2008 Cancer Collaboration

In December 2008, we entered into a worldwide collaboration with Bristol-Myers Squibb for cabozantinib and XL281 (BMS-908662), a RAF inhibitor. Upon effectiveness of the collaboration agreement in December 2008, Bristol-Myers Squibb made a nonrefundable upfront cash payment of $195.0 million for the development and commercialization rights to both programs. The agreement required Bristol-Myers Squibb to make additional license payments to us of $45.0 million, which were received during 2009.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Under the terms of the collaboration agreement, Bristol-Myers Squibb has an exclusive worldwide license to develop and commercialize XL281. We will carry out certain clinical trials of XL281 which may include a backup program on XL281. Bristol-Myers Squibb is responsible for funding all future development of XL281, including our activities. We are eligible for development and regulatory milestones of up to $315.0 million on XL281, sales performance milestones of up to $150.0 million and double-digit royalties on worldwide sales of XL281.

On June 18, 2010, we regained full rights to develop and commercialize cabozantinib under our collaboration agreement with Bristol-Myers Squibb following receipt of notice from Bristol-Myers Squibb of its decision to terminate the 2008 collaboration, solely as to cabozantinib, on a worldwide basis. Bristol-Myers Squibb informed us that the termination was based upon its review of cabozantinib in the context of Bristol-Myers Squibb's overall research and development priorities and pipeline products. On June 28, 2010, in connection with the termination, we received a $17.0 million transition payment from Bristol-Myers Squibb in satisfaction of its obligations under the collaboration agreement to continue to fund its share of development costs for cabozantinib for a period of three months following the notice of termination. As a result of the termination, Bristol-Myers Squibb's license relating to cabozantinib terminated and its rights to cabozantinib reverted to us, and we received, subject to certain terms and conditions, licenses from Bristol-Myers Squibb to research, develop and commercialize cabozantinib. The collaboration remains in full force and effect with respect to XL281 and the upfront license fees continue to be recognized over the estimated performance obligation which was revised in the second quarter of 2010 and is expected to be completed during 2013.

The upfront payment of $195.0 million and the license payments of $45.0 million are being recognized ratably from the effective date of the agreement over the estimated development term and recorded as license revenues. Any milestone payments that we may receive under the collaboration agreement will be recognized ratably over the remaining development term but recorded as contract revenues. We record as operating expense 100% of the cost incurred for work performed by us under the collaboration agreement. Prior to the termination of the collaboration as to cabozantinib, there were periods during which Bristol-Myers Squibb partially reimbursed us for certain research and development expenses, and other periods during which we owed Bristol-Myers Squibb for research and development expenses that Bristol-Myers Squibb incurred on joint development projects, less amounts reimbursable to us by Bristol-Myers Squibb on these projects. For the year ended December 31, 2009, we incurred a net payable to Bristol-Myers Squibb and presented these payments as collaboration cost sharing expense. However, during the fiscal year ending December 31, 2010 and in future fiscal years, we expect to be in a net receivable position, and will therefore present these reimbursement payments as collaboration reimbursement revenues.

Amounts attributable to both programs under the 2008 Bristol-Myers Squibb collaboration agreement consisted of the following (in thousands):

	Year Ended December 31,		
	2010	2009	2008(2)
Exelixis research and development expenses(1)	$41,877	$52,148	$1,106
Net amount due from (owed to) collaboration partner	$27,411	$ (4,582)	$ 320

(1) Total research and development expenses attributable to us include direct third party expenditures plus estimated internal personnel costs.

(2) Total expenses and collaboration amounts are calculated as of the effective date of the agreement of December 18, 2008.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

2007 Cancer Collaboration

In December 2006, we entered into a worldwide collaboration with Bristol-Myers Squibb, which became effective in January 2007, to discover, develop and commercialize novel targeted therapies for the treatment of cancer. We were responsible for discovery and preclinical development of small molecule drug candidates directed against mutually selected targets. In January 2007, Bristol-Myers Squibb made an upfront payment of $60.0 million to us for which we granted Bristol-Myers Squibb the right to select up to three investigational new drug ("IND") candidates from six future Exelixis compounds. We recognized the upfront payment as revenues over the estimated research term.

For each IND candidate selected, we were entitled to receive a $20.0 million selection milestone from Bristol-Myers Squibb. Once selected, Bristol-Myers Squibb became responsible for leading the further development and commercialization of the selected IND candidates. In addition, we had the right to opt in to co-promote the selected IND candidates, in which case we would equally share all development costs and profits in the United States. In January 2008 and November 2008, Bristol-Myers Squibb exercised its option under the collaboration to develop and commercialize XL139 (BMS-833923), a Hedgehog inhibitor, and XL413 (BMS-863233), a CDC7 inhibitor, respectively. Under the terms of the collaboration agreement, the selection of XL139 and XL413 by Bristol-Myers Squibb entitled us to milestone payments of $20.0 million each, which we received in February 2008 and December 2008, respectively. In addition, we exercised our option under the collaboration agreement to co-develop and co-commercialize each of XL139 and XL413 in the United States. However, in September 2010, we and Bristol-Myers Squibb terminated the XL413 program due to an unfavorable pharmacological profile observed in phase 1 clinical evaluation. Additionally, in connection with an amendment to the collaboration which became effective in November 2010, we exercised our right to opt-out of further co-development of XL139 in consideration for a payment of $20.0 million. We have no further responsibility for conducting new activities or funding new development or commercialization activities with respect to XL139 and will therefore no longer be eligible to share profits on sales of any commercialized products under the collaboration. We will continue to be eligible to receive regulatory and commercial milestones as well as double-digit royalties on any future sales of any products commercialized under the collaboration. As a result of the November 2010 amendment to the collaboration, the research term has ended, and we have no further obligation to deliver to Bristol-Myers Squibb a third IND candidate under the collaboration.

LXR Collaboration

In December 2005, we entered into a collaboration agreement with Bristol-Myers Squibb for the discovery, development and commercialization of novel therapies targeted against LXR, a nuclear hormone receptor implicated in a variety of cardiovascular and metabolic disorders. This agreement became effective in January 2006, at which time we granted Bristol-Myers Squibb an exclusive, worldwide license with respect to certain intellectual property primarily relating to compounds that modulate LXR. During the research term, we jointly identified drug candidates with Bristol-Myers Squibb that were ready for IND-enabling studies. After the selection of a drug candidate for further clinical development by Bristol-Myers Squibb, Bristol-Myers Squibb agreed to be solely responsible for further preclinical development as well as clinical development, regulatory, manufacturing and sales/marketing activities for the selected drug candidate. We do not have rights to reacquire the selected drug candidates selected by Bristol-Myers Squibb. The research term expired in January 2010 and we are conducting a technology transfer to enable Bristol-Myers Squibb to continue the LXR program.

Under the collaboration agreement, Bristol-Myers Squibb paid us a nonrefundable upfront payment in the amount of $17.5 million and was obligated to provide research and development funding of $10.0 million per

year for an initial research period of two years. In September 2007, the collaboration was extended at Bristol-Myers Squibb's request through January 12, 2009, and in November 2008, the collaboration was further extended at Bristol-Myers Squibb's request through January 12, 2010. Under the collaboration agreement, Bristol-Myers Squibb is required to pay us development and regulatory milestones of up to $138.0 million per product for up to two products from the collaboration. In addition, we are also entitled to receive sales milestones and royalties on sales of any products commercialized under the collaboration. In connection with the extension of the collaboration through January 2009, and subsequently January 2010, Bristol-Myers Squibb paid us additional research funding of approximately $7.7 million and approximately $5.8 million, respectively. In December 2007, we received $5.0 million for achieving a development milestone.

sanofi-aventis

In May 2009, we entered into a global license agreement with sanofi-aventis for XL147 and XL765 and a broad collaboration for the discovery of inhibitors of phosphoinositide-3 kinase ("PI3K") for the treatment of cancer. The license agreement and collaboration agreement became effective on July 7, 2009. In connection with the effectiveness of the license and collaboration, on July 20, 2009, we received upfront payments of $140.0 million ($120.0 million for the license and $20.0 million for the collaboration), less applicable withholding taxes of $7.0 million, for a net receipt of $133.0 million. We expect to receive a refund payment from the French government in 2011 with respect to the withholding taxes previously withheld.

Under the license agreement, sanofi-aventis received a worldwide exclusive license to XL147 and XL765, which are in phase 1, phase 1b/2 and phase 2 clinical trials, and has sole responsibility for all subsequent clinical, regulatory, commercial and manufacturing activities. sanofi-aventis is responsible for funding all development activities with respect to XL147 and XL765, including our activities. Following the effectiveness of the license agreement, we have been conducting the majority of the clinical trials for XL147 and XL765 at the expense of sanofi-aventis. As provided for under the license agreement however, the parties have agreed to transition all future development activities for these compounds to sanofi-aventis. The parties anticipate that the transition will be completed by the end of the second quarter of 2011.

Under the collaboration agreement, the parties agreed to combine efforts in establishing several pre-clinical PI3K programs and jointly share responsibility for research and preclinical activities related to isoform-selective inhibitors of PI3K-a and -ß. sanofi-aventis will continue to provide us with guaranteed annual research and development funding during the research term and is responsible for funding all development activities for each product following approval of the investigational new drug application filed with the applicable regulatory authorities for such product. We are entitled to receive guaranteed research funding of $21.0 million over three years to cover certain of our costs under the collaboration agreement. sanofi-aventis will have sole responsibility for all subsequent clinical, regulatory, commercial and manufacturing activities of any products arising from the collaboration. However, we may be requested to conduct certain clinical trials at sanofi-aventis' expense. The research term under the collaboration is three years, although sanofi-aventis has the right to extend the term for an additional one-year period upon prior written notice

For both the license and the collaboration combined, we will be eligible to receive development, regulatory and commercial milestones of over $1.0 billion in the aggregate, as well as royalties on sales of any products commercialized under the license or collaboration. The aggregate upfront payments of $140.0 million will be recognized over the estimated research and development term of four years, and recorded as license revenues, from the effective date of the agreements. For the period ended December 31, 2010 and 2009, we recognized $35.0 million and $16.9 million, respectively, in license revenues related to such upfront payments. Any milestone payments that we may receive under the agreements will be amortized over the remaining research and

development term and recorded as contract revenues. We will record as operating expenses all costs incurred for work performed by us under the agreements. Reimbursements we receive from sanofi-aventis under the agreements will be recorded as contract revenues as earned, commencing as of the effective date, including reimbursements for costs incurred under the license from the date of signing. In addition, the guaranteed research funding that we expect to receive over the three year research term under the collaboration will be recorded as contract revenues commencing as of the effective date of the collaboration. For the periods ended December 31, 2010 and 2009, we recognized $42.7 million and $29.9 million, respectively, in contract revenues related to cost reimbursement and guaranteed research funding.

sanofi-aventis may, upon certain prior notice to us, terminate the license as to products containing XL147 or XL765. In the event of such termination election, sanofi-aventis' license relating to such product would terminate and revert to us, and we would receive, subject to certain terms, conditions and potential payment obligations, licenses from sanofi-aventis to research, develop and commercialize such products.

The collaboration will automatically terminate under certain circumstances upon the expiration of the research term, in which case all licenses granted by the parties to each other would terminate and revert to the respective party, subject to sanofi-aventis' right to receive, under certain circumstances, the first opportunity to obtain a license from us to any isoform-selective PI3K inhibitor. In addition, sanofi-aventis may, upon certain prior written notice to us, terminate the collaboration in whole or as to certain products following expiration of the research term, in which case we would receive, subject to certain terms, conditions and potential payment obligations by us, licenses from sanofi-aventis to research, develop and commercialize such products.

Genentech

In December 2006, we entered into a worldwide co-development agreement with Genentech for the development and commercialization of XL518, a small-molecule inhibitor of MEK. Genentech paid upfront and milestone payments of $25.0 million in December 2006 and $15.0 million in January 2007 upon signing of the co-development agreement and with the submission of an IND for XL518. Genentech paid us a milestone payment of $7.0 million in March 2010 to maintain Genentech's licenses to XL518.

Under the terms of the co-development agreement, we were responsible for developing XL518 through the end of a phase 1 clinical trial, and Genentech had the option to co-develop XL518, which Genentech could exercise after receipt of certain phase 1 data from us. In March 2008, Genentech exercised its option, triggering a payment to us of $3.0 million, which we received in April 2008. We were responsible for the phase 1 clinical trial until the point that a maximum tolerated dose, ("MTD"), was determined. After MTD was achieved, we granted to Genentech an exclusive worldwide revenue-bearing license to XL518 in March 2009 and Genentech is responsible for completing the phase 1 clinical trial and subsequent clinical development. Genentech is responsible for all further development costs of XL518 and we will share equally in the U.S. commercialization costs. On an annual basis, we are entitled to an initial equal share of U.S. profits and losses, which will decrease as sales increase, and we are also entitled to royalties on non-U.S. sales. We also have the option to co-promote in the United States. Genentech has the right to terminate the agreement without cause at any time. If Genentech terminates the co-development agreement without cause, all licenses that were granted to Genentech under the agreement terminate and revert to us. Additionally, we would receive, subject to certain conditions, licenses from Genentech to research, develop and commercialize reverted product candidates.

GlaxoSmithKline

In October 2002, we established a collaboration with GlaxoSmithKline to discover and develop novel therapeutics in the areas of vascular biology, inflammatory disease and oncology. The collaboration involved

three agreements: (1) a product development and commercialization agreement (2) a stock purchase and stock issuance agreement; and (3) a loan and security agreement. During the term of the collaboration, we received $65.0 million in upfront and milestone payments, $85.0 million in research and development funding and loans in the principal amount of $85.0 million. In connection with the collaboration, GlaxoSmithKline purchased a total of three million shares of our common stock.

In October 2008, the development term under the collaboration concluded as scheduled. Under the terms of the collaboration, GlaxoSmithKline had the right to select up to two of the compounds in the collaboration for further development and commercialization. GlaxoSmithKline selected XL880 and had the right to choose one additional compound from a pool of compounds, which consisted of cabozantinib, XL281, XL228, XL820 and XL844 as of the end of the development term. For periods prior to the quarter ended June 30, 2008, revenues from upfront payments, premiums paid on equity purchases and milestones had been recognized assuming that the development term would be extended through the longest contractual period of October 27, 2010. However, as a result of the development term concluding on the earliest scheduled end date, the remaining deferred revenues was recognized through October 27, 2008. The change in the estimated development term increased our total revenues by $18.5 million or $0.17 per share for the period ended December 31, 2008.

In July 2008, we achieved proof-of-concept for cabozantinib and submitted the corresponding data report to GlaxoSmithKline. GlaxoSmithKline notified us in writing that it decided not to select cabozantinib for further development and commercialization and that it waived its right to select XL281, XL228, XL820 and XL844 for further development and commercialization. As a result, Exelixis retained the rights to develop, commercialize, and/or license all of the compounds, subject to payment to GSK of a 3% royalty on net sales of any product incorporating cabozantinib. As described under "– Bristol-Myers Squibb – 2008 Cancer Collaboration," in December 2008, we entered into a worldwide collaboration with Bristol-Myers Squibb for cabozantinib and XL281. We discontinued development of XL820 and XL844 in December 2008.

The $85.0 million loan we received from GlaxoSmithKline bears interest at a rate of 4.0% per annum and is secured by certain intellectual property, technology and equipment created or utilized pursuant to the collaboration. As of December 31, 2010, the aggregate principal and interest outstanding under our GlaxoSmithKline loan was $35.9 million, after giving effect to all repayments made. The final installment of principal and accrued interest under the loan is due on October 27, 2011. Repayment of all or any of the amounts advanced to us under the loan agreement may, at our election, be in the form of our common stock at fair market value, subject to certain conditions, or cash.

Boehringer Ingelheim

On May 7, 2009, we entered into a collaboration agreement with Boehringer Ingelheim International GmbH ("Boehringer Ingelheim") to discover, develop and commercialize products that consist of agonists of the sphingosine-1-phosphate type 1 receptor ("S1P1R"), a central mediator of multiple pathways implicated in a variety of autoimmune diseases.

Under the terms of the agreement, Boehringer Ingelheim paid us a nonrefundable upfront cash payment of $15.0 million for the development and commercialization rights to our S1P1R agonist program. We share responsibility for discovery activities under the collaboration with Boehringer Ingelheim. The agreement provides that the parties will each conduct research under a mutually agreed upon research plan until such time that we submit a compound that has met agreed-upon criteria, or such later time as agreed upon by the parties. The parties are responsible for their respective costs and expenses incurred in connection with performing research under the collaboration. Under the collaboration, Boehringer Ingelheim also has the right, at its own

expense, to conduct additional research on S1P1R agonists outside of the scope of the research plan agreed to by the parties. The agreement further provides that Boehringer Ingelheim will receive an exclusive worldwide license to further develop, commercialize and manufacture compounds developed under the collaboration and will have sole responsibility for, and shall bear all costs and expenses associated with, all subsequent preclinical, clinical, regulatory, commercial and manufacturing activities. In return, we will potentially receive up to $339.0 million in further development, regulatory and commercial milestones and are eligible to receive royalties on worldwide sales of products commercialized under the collaboration. The upfront payment is being recognized ratably over the estimated research term and recorded as license revenues from the effective date of the agreement. During the first half of 2010, the expected research term was extended from eleven months to twenty three months through March 2011, resulting in an extension of the term for revenue recognition purposes and a corresponding decrease in license revenues recognized each quarter. From commencement of the collaboration through December 31, 2010, we have recognized a total of $14.3 million in license revenues under this agreement.

Boehringer Ingelheim may, upon certain prior notice to us, terminate the agreement as to any product developed under the collaboration. In the event of such termination election, Boehringer Ingelheim's license relating to such product would terminate and revert to us, and we would receive, subject to certain terms and conditions, licenses from Boehringer Ingelheim to research, develop and commercialize such product.

Daiichi Sankyo

In March 2006, Exelixis and Daiichi Sankyo Company Limited ("Daiichi Sankyo") entered into a collaboration agreement for the discovery, development and commercialization of novel therapies targeted against Mineralocorticoid Receptor ("MR"), a nuclear hormone receptor implicated in a variety of cardiovascular and metabolic diseases. Under the terms of the agreement, we granted to Daiichi Sankyo an exclusive, worldwide license to certain intellectual property primarily relating to compounds that modulate MR. Daiichi Sankyo is responsible for all further preclinical and clinical development, regulatory, manufacturing and commercialization activities for the compounds and we do not have rights to reacquire such compounds, except as described below.

Daiichi Sankyo paid us a nonrefundable upfront payment in the amount of $20.0 million and was obligated to provide research and development funding of $3.8 million over a 15-month research term. In June 2007, our collaboration agreement with Daiichi Sankyo was amended to extend the research term by six months over which Daiichi Sankyo was required to provide $1.5 million in research and development funding. In November 2007, the parties decided not to further extend the research term. For each product from the collaboration, we are also entitled to receive payments upon attainment of pre-specified development, regulatory and commercialization milestones. In December 2010, we received a milestone payment of $5.0 million in connection with an IND filing made by Daiichi Sankyo for a compound developed under the collaboration. In addition, we are also entitled to receive royalties on any sales of certain products commercialized under the collaboration. Daiichi Sankyo may terminate the agreement upon 90 days' written notice in which case Daiichi Sankyo's payment obligations would cease, its license relating to compounds that modulate MR would terminate and revert to us, and we would receive, subject to certain terms and conditions, licenses from Daiichi Sankyo to research, develop and commercialize compounds that were discovered under the collaboration.

NOTE 4. SYMPHONY EVOLUTION

On June 9, 2005 (the "Symphony Closing Date"), we entered into a series of related agreements providing for the financing of the clinical development of XL784, XL647 and XL999 (the "Programs"). Pursuant to the agreements, Symphony Evolution, Inc. ("SEI") invested $80.0 million to fund the clinical development of these

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Programs and we licensed to SEI our intellectual property rights related to these Programs. SEI is a wholly owned subsidiary of Symphony Evolution Holdings LLC ("Holdings"), which provided $40.0 million in funding to SEI at closing, and an additional $40.0 million in June 2006. Pursuant to the agreements, we issued to Holdings a five-year warrant to purchase 750,000 shares of our common stock at $8.90 per share in June 2005. We issued an additional five-year warrant to purchase 750,000 shares of our common stock at $8.90 per share in connection with the additional $40.0 million in funding in June 2006. As part of the agreement, we also received an exclusive purchase option to acquire all of the equity of SEI, thereby allowing us to reacquire XL647, XL784 and XL999 at our sole discretion. The purchase option expired on June 9, 2009. As a result of the expiration of the purchase option, we issued a third warrant to Symphony Evolution Holdings LLC to purchase 500,000 shares of our common stock at a price of $6.05 per share with a five-year term.

The expiration of the purchase option triggered a reconsideration event regarding our need to consolidate SEI, a variable interest entity. Upon the expiration of the purchase option, we no longer held a variable interest in the variable interest entity. Accordingly, we deconsolidated SEI and derecognized the SEI assets, liabilities and noncontrolling interest from our financial statements. In the second quarter, we recognized a loss of $9.8 million upon the deconsolidation of the variable interest entity. For the period prior to the expiration of the purchase option, we concluded that SEI was a variable interest entity for which we were the primary beneficiary. As a result, we included the financial condition and results of operations of SEI in our consolidated financial statements. Accordingly, we had deducted the losses attributable to the noncontrolling interest in SEI from our net loss in the consolidated statement of operations and we also reduced the noncontrolling interest holders' ownership interest in SEI in the consolidated balance sheet by SEI's losses. The noncontrolling interest holders' ownership in the consolidated balance sheet was $0.7 million as of December 31, 2008. Prior to 2009, we would not allocate losses to the noncontrolling interest in SEI such that the carrying value of the noncontrolling interest would be reduced below zero. However, with the adoption of updated reporting standards for noncontrolling interests in consolidated financial statements in the first quarter of fiscal year 2009, we would allocate losses to the noncontrolling interest in SEI such that the noncontrolling interest could have a negative carrying value. For the years ended December 31, 2010, 2009, and 2008, the losses attributed to the noncontrolling interest holders were zero, $4.3 million and $12.7 million, respectively.

NOTE 5. DEERFIELD CREDIT FACILITY

On June 4, 2008, we entered into a facility agreement with entities affiliates with Deerfield Management Company L.P. ("Deerfield"), pursuant to which Deerfield agreed to loan to us up to $150.0 million. We had the right to draw down on the loan facility through December 4, 2009, with any amounts drawn being due on June 4, 2013. The facility agreement was terminated in November 2009. As a result of the termination, we incurred a $5.2 million charge to interest expense relating to the write-off of deferred financing costs. We did not draw on the facility agreement at any time prior to its termination. Pursuant to the facility agreement, we paid Deerfield a one-time transaction fee of $3.8 million, or 2.5% of the loan facility. In addition, we were obligated to pay an annual commitment fee of $3.4 million that was payable quarterly and was recognized as interest expense as incurred. Pursuant to the facility agreement, we issued six-year warrants to Deerfield to purchase an aggregate of 1,000,000 shares of our common stock at an exercise price of $7.40 per share.

Warrants issued upon execution of the facility agreement were assigned a value of $3.4 million using the Black-Scholes option pricing model. The related assumptions were as follows: risk-free interest rate of 3.41%, expected life of six years, volatility of 62% and expected dividend yield of 0%.

See Note 9 regarding the 2010 Deerfield Financing.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

NOTE 6. PROPERTY AND EQUIPMENT

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

	December 31,	
	2010	2009
Laboratory equipment	$ 43,356	$ 73,901
Computer equipment and software	20,163	26,290
Furniture and fixtures	4,772	6,555
Leasehold improvements	21,993	26,404
Construction-in-progress	373	1,022
	90,657	134,172
Less accumulated depreciation and amortization	(74,846)	(104,780)
	$ 15,811	$ 29,392

For the years ended December 31, 2010, 2009 and 2008, we recorded depreciation expense of $10.5 million, $12.6 million and $13.6 million, respectively. In 2010, we recorded impairment charges in the amount of approximately $3.2 million in connection with our March and December 2010 restructuring plans. Refer to Note 8 for further information.

NOTE 7. GOODWILL

Our annual goodwill impairment test date is performed at the beginning of the fourth quarter of every year. Following this approach, we monitor asset-carrying values as of October 1 and on an interim basis if events or changes in circumstances occur we assess whether there is a potential impairment and complete the measurement of impairment, if required. To date, our annual impairment tests have not resulted in impairment of recorded goodwill.

NOTE 8. RESTRUCTURINGS

December 2010 Restructuring

On December 1, 2010, we implemented a restructuring plan that resulted in a reduction of our workforce by 143 employees, of which, as of February 4, 2011, 27 employees are continuing to provide services through various dates in 2011. Further personnel reductions are expected to be made through the end of 2012 as we complete our obligations under collaboration agreements and withdraw resources from completed projects. The restructuring plan is a consequence of our decision to focus our resources and development efforts on the late-stage development and commercialization of our most advanced solely-owned product candidate cabozantinib.

In connection with the December 2010 restructuring plan, we expect to record an aggregate restructuring charge related to termination benefits and impairment of various assets of approximately $8.4 million, of which $6.9 million was recorded in the fourth quarter of 2010 and the remainder is expected to be recorded in the first three quarters of 2011. This includes an aggregate charge of $0.7 million, $0.5 million of which was recorded in 2010, relating to the modification of certain stock option awards previously granted to the terminated employees, extending the time period over which the employees are allowed to exercise their options through the end of September 2011. In addition, we recorded approximately $1.0 million in impairment charges related to leasehold improvements and excess laboratory equipment.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

We expect to incur additional charges in the range of $25 million to $30 million as a result of the December 2010 restructuring plan, including facility-related charges in connection with the anticipated sublease and exit of two of our buildings in South San Francisco, California and $1.4 million related to additional termination benefits. We expect to record the termination benefits and a majority of the facility-related charges as they are determined during the fiscal year 2011. We also plan to auction off any excess equipment, the net proceeds of which may offset some of these future charges. We expect that the restructuring plan will result in aggregate cash expenditures in the range of $35 million to $40 million, of which approximately $0.1 million related to termination benefits was paid in the fourth quarter of 2010, approximately $6.4 million related to termination benefits is expected to be paid during the first three quarters of 2011 and the balance, related to facility costs, is expected to be paid through 2017.

The components relating to the December 2010 restructuring are summarized in the following table (in thousands):

	Employee Severance And Other Benefits	Asset Impairment	Legal and Other Fees	Total
Restructuring charge	5,874	1,027	50	6,951
Cash payments	(68)	—	—	(68)
Adjustments or non-cash credits including stock compensation expense	(544)	(1,027)	—	(1,571)
Ending accrual balance as of December 31, 2010	$ 5,262	$ —	$ 50	$ 5,312

March 2010 Restructuring

On March 8, 2010, we implemented a restructuring plan that resulted in a reduction of our workforce by approximately 40%, or 270 employees. A small number of the terminated employees were subsequently recalled and the termination of a small group of employees was delayed until February 2011. The remaining impacted employees were terminated immediately upon implementation of the plan or by March 31, 2010. The decision to restructure our operations was based on our early 2010 corporate strategy to focus our efforts on our lead clinical compounds, cabozantinib, XL147 and XL765, by dedicating the majority of our resources to aggressively drive these drug candidates through development towards commercialization.

In connection with the March 2010 restructuring plan, we recorded a charge of approximately $16.1 million in the first quarter of 2010 primarily related to termination benefits, which includes the modification of certain stock option awards previously granted to the terminated employees. The modification accelerates the vesting of any stock options that would have vested over the period beginning from cessation of employment through August 5, 2010. Employees who were terminated in March 2010 also received an additional two months to exercise their options, for which a small charge was taken. The remainder of the charge was for the impairment of various assets and for non-cash charges relating to the closure of our facility in San Diego, California. The total impairment charge of $2.1 million was due to the disposal and write-down to estimated fair-market value of fixed assets that were deemed redundant or will have a reduced useful life as a result of us vacating our San Diego facility and our exit of one of our South San Francisco facilities. The fair-value of the fixed assets impaired assumed that we would exit the South San Francisco building by June 30, 2010, which subsequently occurred.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

On July 9, 2010, we entered into a sublease with respect to a property we vacated in South San Francisco, California. The term of the sublease commenced on September 1, 2010, and will expire on November 30, 2015, the end of our lease term. We recorded further restructuring expenses of approximately $9.7 million during the remainder of 2010 associated primarily with lease-exit costs associated with the sublease and exit of our South San Francisco building, partially offset by a reduction in termination benefits following the recall of certain employees that were originally terminated under the restructuring plan and the continued delay in the termination of the small group of employees referred to above. We expect further restructuring expenses totaling approximately $1.7 million, which will be incurred on a quarterly basis through the fourth quarter of 2015 due to imputed interest on the lease exit costs.

We expect that the March 2010 restructuring plan will result in total cash expenditures of approximately $24.8 million, of which approximately $14.2 million was paid in 2010. The balance will be paid over an additional five years and primarily relates payments due under the lease for our South San Francisco building that we exited during the second quarter of 2010, partially offset by payments due to us under the sublease agreement that we signed in July 2010.

The components relating to the March 2010 restructuring are summarized in the following table (in thousands):

	Employee Severance And Other Benefits	Facility Charges	Asset Impairment	Legal and Other Fees	Total
Restructuring charge	11,803	11,814	2,146	30	25,793
Cash payments	(10,460)	(3,739)	—	(10)	(14,209)
Adjustments or non-cash credits including stock compensation expense	(1,082)	613	(2,146)	—	(2,615)
Ending accrual balance as of December 31, 2010	$ 261	$ 8,688	$ —	$ 20	$ 8,969

The total outstanding restructuring liability is included in “Accrued Compensation and Benefits”, “Other Accrued Liabilities”, and “Other Long-Term Liabilities” on our Condensed Consolidated Balance Sheet as of December 31, 2010 and the components are summarized in the following table (in thousands):

	Employee Severance And Other Benefits	Facility Charges	Asset Impairment	Legal and Other Fees	Total
Restructuring charge	17,677	11,814	3,173	80	32,744
Cash payments	(10,528)	(3,739)	—	(10)	(14,277)
Adjustments or non-cash credits including stock compensation expense	(1,626)	613	(3,173)	—	(4,186)
Ending accrual balance as of December 31, 2010	$ 5,523	$ 8,688	$ —	$ 70	$ 14,281

November 2008 Restructuring

In November 2008, we implemented a restructuring plan that resulted in a reduction in force of 78 employees, or approximately 10% of our workforce. All actions associated with the 2008 restructuring plan were completed in the first quarter of 2009, and we do not anticipate incurring any further costs under the 2008 restructuring plan.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

In connection with the 2008 restructuring plan, we recorded a charge of approximately $2.9 million during the year ended December 31, 2008. This charge consisted primarily of severance, health care benefits and legal and outplacement services fees. All actions associated with the 2008 restructuring plan were completed in the first quarter of 2009, and we do not anticipate incurring any further costs under the 2008 restructuring plan. The balance of the liability was included in "Other Accrued Liabilities" on our Condensed Consolidated Balance Sheet as of December 31, 2008 and was fully paid out as of December 31, 2009. The components are summarized in the following table (in thousands):

	Employee Severance and Other Benefits	Legal and Other Fees	Total
Balance as of December 31, 2008	$ 1,688	$ 51	$ 1,739
Cash payments	(1,602)	(129)	(1,731)
Adjustments	(86)	78	(8)
December 31, 2009 Balance	$ —	$ —	$ —

NOTE 9. DEBT

Our debt consists of the following (in thousands):

	December 31,	
	2010	2009
GlaxoSmithKline convertible loans	$ 28,900	$ 56,950
Bank equipment lines of credit	16,162	22,667
Silicon Valley Bank Term Loan	80,000	—
Deerfield notes	83,396	—
	208,458	79,617
Less: current portion	(37,748)	(39,254)
Long-term debt	$170,710	$ 40,363

Deerfield Financing

On June 2, 2010, we entered into a note purchase agreement with Deerfield, pursuant to which, on July 1, 2010, we sold to Deerfield an aggregate of $124.0 million initial principal amount of our secured convertible notes due June 2015 for an aggregate purchase price of $80.0 million, less closing fees and expenses of approximately $2.0 million. The outstanding principal amount of the notes bears interest in the annual amount of $6.0 million, payable quarterly in arrears. We will be required to make mandatory prepayments on the notes on an annual basis in 2013, 2014 and 2015 equal to 15% of certain revenues from our collaborative arrangements received during the prior fiscal year, subject to a maximum annual prepayment amount of $27.5 million and, for payments due in January 2013 and 2014, a minimum prepayment amount of $10.0 million. We may also prepay all or a portion (not less than $5.0 million) of the principal amount of the notes at an optional prepayment price based on a discounted principal amount (during the first three years of the term, subject to a prepayment premium) determined as of the date of prepayment, plus accrued and unpaid interest, plus in the case of a prepayment of the full principal amount of the notes (other than prepayments upon the occurrence of specified transactions relating to a change of control or a substantial sale of assets), all accrued interest that would have accrued between the date of such prepayment and the next anniversary of the note purchase agreement. At any time after July 1, 2011, subject to certain limitations (including a cap on the number of shares issuable under the note purchase agreement), we have the right to convert all or a portion of the principal amount of the notes into,

or satisfy all or any portion of the optional prepayment amounts or mandatory prepayment amounts (other than the first $10.0 million of mandatory prepayments required in 2013 and 2014) with shares of our common stock. Additionally, in lieu of making any payment of accrued and unpaid interest in respect of the notes in cash, at any time after July 1, 2011, subject to certain limitations, we may elect to satisfy any such payment with shares of our common stock. The number of shares of our common stock issuable upon conversion or in settlement of principal and interest obligations will be based upon the discounted trading price of our common stock over a specified trading period. Upon certain changes of control of our company, a sale or transfer of assets in one transaction or a series of related transactions for a purchase price of more than $400 million or a sale or transfer of more than 50% of our assets, Deerfield may require us to prepay the notes at the optional prepayment price, plus accrued and unpaid interest and any other accrued and reimbursable expenses (the “Put Price”). Upon an event of default, Deerfield may declare all or a portion of the Put Price to be immediately due and payable.

We also entered into a security agreement in favor of Deerfield which provides that our obligations under the notes will be secured by substantially all of our assets except intellectual property. The note purchase agreement and the security agreement include customary representations and warranties and covenants made by us, including restrictions on the incurrence of additional indebtedness. The balance of unamortized closing fee and expenses of $1.8 million is recorded in the accompanying consolidated balance sheet as long-term assets. The carrying value of the loan as of December 31, 2010 is $83.4 million.

Silicon Valley Bank Loan and Security Agreement

In December 2004, we entered into a loan modification agreement to the loan and security agreement originally entered into in May 2002. The terms associated with the original $16.0 million line of credit under the May 2002 agreement were not modified. The loan modification agreement provided for an additional equipment line of credit in the amount of up to $20.0 million with a draw down period of one year. Pursuant to the terms of the modified agreement, we were required to make interest only payments through February 2006 at an annual rate of 0.70% on all outstanding advances. This equipment line of credit was fully drawn as of March 31, 2006 and was fully paid off as of March 31, 2010.

In December 2006, we entered into a second loan modification agreement to the loan and security agreement originally entered into in May 2002. The terms associated with the original line of credit under the May 2002 agreement and December 2004 loan modification agreement were not modified. The December 2006 loan modification agreement provided for an additional equipment line of credit in the amount of up to $25.0 million with a draw down period of approximately one year. Each advance must be repaid in 48 equal, monthly installments of principal, plus accrued interest, at an annual rate of 0.85% fixed and is subject to a prepayment penalty of 1.0%. The loan facility is secured by a non-interest bearing certificate of deposit account with the bank, in an amount equal to at least 100% of the outstanding obligations under the line of credit. This equipment line of credit was fully drawn as of December 31, 2008. The collateral balance of $3.2 million is recorded in the accompanying consolidated balance sheet as cash and cash equivalents and marketable securities as the deposit account is not restricted as to withdrawal. The outstanding obligation under the line of credit as of December 31, 2010 and 2009 was $2.9 million and $9.0 million, respectively.

In December 2007, we entered into a third loan modification agreement to the loan and security agreement originally entered into in May 2002. The terms associated with the original line of credit under the May 2002 agreement and the subsequent loan modifications were not modified. The December 2007 loan modification agreement provides for an additional equipment line of credit in the amount of up to $30.0 million with a draw down period of approximately 2 years. Each advance must be repaid in 48 equal, monthly installments of principal, plus accrued interest, at an annual rate of 0.75% fixed. In December 2009, we amended the agreement

and extended the draw down period on the line-of-credit for an additional 18 months through June 2011 and increased the principal amount of the line of credit from $30.0 million to $33.6 million. Pursuant to the terms of the amendment, we are required to make minimum draws of $2.5 million every 6 months through June 2011, for total additional draws of $7.5 million. The loan facility requires security in the form of a non-interest bearing certificate of deposit account with the bank, in an amount equal to at least 100% of the outstanding obligations under the line of credit. In June 2008, we drew down $13.6 million under this agreement, in December 2009, we drew down $5.0 million, and we drew down an additional $2.5 million in each of June 2010 and December 2010, respectively, in accordance with the terms of the modified agreement. The collateral balance of $13.7 million is recorded in the accompanying consolidated balance sheet as cash and cash equivalents and marketable securities as the deposit account is not restricted as to withdrawal. The outstanding obligation under the line of credit as of December 31, 2010 and 2009 was $13.2 million and $13.2 million, respectively and we have an additional $10.0 million available to us to draw down prior to the agreement expiration in June 2011.

On June 2, 2010, we amended our loan and security agreement with Silicon Valley Bank to provide for a new seven-year term loan in the amount of $80.0 million. The principal amount outstanding under the term loan accrues interest at 1.0% per annum, which interest is due and payable monthly. We are required to repay the term loan in one balloon principal payment, representing 100% of the principal balance and accrued and unpaid interest, on May 31, 2017. We have the option to prepay all, but not less than all, of the amounts advanced under the term loan, provided that we pay all unpaid accrued interest thereon that is due through the date of such prepayment and the interest on the entire principal balance of the term loan that would otherwise have been paid after such prepayment date until the maturity date of the term loan. We are required to maintain at all times on deposit in a non-interest bearing demand deposit account(s) with Silicon Valley Bank or one of its affiliates a compensating balance, which constitutes support for the obligations under the term loan, with a principal balance in value equal to at least 100% of the outstanding principal balance of the term loan. Any amounts outstanding under the term loan during the continuance of an event of default under the loan and security agreement will, at the election of Silicon Valley Bank, bear interest at a per annum rate equal to 6.0%. If one or more events of default under the loan and security agreement occurs and continues beyond any applicable cure period, Silicon Valley Bank may declare all or part of the obligations under the loan and security agreement to be immediately due and payable and stop advancing money or extending credit to us under the loan and security agreement. The collateral balance of $80.0 million is recorded in the accompanying consolidated balance sheet as cash and cash equivalents and marketable securities as the deposit account is not restricted as to withdrawal. The outstanding obligation under the loan as of December 31, 2010 is $80.0 million.

GlaxoSmithKline Loan and Security Agreement

Under the loan and security agreement executed in connection with the GlaxoSmithKline collaboration, we borrowed $85.0 million for use in our efforts under the collaboration. The loan bears interest at a rate of 4.0% per annum and is secured by the intellectual property, technology and equipment created or utilized pursuant to the collaboration. As of December 31, 2010, the aggregate principal and interest outstanding under our GlaxoSmithKline loan was $35.9 million, after giving effect to all repayments made. The final installment of principal and accrued interest under the loan is due on October 27, 2011. Repayment of all or any of the amounts advanced to us under the loan agreement may, at our election, be in the form of our common stock at fair market value, subject to certain conditions, or cash. This loan facility also contains financial covenants pursuant to which our “working capital” (the amount by which our current assets exceed our current liabilities as defined by the agreement, which excludes restricted cash and deferred revenue) must not be less than $25.0 million and our “cash and investments” (total cash, cash equivalents and investments as defined by the agreement, which excludes restricted cash) must not be less than $50.0 million. As of December 31, 2010, we were in compliance with these covenants.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Other

In December 2003, we entered into a credit agreement with a bank for an equipment line of credit of up to $15.0 million with a draw down period of one year. During the draw down period, we made interest only payments on outstanding balances. At the end of the draw down period, the outstanding balance converted to a 48-month term loan. The outstanding principal balance bears interest at LIBOR plus 0.625%. This equipment line of credit had been fully drawn as of December 31, 2004 and was fully paid off as of December 31, 2009.

Aggregate future principal payments of our total long-term debt as of December 31, 2010 are as follows (in thousands):

Year Ending December 31,(1)	
2011	$ 37,748
2012	3,945
2013	29,919
2014	28,450
2015	69,000
Thereafter	80,000
	249,062
Less current portion	(37,748)
	$211,314

(1) Amounts include principal payments associated with the accretion of the Deerfield financing and assumes the maximum earliest possible payments that could be required to be made under the agreement terms. The actual timing of payments made may differ materially.

NOTE 10. COMMON STOCK AND WARRANTS

Warrants

We have granted warrants to purchase shares of capital stock to SEI in connection with our financing transaction as described in Note 4.

In addition, in June 2008 pursuant to the Facility Agreement, we issued six-year warrants to Deerfield pursuant to the Facility Agreement as described in Note 5.

At December 31, 2010, the following warrants to purchase common stock were outstanding and exercisable:

Date Issued	Exercise Price per Share	Expiration Date	Number of Shares
June 9, 2006	$ 8.90	June 9, 2011	750,000
June 4, 2008	$ 7.40	June 4, 2014	1,000,000
June 10, 2009	$ 6.05	June 10, 2014	500,000
			2,250,000

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

NOTE 11. EMPLOYEE BENEFIT PLANS

Stock Option Plans

We have several stock option plans under which we have granted incentive stock options and non-qualified stock options to employees, directors and consultants. The Board of Directors or a designated Committee of the Board is responsible for administration of our employee stock option plans and determines the term, exercise price and vesting terms of each option. In general, options issued to our employees have a four-year vesting term, an exercise price equal to the fair market value on the date of grant, and a ten year life from the date of grant (five years for incentive stock options granted to holders of more than 10% of Exelixis' voting stock and 6.2 years for options issued in exchange for options cancelled under our 2009 option exchange program).

On December 9, 2005, Exelixis' Board of Directors adopted a Change in Control and Severance Benefit Plan (the "Plan") for executives and certain non-executives. Eligible Plan participants include Exelixis employees with the title of vice president and higher. If a participant's employment with Exelixis is terminated without cause during a period commencing one month before and ending thirteen months following a change in control, then the Plan participant is entitled to have the vesting of all of such participant's stock options accelerated with the exercise period being extended to no more than one year. Effective December 23, 2008, we amended and restated the Plan to bring it into compliance with Section 409A of the Internal Revenue Code of 1986, as amended. Effective December 1, 2010, we further amended and restated the Plan to principally bring it into compliance with other rules governing such plans.

Stock Purchase Plan

In January 2000, we adopted the 2000 Employee Stock Purchase Plan (the "ESPP"). The ESPP allows for qualified employees (as defined in the ESPP) to purchase shares of our common stock at a price equal to the lower of 85% of the closing price at the beginning of the offering period or 85% of the closing price at the end of each six month purchase period. Compensation expense related to our ESPP was $1.3 million, $2.4 million, and $1.3 million for the years ended December 31, 2010, 2009 and 2008, respectively. As of December 31, 2010, we had 3,060,505 shares available for grant under our ESPP. We issued 689,093 shares, 1,278,336 shares, and 1,054,808 shares of common stock during the years ended December 31, 2010, 2009, and 2008, respectively, pursuant to the ESPP at an average price per share of $4.55, $2.99, and $3.94, respectively.

Stock-Based Compensation

We recorded and allocated employee stock-based compensation expense as follows (in thousands):

	Year Ended December 31, 2010	Year Ended December 31, 2009	Year Ended December 31, 2008
Research and development expense	$ 11,535	$ 15,708	$ 14,845
General and administrative expense	7,931	7,109	8,054
Restructuring-related stock compensation expense	1,505	—	—
Total employee stock-based compensation expense	$ 20,971	$ 22,817	$ 22,899

In addition, we recognized stock-based compensation expense of $0.1 million relating to nonemployees in each of the years ended December 31, 2010, 2009 and 2008.

During July 2010, our former Chief Executive Officer, George A. Scangos, Ph.D., resigned as an employee of Exelixis and in connection with such resignation agreed to cancel unvested stock options exercisable for

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

981,302 shares of our common stock and unvested RSUs with respect to 101,050 shares of our common stock. Due to Dr. Scangos' continued services as a director of Exelixis he was entitled to retain his stock options and RSUs. Therefore, we treated the cancellation as a modification of his stock option and RSU agreements and recorded a non-cash compensation charge of approximately $1.5 million to our consolidated statement of operations.

We use the Black-Scholes option pricing model to value our stock options. The expected life computation is based on historical exercise patterns and post-vesting termination behavior. We considered implied volatility as well as our historical volatility in developing our estimate of expected volatility. The fair value of employee share-based payments awards was estimated using the following assumptions and weighted average fair values:

	Stock Options		
	2010	2009(1)	2008
Weighted average grant-date fair value	$ 3.60	$ 3.61	$ 3.95
Risk-free interest rate	2.25%	2.25%	2.57%
Dividend yield	0%	0%	0%
Volatility	70%	65%	63%
Expected life	5.2 years	5.4 years	5.2 years

	ESPP		
	2010	2009	2008
Weighted average grant-date fair value	$ 1.87	$ 1.70	$ 2.78
Risk-free interest rate	0.21%	0.18%	2.61%
Dividend yield	0%	0%	0%
Volatility	68%	64%	57%
Expected life	6 months	2.6 months	6 months

(1) These exclude the assumptions used to estimate the fair value of the options granted under the stock option exchange program as discussed below.

On July 7, 2009, we commenced a stock option exchange program approved by our stockholders on May 14, 2009. The exchange program was open to all eligible employees who, at the start of the exchange program, were employed by us or one of our subsidiaries and remained employed through August 5, 2009, the date that the replacement stock options were granted. As a result of the exchange, 9.9 million options were cancelled, of which 7.3 million and 2.6 million were vested and unvested, respectively. Of the 7.2 million replacement options that were granted, 5.1 million were issued in exchange for vested options and vested over a one year term, while 2.1 million options were issued in exchange for unvested options that vest over three years, with a one year cliff. In association with these grants, we recognized incremental compensation cost of approximately $0.4 million and approximately $0.3 million ratably over the vesting period, as of December 31, 2010 and 2009, respectively.

The fair value of replacement options issued under the option exchange was estimated using the following assumptions and resulted in the following weighted average fair values:

Weighted average fair value of awards	$ 2.82
Risk-free interest rate	2.1%
Dividend yield	0%
Volatility	67%
Expected life	3.7 years

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

A summary of all option activity was as follows for the following fiscal years ended December 31:

	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value
Options outstanding at December 31, 2007	20,718,661	$ 10.32		
Granted	5,199,068	7.08		
Exercised	(50,201)	5.98		
Cancelled	(1,726,342)	10.01		
Options outstanding at December 31, 2008	24,141,186	$ 9.67		
Granted	12,180,734	5.93		
Exercised	(59,763)	4.57		
Cancelled	(11,868,559)	10.39		
Options outstanding at December 31, 2009	24,393,598	$ 7.46		
Granted	243,500	6.28		
Exercised	(495,098)	5.42		
Cancelled	(4,511,970)	7.35		
Options outstanding at December 31, 2010	19,630,030	$ 7.52	5.58 years	$27,996,745
Exercisable at December 31, 2010	15,110,303	$ 7.85	4.93 years	$19,410,751

At December 31, 2010, a total of 3,588,706 shares were available for grant under our stock option plans.

The aggregate intrinsic value in the table above represents the total intrinsic value (the difference between our closing stock price on the last trading day of fiscal 2010 and the exercise prices, multiplied by the number of in-the-money options) that would have been received by the option holders had all option holders exercised their options on December 31, 2010. Total intrinsic value of options exercised was $0.8 million, $0.2 million and $0.1 million for 2010, 2009 and 2008, respectively. Total fair value of employee options vested and expensed in 2010, 2009 and 2008 was $16.2 million, $20.4 million and $21.4 million, respectively.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

The following table summarizes information about stock options outstanding and exercisable at December 31, 2010:

	Options Outstanding			Options Outstanding and Exercisable	
Exercise Price Range	Number	Weighted Average Remaining Contractual Life (Years)	Weighted Average Exercise Price	Number of Exercisable	Weighted Average Exercise Price
$3.05 - $ 5.04	2,161,536	7.79	$ 4.77	1,152,415	$ 4.76
$5.05 - $ 5.63	5,367,349	4.78	5.63	4,459,027	5.63
$5.64 - $ 7.02	1,970,560	5.21	6.28	1,441,269	6.35
$7.05 - $ 7.18	1,976,654	7.69	7.15	838,320	7.12
$7.21 - $ 8.86	2,007,933	6.65	7.95	1,247,756	8.13
$8.88 - $ 8.92	2,405,000	4.64	8.90	2,405,000	8.90
$8.99 - $ 9.91	2,382,085	6.09	9.44	2,224,135	9.41
$10.05 - $16.87	1,086,413	2.43	14.32	1,069,881	14.35
$18.81	270,000	0.04	18.81	270,000	18.81
$18.97	2,500	0.50	18.97	2,500	18.97
	19,630,030	5.58	$ 7.52	15,110,303	$ 7.85

As of December 31, 2010, $12.0 million of total unrecognized compensation expense related to stock options is expected to be recognized over a weighted-average period of 2.2 years. Cash received from option exercises and purchases under the ESPP in 2010 and 2009 was $5.8 million and $4.1 million, respectively.

A summary of all RSU activity for the fiscal year ended December 31, 2010 is presented below:

	Shares	Weighted Average Grant Date Fair Value	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value
RSUs outstanding at December 31, 2009	2,679,224	$ 7.46		
Awarded	191,475	5.70		
Forfeited	(698,268)	7.44		
Awards outstanding at December 31, 2010	2,172,431	$ 7.31	1.37 years	$17,835,659

As of December 31, 2010, $8.6 million of total unrecognized compensation expense related to employee RSUs was expected to be recognized over a weighted-average period of 3.2 years.

Stock Bonus

We granted 298,539 fully vested shares of common stock during 2008 pursuant to the 2000 Equity Incentive Plan and recorded expense of $2.4 million. There were no stock bonuses granted in 2010 or 2009.

401(k) Retirement Plan

We sponsor a 401(k) Retirement Plan whereby eligible employees may elect to contribute up to the lesser of 20% of their annual compensation or the statutorily prescribed annual limit allowable under Internal Revenue

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Service regulations. The 401(k) Retirement Plan permits Exelixis to make matching contributions on behalf of all participants. Beginning in 2002 through 2010, we matched 50% of the first 4% of participant contributions into the 401(k) Retirement Plan in the form of Exelixis common stock. However, beginning in January 2011, we will match 100% of the first 3% of participant contributions into the 401(k) Retirement Plan in the form of Exelixis common stock. We recorded expense of $1.0 million, $1.1 million and $1.1 million related to the stock match for the years ended December 31, 2010, 2009 and 2008, respectively.

NOTE 12. INCOME TAXES

We recorded an income tax benefit of $0.1 million and $1.3 million for the periods ended December 31, 2010 and 2009, respectively. The tax benefit is a discrete item which resulted from the enactment of the Housing and Economy Recovery Act of 2008. Under this act, corporations otherwise eligible for bonus first-year depreciation may instead elect to claim a refundable credit for R&D tax credits generated prior to 2006. This tax benefit was extended for tax year 2009 with the enactment of the American Recovery and Reinvestment Act of 2009. The 2010 tax benefit of $0.1 million was related to an adjustment of the 2009 refundable tax credit.

Our consolidated net loss includes the following components (in thousands):

	Year Ended December 31,		
	2010	2009	2008
Domestic	$(92,402)	$(140,843)	$(175,570)
Foreign	—	—	—
Total	$(92,402)	$(140,843)	$(175,570)

A reconciliation of income taxes at the statutory federal income tax rate to net income taxes included in the accompanying consolidated statement of operations is as follows (in thousands):

	Year Ended December 31,		
	2010	2009	2008
U.S. federal taxes (benefit) at statutory rate	$(31,417)	$(47,886)	$(59,694)
Unutilized net operating losses	29,636	42,954	55,785
Stock based compensation	1,709	2,641	3,692
Other	72	2,291	217
Refundable Tax Credit	(72)	(1,286)	—
Total	$ (72)	$ (1,286)	$ —

Deferred tax assets and liabilities reflect the net tax effects of net operating loss and tax credit carryforwards and temporary differences between the carrying amounts of assets and liabilities for financial reporting and the amounts used for income tax purposes.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Our deferred tax assets and liabilities consist of the following (in thousands):

	December 31,	
	2010	2009
Deferred tax assets:		
Net operating loss carryforwards	$ 336,243	$ 296,260
Tax credit carryforwards	70,566	68,136
Capitalized research and development costs	1,836	2,988
Deferred revenue	35,087	57,882
Accruals and reserves not currently deductible	7,087	6,825
Book over tax depreciation	7,251	5,849
Amortization of deferred stock compensation – non-qualified	23,145	18,059
Total deferred tax assets	481,215	455,999
Valuation allowance	(481,215)	(455,999)
Net deferred tax assets	—	—
Deferred tax liabilities:		
Net deferred taxes	$ —	$ —

Realization of deferred tax assets is dependent upon future earnings, if any, the timing and amount of which are uncertain. Accordingly, the net deferred tax assets have been fully offset by a valuation allowance. The valuation allowance increased by $25.2 million, $52.4 million, and $69.0 million during 2010, 2009 and 2008, respectively.

In addition, approximately $51.3 million of the valuation allowance was attributable to acquisition-related items that if and when realized in future periods, will first reduce the carrying value of goodwill, then other long-lived intangible assets of our acquired subsidiaries and then income tax expense.

At December 31, 2010, we had federal net operating loss carryforwards of approximately $902.0 million, which expire in the years 2011 through 2030, and federal research and development tax credits of approximately $78.0 million which expire in the years 2019 through 2029. We also had net operating loss carryforwards for California of approximately $735.0 million, which expire in the years 2015 through 2031, and California research and development tax credits of approximately $34.0 million which have no expiration.

Under the Internal Revenue Code and similar state provisions, certain substantial changes in our ownership could result in an annual limitation on the amount of net operating loss and credit carryforwards that can be utilized in future years to offset future taxable income. The annual limitation may result in the expiration of net operating losses and credit carryforwards before utilization.

We track the portion of our deferred tax assets attributable to stock option benefits; these amounts are no longer included in our gross or net deferred tax assets. The tax benefit of stock options total $3.7 million at December 31, 2010 and will only be recorded when we realize a reduction in taxes payable.

Accounting Standards Codification Topic 740-10 clarifies the accounting for uncertainty in income taxes by prescribing the recognition threshold a tax position is required to meet before being recognized in the financial statements. It also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

We had $32.1 million of unrecognized tax benefits as of January 1, 2010. The following table summarizes the activity related to our unrecognized tax benefits for the year ending December 31, 2010 (in thousands):

	Year Ended December 31, 2010
Balance at January 1, 2010	$ 32,171
Increase relating to prior year provision	10,472
Increase relating to current year provision	3,738
Ending Balance at December 31, 2010	$ 46,381

All of our deferred tax assets are subject to a valuation allowance. Further, there were no accrued interest or penalties related to tax contingencies. Any tax-related interest and penalties would be included in income tax expense in the consolidated statements of operations. We do not anticipate that the amount of unrecognized tax benefits existing as of December 31, 2010 will significantly decrease over the next 12 months except for any adjustments related to the expiration of the statute of limitations.

We file U.S. and state income tax returns in jurisdictions with varying statues of limitations during which such tax returns may be audited and adjusted by the relevant tax authorities. The 1994 through 2010 years generally remain subject to examination by federal and most state tax authorities to the extent of net operating losses and credits generated during these periods and are being utilized in the open tax periods.

NOTE 13. COMMITMENTS

Leases

We lease office and research space and certain equipment under operating leases that expire at various dates through the year 2018. Certain operating leases contain renewal provisions and require us to pay other expenses. In connection with the sale of our cell factory business, we assigned our lease to our Portland facility to the purchaser and as a result of our March 2010 restructuring plan, we exited certain facilities in San Diego and South San Francisco. Aggregate future minimum lease payments under our operating leases are as follows (in thousands):

Year Ending December 31,	Operating Leases(1)
2011	$ 18,761
2012	19,101
2013	18,840
2014	19,243
2015	19,529
Thereafter	27,861
	$123,335

(1) Minimum payments have not been reduced by minimum sublease rentals of $9.7 million due in the future under noncancelable subleases.

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

The following is a summary of aggregate future minimum lease payments under operating leases at December 31, 2010 by material operating lease agreements (in thousands):

	Original Term (Expiration)	Renewal Option	Future Minimum Lease Payment
Building Lease #1	May 2017	2 additional periods of 5 years	$ 70,262
Building Lease #2	July 2018	1 additional period of 5 years	33,124
Building Lease #3	December 2015	1 additional period of 3 years	19,922
Other Building Lease			27
Total			$ 123,335

Rent expense under operating leases was $28.0 million, $21.0 million and $18.7 million for the years ended December 31, 2010, 2009 and 2008, respectively. Rent expense under operating leases was net of sublease rentals of $0.3 million for the year ended December 2010. There were no sublease rentals in 2009 or 2008.

Letter of Credit and Restricted Cash

We entered into a standby letter of credit with a bank in July 2004, which is related to a building lease, with a value of $0.5 million at each of December 31, 2010 and 2009. We entered into two standby letters of credit with a bank in May 2007, which is related to our workers compensation insurance policy, for a combined value of $0.8 million at each of December 2010 and 2009. As of December 31, 2010, the full amount of our three letters of credit was still available. As part of a purchasing card program with a bank we initiated during 2007, we were required to provide collateral in the form of a non-interest bearing certificate of deposit. The collateral at each of December 31, 2010 and 2009 was $5.1 million, and we recorded these amounts in the accompanying consolidated balance sheet as restricted cash and investments as the securities are restricted as to withdrawal.

Indemnification Agreements

Related to the sale of our plant trait business we have agreed to indemnify the purchaser and its affiliates up to a specified amount if they incur damages due to any infringement or alleged infringement of certain patents. We have certain collaboration licensing agreements, which contain standard indemnification clauses. Such clauses typically indemnify the customer or vendor for an adverse judgment in a lawsuit in the event of our misuse or negligence. We consider the likelihood of an adverse judgment related to an indemnification agreement to be remote. Furthermore, in the event of an adverse judgment, any losses under such an adverse judgment may be substantially offset by corporate insurance.

NOTE 14. QUARTERLY FINANCIAL DATA (UNAUDITED)

The following tables summarize the unaudited quarterly financial data for the last two fiscal years (in thousands, except per share data):

	2010 Quarter Ended			
	March 31,(1,4)	June 30,(2,4)	September 30,	December 31,(3)
Total revenues	$ 42,199	$ 47,596	$ 54,474	$ 40,776
Loss from operations	(47,452)	(25,631)	(4,205)	(14,109)
Net loss attributable to Exelixis, Inc.	(43,249)	(22,614)	(8,603)	(17,864)
Basic and diluted net loss per share, attributable to Exelixis, Inc.	$ (0.40)	$ (0.21)	$ (0.08)	$ (0.16)

EXELIXIS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

	2009 Quarter Ended			
	March 31,	June 30,(4)	September 30,(5)	December 31,(4,5)
Total revenues	$ 25,302	$ 27,402	$ 54,976	$ 44,079
Loss from operations	(36,774)	(38,012)	(16,818)	(30,303)
Net loss attributable to Exelixis, Inc.	(36,180)	(44,762)	(25,445)	(28,833)
Basic and diluted net loss per share, attributable to Exelixis, Inc.	$ (0.34)	$ (0.42)	$ (0.24)	$ (0.27)

(1) In connection with the March 2010 restructuring plan, we recorded a charge of approximately $16.1 million in the first quarter of 2010 primarily related to termination benefits, which includes the modification of certain stock option awards previously granted to the terminated employees. The modification accelerates the vesting of any stock options that would have vested over the period beginning from cessation of employment through August 5, 2010. Employees who were terminated in March also received an additional two months to exercise their options, for which a small charge was taken. The remainder of the charge was for the impairment of various assets and for non-cash charges relating to the closure of our facility in San Diego, California.

(2) We recorded further restructuring expenses of approximately $9.4 million during the second quarter of 2010 associated primarily with lease-exit costs in connection with the sublease and exit of our South San Francisco building, partially offset by a reduction in termination benefits following the recall of certain employees that were originally terminated under the restructuring plan and the continued delay in the termination of a small group of employees impacted by the restructuring plan.

(3) In connection with the December 2010 restructuring plan, we recorded a charge of approximately $6.9 million in the fourth quarter of 2010 primarily related to termination benefits, which includes the modification of certain stock option awards previously granted to the terminated employees. The modification allows employees who were terminated under the plan to exercise their options until September 2011. The remainder of the charge was for the impairment of various assets relating to idle equipment in our South San Francisco location.

(4) In the second quarter of 2009, we signed an amendment to our arrangement with Agrigenetics for which we received $1.8 million in July 2009 and we recognized an additional gain in other income. In November 2009 we received an additional $0.4 million for the purchase of leasehold improvements and recognized an additional net gain on the sale of the business of approximately $0.3 million. We received additional payments of $2.7 million and $4.5 million in March 2010 and May 2010 respectively and recognized these as additional gains in other income.

(5) In connection with the upfront payments from the sanofi-aventis collaboration, tax withholding of $7.0 million was recognized as income tax expense in the third quarter of 2009. However, due to the ratification of a Treaty with the French Government in December 2009, we now expect to receive this $7.0 million of previously withheld taxes and recorded a tax benefit of $7.0 million in the fourth quarter of 2009.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

Not applicable.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures. Based on the evaluation of our disclosure controls and procedures (as defined under Rules 13a-15(e) or 15d-15(e)) under the Securities Exchange Act of 1934, as amended) required by Rules 13a-15(b) or 15d-15(b) under the Securities Exchange Act of 1934, as amended, our Chief Executive Officer and our Chief Financial Officer have concluded that as of the end of the period covered by this report, our disclosure controls and procedures were effective.

Limitations on the Effectiveness of Controls. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within an organization have been detected. Accordingly, our disclosure controls and procedures are designed to provide reasonable, not absolute, assurance that the objectives of our disclosure control system are met and, as set forth above, our principal executive officer and principal financial officer have concluded, based on their evaluation as of the end of the period covered by this report, that our disclosure controls and procedures were effective to provide reasonable assurance that the objectives of our disclosure control system were met.

Management's Report on Internal Control Over Financial Reporting. Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Our internal control over financial reporting is a process designed under the supervision of our principal executive and principal financial officers to provide reasonable assurance regarding the reliability of financial reporting and the preparation of our financial statements for external reporting purposes in accordance with U.S. generally accepted accounting principles.

As of the end of our 2010 fiscal year, management conducted an assessment of the effectiveness of the company's internal control over financial reporting based on the framework established in *Internal Control –Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Based on this assessment, management has determined that our internal control over financial reporting as of December 31, 2010 was effective. There were no material weaknesses in internal control over financial reporting identified by management.

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

The independent registered public accounting firm Ernst & Young LLP has issued an audit report on our internal control over financial reporting, which is included below.

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of Exelixis, Inc.

We have audited Exelixis, Inc.'s internal control over financial reporting as of December 31, 2010, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). Exelixis, Inc.'s management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

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

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

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

In our opinion, Exelixis, Inc. maintained, in all material respects, effective internal control over financial reporting as of December 31, 2010, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Exelixis, Inc. as of December 31, 2010 and January 1, 2010, and the related consolidated statements of operations, stockholders' equity (deficit), and cash flows for each of the three fiscal years in the period ended December 31, 2010, of Exelixis, Inc. and our report dated February 22, 2011 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Palo Alto, California
February 22, 2011

Changes in Internal Control Over Financial Reporting. There were no changes in our internal control over financial reporting that occurred during our most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

Pursuant to Item 5.02(e) of Form 8-K under the Securities Exchange Act of 1934, as amended, we report that on February 15, 2011, the Compensation Committee of our Board of Directors, or Board, approved the 2011 base salaries and 2011 target cash bonus program and amounts, expressed as a percentage of 2011 base salaries, for the Company's principal executive officer, principal financial officer and other named executive officers (as defined under applicable securities laws).

Cash bonuses under the 2011 bonus program are discretionary, but the Compensation Committee of our Board sets bonus targets (expressed as a percentage of base salary) based on the seniority of the applicable position and intends to take into account the achievement of company-wide and applicable division or department performance objectives. Our company-wide goals for 2011 were approved by our Board and include both research and development and business goals. The Compensation Committee exercises broad discretion in determining the amount of cash bonuses and does not attempt to quantify the level of achievement of corporate goals or the extent to which each named executive officer's division or department contributed to our overall success. Whether or not a bonus is paid for 2011 is within the discretion of the Board. The actual bonus awarded for 2011, if any, may be more or less than the target, depending on individual performance and the achievement of our overall objectives.

The 2011 base salaries and 2011 target cash bonus amounts for each of our named executive officers are listed in Exhibit 10.21 attached hereto and incorporated herein by reference.

Additional information regarding compensation of the named executive officers, including the factors considered by the Compensation Committee in determining compensation, will be included in our Proxy Statement for our 2011 Annual Meeting of Stockholders.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The information required by this item relating to our directors and nominees, including information with respect to our audit committee, audit committee financial experts and procedures by which stockholders may recommend nominees to our board of directors is incorporated by reference to the section entitled "Proposal 1 – Election of Class III Directors" appearing in our Proxy Statement for our 2011 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of the fiscal year ended December 31, 2010. The information required by this item regarding compliance with Section 16(a) of the Securities Exchange Act is incorporated by reference to the section entitled "Section 16(a) Beneficial Ownership Reporting Compliance" appearing in our Proxy Statement for our 2011 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of the fiscal year ended December 31, 2010.

Code of Ethics

We have adopted a Code of Conduct and Ethics that applies to all of our directors, officers and employees, including our principal executive officer, principal financial officer and principal accounting officer. The Code of Conduct and Ethics is posted on our website at www.exelixis.com under the caption "Investors."

We intend to satisfy the disclosure requirement under Item 5.05 of Form 8-K regarding an amendment to, or waiver from, a provision of this Code of Conduct and Ethics by posting such information on our website, at the address and location specified above and, to the extent required by the listing standards of the NASDAQ Stock Market, by filing a Current Report on Form 8-K with the SEC, disclosing such information.

ITEM 11. EXECUTIVE COMPENSATION

The information required by this item is incorporated by reference to the sections entitled "Compensation of Executive Officers," "Compensation of Directors," "Compensation Committee Interlocks and Insider Participation" and "Compensation Committee Report" appearing in our Proxy Statement for our 2011 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of the fiscal year ended December 31, 2010.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required by this item relating to security ownership of certain beneficial owners and management is incorporated by reference to the section entitled "Security Ownership of Certain Beneficial Owners and Management" appearing in our Proxy Statement for its 2011 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of the fiscal year ended December 31, 2010.

Equity Compensation Plan Information

The following table provides certain information about our common stock that may be issued upon the exercise of stock options and other rights under all of our existing equity compensation plans as of December 31, 2010, which consists of our 2000 Equity Incentive Plan, or the 2000 Plan, our 2000 Non-Employee Directors' Stock Option Plan, or the Director Plan, our 2000 Employee Stock Purchase Plan, or the ESPP, our 2010 Inducement Award Plan, or the 2010 Plan, and our 401(k) Retirement Plan:

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights(1) (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by stockholders(2):	21,663,511	$ 7.52	5,788,161
Equity compensation plans not approved by stockholders(3):	138,950	$ 5.93	1,616,831
Total	21,802,461	$ 7.52	7,404,992

(1) The weighted average exercise price does not take into account the shares subject to outstanding restricted stock units which have no exercise price.

(2) Represents shares of our common stock issuable pursuant to the 2000 Plan, the Director Plan and the ESPP.

The 2000 Plan was originally adopted by our Board of Directors in January 2000 and approved by our stockholders in March 2000. The 2000 Plan was amended and restated by our Board of Directors in December 2006 to require that the exercise price for options granted pursuant to the 2000 Plan be equal to the fair market value as of the determination date. The 2000 Plan is administered by the Compensation Committee of our Board of Directors. The 2000 Plan expired in January 2010 and there are no shares available for future issuance. As of December 31, 2010, there were options outstanding to purchase 18,711,280 shares of our common stock under the 2000 Plan at a weighted average exercise price of $7.49 per share. The weighted average exercise price does not take into account the shares subject to outstanding restricted stock units which have no exercise price. As of December 31, 2010, there were 2,065,981 shares reserved for issuance upon the vesting of outstanding restricted stock units.

The Director Plan was originally adopted by our Board of Directors in January 2000 and approved by our stockholders in March 2000. The Director Plan provides for the automatic grant of options to purchase shares of common stock to non-employee directors. The Director Plan was amended by our Board of Directors in February 2004 to increase the annual option grant to each director from 5,000 shares to 10,000 shares, which amendment was approved by our stockholders in April 2004. The Director Plan was further amended by our Board of Directors in February 2008 to increase the annual option grant to each director from 10,000 shares to 15,000 shares and again in December 2010 to extend the post-termination exercise period for future granted options. Stockholder approval of these changes was not required. The Director Plan is administered by the Compensation Committee of our Board of Directors. As of December 31, 2010, there were options outstanding to purchase 886,250 shares of our common stock under the Director Plan at a weighted average exercise price of $8.22.

The ESPP was originally adopted by our Board of Directors in January 2000 and approved by our stockholders in March 2000. The ESPP allows for qualified employees to purchase shares of our common stock at a price equal to the lower of 85% of the closing price at the beginning of the offering period or 85% of the closing price at the end of each purchase period. The ESPP is implemented by one offering period during each six-month period; provided, however, our Board of Directors may alter the duration of an offering period without stockholder approval. Employees may authorize up to 15% of their compensation for the purchase of stock under the ESPP; provided, that an employee may not accrue the right to purchase stock at a rate of more than $25,000 of the fair market value of our common stock for each calendar year in

which the purchase right is outstanding. The ESPP was amended by our Board of Directors in January 2005 and February 2009, each time to increase the number of shares available for issuance under the ESPP. Each increase in the ESPP share reserve was approved by our stockholders in April 2005 and May 2009, respectively. As of December 31, 2010, there were 3,060,505 shares available for future issuance under the ESPP.

(3) Represents shares of our common stock issuable pursuant to the 2010 Plan and the 401(k) Retirement Plan.

In December 2009, we adopted the 2010 Plan to replace the 2000 Plan, which expired in January 2010. A total of 1,000,000 shares of our common stock were authorized for issuance under the 2010 Plan. The 2010 Plan provides for the grant of stock options, stock appreciation rights, restricted stock awards, restricted stock unit awards and other stock awards to persons not previously one of our employees or directors as inducements material to such individuals becoming one of our employees or directors. Equity awards issued under the 2010 Plan must be issued in compliance with Rule 5635(c)(4) of the NASDAQ Listing Rules. The 2010 Plan is administered by the Compensation Committee of our Board of Directors. As of December 31, 2010, there were options outstanding to purchase 32,500 shares of our common stock under the 2010 Plan at a weighted average exercise price of $5.93. The weighted average exercise price does not take into account the shares subject to outstanding restricted stock units which have no exercise price. As of December 31, 2010, there were 106,450 shares reserved for issuance upon the vesting of outstanding restricted stock units.

We sponsor a 401(k) Retirement Plan whereby eligible employees may elect to contribute up to the lesser of 20% of their annual compensation or the statutorily prescribed annual limit allowable under Internal Revenue Service regulations. The 401(k) Retirement Plan permits us to make matching contributions on behalf of all participants. From 2002 through 2010, we matched 50% of the first 4% of participant contributions into the 401(k) Retirement Plan in the form of our common stock. Beginning in 2011, we match 100% of the first 3% of participant contributions into the 401(k) Retirement Plan in the form of our common stock.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required by this item is incorporated by reference to the sections entitled “Certain Relationships and Related Party Transactions” and “Proposal 1 – Election of Class III Directors” appearing in our Proxy Statement for our 2011 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the fiscal year ended December 31, 2010.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

The information required by this item is incorporated by reference to the section entitled “Proposal 2 – Ratification of Selection of Independent Registered Public Accounting Firm” appearing in our Proxy Statement for our 2011 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the fiscal year ended December 31, 2010.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) The following documents are being filed as part of this report:

(1) The following financial statements and the Report of Independent Registered Public Accounting Firm are included in Part II, Item 8:

(2) All financial statement schedules are omitted because the information is inapplicable or presented in the Notes to Consolidated Financial Statements.

(3) The items listed on the Index to Exhibits on pages 114 through 122 are incorporated herein by reference.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of South San Francisco, State of California, on February 22, 2011.

EXELIXIS, INC.

By: /S/ MICHAEL M. MORRISSEY
Michael M. Morrissey, Ph.D.
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints **MICHAEL M. MORRISSEY, JAMES B. BUCHER** and **FRANK KARBE**, and each or any one of them, his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this report on Form 10-K, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitutes or substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this report on Form 10-K has been signed by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signatures	Title	Date
/s/ MICHAEL M. MORRISSEY **Michael M. Morrissey, Ph.D.**	Director, President and Chief Executive Officer (Principal Executive Officer)	February 22, 2011
/S/ FRANK KARBE **Frank Karbe**	Chief Financial Officer (Principal Financial and Accounting Officer)	February 22, 2011
/S/ STELIOS PAPADOPOULOS **Stelios Papadopoulos, Ph.D.**	Chairman of the Board	February 22, 2011
/S/ CHARLES COHEN **Charles Cohen, Ph.D.**	Director	February 22, 2011
/S/ CARL B. FELDBAUM **Carl B. Feldbaum, Esq.**	Director	February 22, 2011
/S/ ALAN M. GARBER **Alan M. Garber, M.D., Ph.D.**	Director	February 22, 2011

Table of Contents

Signatures	Title	Date
/S/ VINCENT MARCHESI **Vincent Marchesi, M.D., Ph.D.**	Director	February 22, 2011
/S/ FRANK MCCORMICK **Frank McCormick, Ph.D.**	Director	February 22, 2011
/S/ GEORGE POSTE **George Poste, D.V.M., Ph.D.**	Director	February 22, 2011
/S/ GEORGE A. SCANGOS **George A. Scangos, Ph.D.**	Director	February 22, 2011
/S/ LANCE WILLSEY **Lance Willsey, M.D.**	Director	February 22, 2011
/S/ JACK L. WYSZOMIERSKI **Jack L. Wyszomierski**	Director	February 22, 2011

INDEX TO EXHIBITS

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/ Appendix Reference	Filing Date	
2.2*	Share Sale and Transfer Agreement, dated November 20, 2007, by and between Taconic Farms, Inc. and Exelixis, Inc.	10-K	000-30235	2.3	2/25/2008	
3.1	Amended and Restated Certificate of Incorporation of Exelixis, Inc.	10-K	000-30235	3.1	3/10/2010	
3.2	Certificate of Amendment of Amended and Restated Certificate of Incorporation of Exelixis, Inc.	10-K	000-30235	3.2	3/10/2010	
3.3	Amended and Restated Bylaws of Exelixis, Inc.	8-K	000-30235	3.1	10/4/2007	
4.1	Specimen Common Stock Certificate.	S-1, as amended	333-96335	4.1	2/7/2000	
4.2	Form of Warrant, dated June 13, 2006, to purchase 750,000 shares of Exelixis, Inc. common stock in favor of Symphony Evolution Holdings LLC.	8-K	000-30235	4.1	6/15/2006	
4.3	Form of Warrant, dated June 10, 2009, to purchase 500,000 shares of Exelixis, Inc. common stock in favor of Symphony Evolution Holdings LLC.	10-Q, as amended	000-30235	4.4	7/30/2009	
4.4	Warrant Purchase Agreement, dated June 9, 2005, between Exelixis, Inc. and Symphony Evolution Holdings LLC.	10-Q	000-30235	4.4	8/5/2010	
4.5*	Form Warrant to Purchase Common Stock of Exelixis, Inc. issued or issuable to Deerfield Private Design Fund, L.P., Deerfield Private Design International, L.P., Deerfield Partners, L.P. and Deerfield International Limited	8-K	000-30235	4.9	6/9/2008	
4.6	Form of Common Stock Agreement and Warrant Certificate.	S-3, as amended	333-158792	4.17	4/24/2009	
4.7	Form of Preferred Stock Agreement and Warrant Certificate.	S-3, as amended	333-158792	4.18	4/24/2009	
4.8	Form of Debt Securities Warrant Agreement and Warrant Certificate.	S-3, as amended	333-158792	4.19	4/24/2009	

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/ Appendix Reference	Filing Date	
4.9	Form of Senior Debt Indenture.	S-3, as amended	333-158792	4.13	5/28/2009	
4.10	Form of Subordinated Debt Indenture.	S-3, as amended	333-158792	4.14	5/28/2009	
4.11	Form of Note, dated July 1, 2010, in favor of Deerfield Private Design International, L.P.	10-Q	000-30235	10.1 (Exhibit A-1)	8/5/2010	
4.12	Form of Note, dated July 1, 2010, in favor of Deerfield Private Design Fund, L.P.	10-Q	000-30235	10.1 (Exhibit A-2)	8/5/2010	
10.1	Form of Indemnity Agreement.	S-1, as amended	333-96335	10.1	2/7/2000	
10.2†	2000 Equity Incentive Plan.	10-Q	000-30235	10.1	5/3/2007	
10.3†	Form of Stock Option Agreement under the 2000 Equity Incentive Plan (early exercise permissible).	10-Q	000-30235	10.2	11/8/2004	
10.4†	Form of Stock Option Agreement under the 2000 Equity Incentive Plan (early exercise may be restricted).	8-K	000-30235	10.1	12/15/2004	
10.5†	Form of Restricted Stock Unit Agreement under the 2000 Equity Incentive Plan.	10-K	000-30235	10.6	3/10/2010	
10.6†	2000 Non-Employee Directors' Stock Option Plan.					X
10.7†	Form of Stock Option Agreement under the 2000 Non-Employee Directors' Stock Option Plan.					X
10.8†	2000 Employee Stock Purchase Plan.	Schedule 14A	000-30235	A	4/13/2009	
10.9†	2010 Inducement Award Plan	10-K	000-30235	10.10	3/10/2010	
10.10†	Form of Stock Option Agreement under the 2010 Inducement Award Plan.	10-K	000-30235	10.11	3/10/2010	
10.11†	Form of Restricted Stock Unit Agreement under the 2010 Inducement Award Plan.	10-K	000-30235	10.12	3/10/2010	
10.12†	Exelixis, Inc. 401(k) Plan.	10-K	000-30235	10.13	3/10/2010	
10.13†	Exelixis, Inc. 401(k) Plan Adoption Agreement.	10-K	000-30235	10.14	3/10/2010	

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/ Appendix Reference	Filing Date	
10.14†	Offer Letter Agreement, dated February 3, 2000, between Michael Morrissey, Ph.D., and Exelixis, Inc.	10-Q	000-30235	10.43	8/5/2004	
10.15†	Offer Letter Agreement, dated November 20, 2003, between Frank Karbe and Exelixis, Inc.	10-Q	000-30235	10.46	8/5/2004	
10.16†	Offer Letter Agreement, dated March 27, 2000, between Pamela Simonton, J.D., L.L.M. and Exelixis, Inc.	10-K	000-30235	10.17	3/15/2005	
10.17†	Offer Letter Agreement, dated June 20, 2006, between Exelixis, Inc. and Gisela M. Schwab, M.D.	8-K	000-30235	10.1	6/26/2006	
10.18†	Offer Letter Agreement, dated June 19, 2008, between Exelixis, Inc. and Fran Heller, J.D.	10-K	000-30235	10.20	3/10/2010	
10.19†	Offer Letter Agreement, dated January 7, 2002, between Exelixis, Inc. and Lupe M. Rivera.					X
10.20†	Resignation Agreement dated July 22, 2010 by and between Exelixis, Inc. and George A. Scangos	10-Q	000-30235	10.1	11/4/2010	
10.21†	Compensation Information for the Company's Named Executive Officers.					X
10.22†	Compensation Information for Non-Employee Directors.					X
10.23†	Exelixis, Inc. Change in Control and Severance Benefit Plan, as amended and restated.					X
10.24*	Product Development and Commercialization Agreement, dated as of October 28, 2002, by and between SmithKlineBeecham Corporation and Exelixis, Inc.	10-Q	000-30235	10.36	11/8/2002	
10.25*	First Amendment to the Product Development and Commercialization Agreement, dated as of January 10, 2005, by and between SmithKlineBeecham Corporation and Exelixis, Inc.	10-K	000-30235	10.24	3/15/2005	

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/ Appendix Reference	Filing Date	
10.26*	Second Amendment to the Product Development and Commercialization Agreement, dated as of June 13, 2008, by and between SmithKlineBeecham Corporation d/b/a GlaxoSmithKline and Exelixis, Inc.	10-Q	000-30235	10.3	8/5/2008	
10.27*	Stock Purchase and Stock Issuance Agreement, dated as of October 28, 2002, by and between SmithKlineBeecham Corporation and Exelixis, Inc.	10-Q	000-30235	10.37	11/8/2002	
10.28	First Amendment to the Stock Purchase and Stock Issuance Agreement, dated as of January 10, 2005, by and between SmithKlineBeecham Corporation and Exelixis, Inc.	10-K	000-30235	10.26	3/15/2005	
10.29*	Loan and Security Agreement, dated as of October 28, 2002, by and between SmithKlineBeecham Corporation and Exelixis, Inc.	10-Q	000-30235	10.38	11/8/2002	
10.30	First Amendment to the Loan and Security Agreement, dated as of December 5, 2002, by and between SmithKlineBeecham Corporation and Exelixis, Inc.	10-K	000-30235	10.30	3/10/2010	
10.31	Second Amendment to the Loan and Security Agreement, dated as of September 20, 2004, by and between SmithKlineBeecham Corporation and Exelixis, Inc.	8-K	000-30235	10.1	9/23/2004	
10.32*	Third Amendment to the Loan and Security Agreement, dated as of January 10, 2005, by and between SmithKlineBeecham Corporation and Exelixis, Inc.	10-K	000-30235	10.29	3/15/2005	
10.33*	Fourth Amendment to the Loan and Security Agreement, dated as of July 10, 2008, by and between SmithKlineBeecham Corporation d/b/a GlaxoSmithKline and Exelixis, Inc.	10-Q	000-30235	10.4	8/5/2008	

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/ Appendix Reference	Filing Date	
10.34*	Letter Agreement, dated February 17, 2009, between Exelixis, Inc. and SmithKlineBeecham Corporation d/b/a GlaxoSmithKline.	10-Q, as amended	000-30235	10.1	5/7/2009	
10.35*	Collaboration Agreement, dated December 15, 2006, between Exelixis, Inc. and Bristol-Myers Squibb Company.	10-K	000-30235	10.38	2/27/2007	
10.36*	Amendment No. 1, dated January 11, 2007, to the Collaboration Agreement, dated December 15, 2006, between Exelixis, Inc. and Bristol-Myers Squibb Company.	10-Q	000-30235	10.3	11/5/2007	
10.37*	Letter Agreement, dated June 26, 2008, between Exelixis, Inc. and Bristol-Myers Squibb Company.	10-Q	000-30235	10.5	8/5/2008	
10.38*	Amendment No. 2, dated October 1, 2009, to the Collaboration Agreement, dated December 15, 2006, by and between Exelixis, Inc. and Bristol-Myers Squibb Company.	10-Q	000-30235	10.3	10/29/2009	
10.39**	Amendment No. 3, dated October 8, 2010, to the Collaboration Agreement, dated December 15, 2006, by and between Exelixis, Inc. and Bristol-Myers Squibb Company.					X
10.40*	Collaboration Agreement, dated December 22, 2006, between Exelixis, Inc. and Genentech, Inc.	10-K	000-30235	10.39	2/27/2007	
10.41*	First Amendment, dated March 13, 2008, to the Collaboration Agreement, dated December 22, 2006, between Exelixis, Inc. and Genentech, Inc.	10-Q	000-30235	10.1	5/6/2008	
10.42	Second Amendment, dated April 30, 2010 to the Collaboration Agreement, dated December 22, 2006, between Exelixis, Inc. and Genentech, Inc.	10-Q	000-30235	10.5	8/5/2010	

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/ Appendix Reference	Filing Date	
10.43	Lease, dated May 12, 1999, between Britannia Pointe Grand Limited Partnership and Exelixis, Inc.	S-1, as amended	333-96335	10.11	2/7/2000	
10.44	First Amendment to Lease, dated March 29, 2000, between Britannia Pointe Grand Limited Partnership and Exelixis, Inc.	10-Q	000-30235	10.1	5/15/2000	
10.45	Second Amendment to Lease dated January 31, 2001, between Britannia Pointe Grand Limited Partnership and Exelixis, Inc.	S-1, as amended	333-152166	10.44	7/7/2008	
10.46	Third Amendment to Lease dated May 24, 2001, between Britannia Pointe Grand Limited Partnership and Exelixis, Inc.					X
10.47	Lease Agreement, dated May 24, 2001, between Britannia Pointe Grand Limited Partnership and Exelixis, Inc.	10-Q	000-30235	10.48	8/5/2004	
10.48	First Amendment to Lease, dated February 28, 2003, between Britannia Pointe Grand Limited Partnership and Exelixis, Inc.	S-1, as amended	333-152166	10.46	7/7/2008	
10.49	Second Amendment to Lease, dated July 20, 2004, between Britannia Pointe Grand Limited Partnership and Exelixis, Inc.	10-Q	000-30235	10.49	8/5/2004	
10.50	Lease Agreement, dated May 27, 2005, between Exelixis, Inc. and Britannia Pointe Grand Limited Partnership.	8-K	000-30235	10.1	5/27/2007	
10.51	Lease Agreement, dated September 14, 2007, between ARE-San Francisco No. 12, LLC and Exelixis, Inc.	10-Q	000-30235	10.5	11/5/2007	
10.52	First Amendment dated May 31, 2008 to Lease Agreement, dated September 14, 2007, by and between ARE-San Francisco No. 12, LLC and Exelixis, Inc.	10-Q	000-30235	10.1	8/5/2008	

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/ Appendix Reference	Filing Date	
10.53	Second Amendment dated October 23, 2008 to Lease Agreement, dated September 14, 2007, by and between ARE-San Francisco No. 12, LLC and Exelixis, Inc.	10-K	000-30235	10.62	3/10/2009	
10.54	Third Amendment dated October 24, 2008 to Lease Agreement, dated September 14, 2007, by and between ARE-San Francisco No. 12, LLC and Exelixis, Inc.	10-K	000-30235	10.63	3/10/2009	
10.55	Fourth Amendment dated July 9, 2010 to Lease Agreement, dated September 14, 2007, by and between ARE-San Francisco No. 12, LLC and Exelixis, Inc.	10-Q	000-30235	10.2	11/4/2010	
10.56	Consent to Sublease dated July 9, 2010 by and among ARE-San Francisco No. 12, LLC, Exelixis, Inc. and Onyx Pharmaceuticals, Inc.	10-Q	000-30235	10.3	11/4/2010	
10.57	Sublease Agreement, dated July 9, 2010, by and between Exelixis, Inc. and Onyx Pharmaceuticals, Inc.	10-Q	000-30235	10.4	11/4/2010	
10.58	Loan and Security Agreement, dated May 22, 2002, by and between Silicon Valley Bank and Exelixis, Inc.	10-Q	000-30235	10.34	8/6/2002	
10.59	Loan Modification Agreement, dated December 21, 2004, between Silicon Valley Bank and Exelixis, Inc.	8-K	000-30235	10.1	12/23/2004	
10.60	Amendment No. 7, dated December 21, 2006, to the Loan and Security Agreement, dated May 22, 2002, between Silicon Valley Bank and Exelixis, Inc.	8-K	000-30235	10.1	12/27/2006	
10.61	Amendment No. 8, dated December 21, 2007, to the Loan and Security Agreement, dated May 22, 2002, between Silicon Valley Bank and Exelixis, Inc.	8-K	000-30235	10.1	12/26/2007	
10.62	Amendment No. 9, dated December 22, 2009, to the Loan and Security Agreement, dated May 22, 2002, between Silicon Valley Bank and Exelixis, Inc.	8-K	000-30235	10.1	12/23/2009	

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/ Appendix Reference	Filing Date	
10.63*	Amendment No. 10, dated June 2, 2010, to the Loan and Security Agreement, dated May 22, 2002, by and between Silicon Valley Bank and Exelixis, Inc.	10-Q	000-30235	10.3	8/5/2010	
10.64*	Shareholders' Agreement, dated November 20, 2007, by and between Taconic Farms, Inc. and Exelixis, Inc.	10-K	000-30235	10.54	2/25/2008	
10.65*	Collaboration Agreement, dated December 11, 2008, by and between Exelixis, Inc. and Bristol-Myers Squibb Company.	10-K	000-30235	10.65	3/10/2009	
10.66*	Amendment No. 1, dated December 17, 2008, to the Collaboration Agreement, dated December 11, 2008, by and between Exelixis, Inc. and Bristol-Myers Squibb Company.	10-K	000-30235	10.66	3/10/2009	
10.67*	Amendment No. 2, dated September 1, 2009, to the Collaboration Agreement dated December 11, 2008, by and between Exelixis, Inc. and Bristol-Myers Squibb Company.	10-Q	000-30235	10.2	10/29/2009	
10.68**	Amendment No. 3, dated October 8, 2010, to the Collaboration Agreement dated December 11, 2008, by and between Exelixis, Inc. and Bristol-Myers Squibb Company.					X
10.69	Termination Agreement dated June 18, 2010 between Exelixis, Inc. and Bristol-Myers Squibb Company	10-Q	000-30235	10.4	8/5/2010	
10.70*	Letter Agreement, dated December 11, 2008, between Exelixis, Inc. and Bristol-Myers Squibb Company.	10-K	000-30235	10.67	3/10/2009	
10.71*	License Agreement, dated May 27, 2009, between Exelixis, Inc. and sanofi-aventis.	10-Q, as amended	000-30235	10.1	7/30/2009	
10.72*	Collaboration Agreement, dated May 27, 2009, between Exelixis, Inc. and sanofi-aventis.	10-Q, as amended	000-30235	10.2	7/30/2009	

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/ Appendix Reference	Filing Date	
10.73	Letter, dated May 27, 2009, relating to regulatory filings for the Collaboration Agreement, dated May 27, 2009, between Exelixis, Inc. and sanofi-aventis.	10-Q, as amended	000-30235	10.3	7/30/2009	
10.74	Note Purchase Agreement, dated June 2, 2010, by and between Deerfield Private Design Fund, L.P., Deerfield Private Design International, L.P. and Exelixis, Inc.	10-Q	000-30235	10.1	8/5/2010	
10.75	Security Agreement, dated July 1, 2010, by and between Deerfield Private Design Fund, L.P., Deerfield Private Design International, L.P. and Exelixis, Inc.	10-Q	000-30235	10.2	8/5/2010	
10.76**	License Agreement, dated October 8, 2010, by and between Bristol-Myers Squibb Company and Exelixis, Inc.					X
10.77**	Collaboration Agreement, dated October 8, 2010, by and between Bristol-Myers Squibb Company and Exelixis, Inc.					X
23.1	Consent of Independent Registered Public Accounting Firm.					X
24.1	Power of Attorney (contained on signature page).					X
31.1	Certification required by Rule 13a-14(a) or Rule 15d-14(a)					X
31.2	Certification required by Rule 13a-14(a) or Rule 15d-14(a).					X
32.1‡	Certification by the Chief Executive Officer and the Chief Financial Officer of Exelixis, Inc., as required by Rule 13a-14(b) or 15d-14(b) and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350).					X

† Management contract or compensatory plan.

* Confidential treatment granted for certain portions of this exhibit.

** Confidential treatment requested for certain portions of this exhibit.

‡ This certification accompanies this Annual Report on Form 10-K, is not deemed filed with the SEC and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of this Annual Report on Form 10-K), irrespective of any general incorporation language contained in such filing.

Exelixis, Inc.

2000 Non-Employee Directors' Stock Option Plan

Adopted by the Board of Directors on January 27, 2000
Approved By Stockholders March 15, 2000
Amended By the Board of Directors on February 24, 2004
Approved By Stockholders April 8, 2004
Amended By the Board of Directors on February 6, 2008
Amended By the Board of Directors on December 1, 2010

1. PURPOSE.

(a) Eligible Option Recipients. The persons eligible to receive Options are the Non-Employee Directors of the Company.

(b) Available Options. The purpose of the Plan is to provide a means by which Non-Employee Directors may be given an opportunity to benefit from increases in value of the Common Stock through the granting of Nonstatutory Stock Options.

(c) General Purpose. The Company, by means of the Plan, seeks to retain the services of its Non-Employee Directors, to secure and retain the services of new Non-Employee Directors and to provide incentives for such persons to exert maximum efforts for the success of the Company and its Affiliates.

2. DEFINITIONS.

(a) *"Affiliate"* means any parent corporation or subsidiary corporation of the Company, whether now or hereafter existing, as those terms are defined in Sections 424(e) and (f), respectively, of the Code.

(b) *"Annual Grant"* means an Option granted annually to all Non-Employee Directors who meet the specified criteria pursuant to subsection 6(b) of the Plan.

(c) *"Annual Meeting"* means the annual meeting of the stockholders of the Company.

(d) *"Board"* means the Board of Directors of the Company.

(e) *"Calculation Date"* means the last day of each fiscal year of the Company.

(f) *"Code"* means the Internal Revenue Code of 1986, as amended.

(g) *"Committee"* means a committee of one or more members of the Board appointed by the Board in accordance with subsection 3(c).

(h) *"Common Stock"* means the common stock of the Company.

(i) *"Company"* means Exelixis, Inc., a Delaware corporation.

(j) *"Consultant"* means any person, including an advisor, (i) engaged by the Company or an Affiliate to render consulting or advisory services and who is compensated for such services or (ii) who is a member of the Board of Directors of an Affiliate. However, the term "Consultant" shall not include either Directors of the Company who are not compensated by the Company for their services as Directors or Directors of the Company who are merely paid a director's fee by the Company for their services as Directors.

(k) "*Continuous Service*" means that the Optionholder's service with the Company or an Affiliate, whether as an Employee, Director or Consultant, is not interrupted or terminated. The Optionholder's Continuous Service shall not be deemed to have terminated merely because of a change in the capacity in which the Optionholder renders service to the Company or an Affiliate as an Employee, Consultant or Director or a change in the entity for which the Optionholder renders such service, provided that there is no interruption or termination of the Optionholder's Continuous Service. For example, a change in status from a Non-Employee Director of the Company to a Consultant of an Affiliate or an Employee of the Company will not constitute an interruption of Continuous Service. The Board or the chief executive officer of the Company, in that party's sole discretion, may determine whether Continuous Service shall be considered interrupted in the case of any leave of absence approved by that party, including sick leave, military leave or any other personal leave.

(l) "*Diluted Shares Outstanding*" means the number of outstanding shares of Common Stock on the Calculation Date, plus the number of shares of Common Stock issuable on the Calculation Date assuming the conversion of all outstanding preferred stock and convertible notes, and the additional number of dilutive Common Stock equivalent shares outstanding as the result of any options or warrants outstanding during the fiscal year, calculated using the treasury stock method.

(m) "*Director*" means a member of the Board of Directors of the Company.

(n) "*Disability*" means the permanent and total disability of a person within the meaning of Section 22(e)(3) of the Code.

(o) "*Employee*" means any person employed by the Company or an Affiliate. Mere service as a Director or payment of a director's fee by the Company or an Affiliate shall not be sufficient to constitute "employment" by the Company or an Affiliate.

(p) "*Exchange Act*" means the Securities Exchange Act of 1934, as amended.

(q) "*Fair Market Value*" means, as of any date, the value of the Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange or traded on the Nasdaq National Market or the Nasdaq SmallCap Market, the Fair Market Value of a share of Common Stock shall be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or market (or the exchange or market with the greatest volume of trading in the Common Stock) on the last market trading day prior to the day of determination, as reported in The Wall Street Journal or such other source as the Board deems reliable.

(ii) In the absence of such markets for the Common Stock, the Fair Market Value shall be determined in good faith by the Board.

(r) "*Initial Grant*" means an Option granted to a Non-Employee Director who meets the specified criteria pursuant to subsection 6(a) of the Plan.

(s) "*IPO Date*" means the effective date of the initial public offering of the Common Stock.

(t) "*Non-Employee Director*" means a Director who is not an Employee.

(u) "*Nonstatutory Stock Option*" means an Option not intended to qualify as an incentive stock option within the meaning of Section 422 of the Code and the regulations promulgated thereunder.

(v) "*Officer*" means a person who is an officer of the Company within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder.

(w) *"Option"* means a Nonstatutory Stock Option granted pursuant to the Plan.

(x) *"Option Agreement"* means a written agreement between the Company and an Optionholder evidencing the terms and conditions of an individual Option grant. Each Option Agreement shall be subject to the terms and conditions of the Plan.

(y) *"Optionholder"* means a person to whom an Option is granted pursuant to the Plan or, if applicable, such other person who holds an outstanding Option.

(z) *"Plan"* means this Exelixis, Inc. 2000 Non-Employee Directors' Stock Option Plan.

(aa) *"Rule 16b-3"* means Rule 16b-3 promulgated under the Exchange Act or any successor to Rule 16b-3, as in effect from time to time.

(bb) *"Securities Act"* means the Securities Act of 1933, as amended.

3. ADMINISTRATION.

(a) Administration by Board. The Board shall administer the Plan unless and until the Board delegates administration to a Committee, as provided in subsection 3(c).

(b) Powers of Board. The Board shall have the power, subject to, and within the limitations of, the express provisions of the Plan:

(i) To determine the provisions of each Option to the extent not specified in the Plan.

(ii) To construe and interpret the Plan and Options granted under it, and to establish, amend and revoke rules and regulations for its administration. The Board, in the exercise of this power, may correct any defect, omission or inconsistency in the Plan or in any Option Agreement, in a manner and to the extent it shall deem necessary or expedient to make the Plan fully effective.

(iii) To amend the Plan or an Option as provided in Section 12.

(iv) Generally, to exercise such powers and to perform such acts as the Board deems necessary or expedient to promote the best interests of the Company that are not in conflict with the provisions of the Plan.

(c) Delegation to Committee. The Board may delegate administration of the Plan to a Committee or Committees of one (1) or more members of the Board, and the term "Committee" shall apply to any person or persons to whom such authority has been delegated. If administration is delegated to a Committee, the Committee shall have, in connection with the administration of the Plan, the powers theretofore possessed by the Board, including the power to delegate to a subcommittee any of the administrative powers the Committee is authorized to exercise (and references in this Plan to the Board shall thereafter be to the Committee or subcommittee), subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be adopted from time to time by the Board. The Board may abolish the Committee at any time and revest in the Board the administration of the Plan.

(d) Effect of Board's Decision. All determinations, interpretations and constructions made by the Board in good faith shall not be subject to review by any person and shall be final, binding and conclusive on all persons.

4. SHARES SUBJECT TO THE PLAN.

(a) Share Reserve. Subject to the provisions of subsection 4(b) relating to automatic increases to the share reserve, the provisions of subsection 4(c) relating to reversion of shares of Common Stock to the share reserve and the provisions of Section 11 relating to adjustments upon changes in the Common

Stock, the Common Stock that may be issued pursuant to Stock Awards shall not exceed in the aggregate five hundred thousand (500,000) shares of Common Stock.

(b) Automatic Increase. For a period of ten (10) years, the share reserve specified in subsection 4(a) automatically shall be increased on the Calculation Date by the greater of that number of shares of Common Stock equal to 0.75% of the Diluted Shares Outstanding or that number of shares of Common Stock that have been made subject to Options granted under the Plan during the prior 12-month period; provided, however, that the Board may provide for a lesser number at any time prior to the Calculation Date.

(c) Reversion of Shares to the Share Reserve. If any Option shall for any reason expire or otherwise terminate, in whole or in part, without having been exercised in full, the shares of Common Stock not acquired under such Option shall revert to and again become available for issuance under the Plan. If the Company repurchases any unvested shares of Common Stock acquired under the Plan, the repurchased shares of Common Stock shall revert to and again become available for issuance under the Plan.

(d) Source of Shares. The shares of Common Stock subject to the Plan may be unissued shares or reacquired shares, bought on the market or otherwise.

5. ELIGIBILITY.

The Options as set forth in section 6 automatically shall be granted under the Plan to all Non-Employee Directors.

6. NON-DISCRETIONARY GRANTS.

(a) Initial Grants. Without any further action of the Board, each Non-Employee Director shall be granted the following Options:

(i) On the IPO Date, each person who is then a Non-Employee Director automatically shall be granted an Initial Grant to purchase Twenty-five Thousand (25,000) shares of Common Stock on the terms and conditions set forth herein.

(ii) After the IPO Date, each person who is elected or appointed for the first time to be a Non-Employee Director automatically shall, upon the date of his or her initial election or appointment to be a Non-Employee Director by the Board or stockholders of the Company, be granted an Initial Grant to purchase Twenty-five Thousand (25,000) shares of Common Stock on the terms and conditions set forth herein.

(b) Annual Grants. On the day following each Annual Meeting each person who is then a Non-Employee Director automatically shall be granted an Annual Grant to purchase Fifteen Thousand (15,000) shares of Common Stock on the terms and conditions set forth herein.

7. OPTION PROVISIONS.

Each Option shall be in such form and shall contain such terms and conditions as required by the Plan. Each Option shall contain such additional terms and conditions, not inconsistent with the Plan, as the Board shall deem appropriate. Each Option shall include (through incorporation of provisions hereof by reference in the Option or otherwise) the substance of each of the following provisions:

(a) Term. No Option shall be exercisable after the expiration of ten (10) years from the date it was granted.

(b) Exercise Price. The exercise price of each Option shall be one hundred percent (100%) of the Fair Market Value of the stock subject to the Option on the date the Option is granted. Notwithstanding the foregoing, an Option may be granted with an exercise price lower than that set forth in the preceding sentence if such Option is granted pursuant to an assumption or substitution for another option in a manner satisfying the provisions of Section 424(a) of the Code.

(c) Consideration. The purchase price of Common Stock acquired pursuant to an Option shall be paid, to the extent permitted by applicable statutes and regulations, either (i) in cash at the time the Option is exercised or (ii) at the discretion of the Board at the time of the grant of the Option or subsequently (1) by delivery to the Company of other Common Stock, (2) according to a deferred payment or other similar arrangement with the Optionholder or (3) in any other form of legal consideration that may be acceptable to the Board. Unless otherwise specifically provided in the Option, the purchase price of Common Stock acquired pursuant to an Option that is paid by delivery to the Company of other Common Stock acquired, directly or indirectly from the Company, shall be paid only by shares of the Common Stock of the Company that have been held for more than six (6) months (or such longer or shorter period of time required to avoid a charge to earnings for financial accounting purposes). At any time that the Company is incorporated in Delaware, payment of the Common Stock's "par value," as defined in the Delaware General Corporation Law, shall not be made by deferred payment.

In the case of any deferred payment arrangement, interest shall be compounded at least annually and shall be charged at the minimum rate of interest necessary to avoid the treatment as interest, under any applicable provisions of the Code, of any amounts other than amounts stated to be interest under the deferred payment arrangement.

(d) Transferability. An Option shall not be transferable except by will or by the laws of descent and distribution and to such further extent as permitted by the Rule as to Use of Form S-8 specified in the General Instructions of the Form S-8 Registration Statement under the Securities Act, and shall be exercisable during the lifetime of the Optionholder only by the Optionholder. Notwithstanding the foregoing, the Optionholder may, by delivering written notice to the Company, in a form satisfactory to the Company, designate a third party who, in the event of the death of the Optionholder, shall thereafter be entitled to exercise the Option.

(e) Exercise and Vesting. Options shall be exercisable immediately upon grant. Options shall vest as follows:

(i) Initial Grants shall provide for vesting of 1/4th of the shares 12 months after the date of the grant and 1/48th of the shares each month thereafter.

(ii) Annual Grants shall provide for vesting of 1/12th of the shares each month after the date of the grant.

(f) Termination of Continuous Service. In the event an Optionholder's Continuous Service terminates (other than upon the Optionholder's death or Disability), the Optionholder may exercise his or her Option (to the extent that the Optionholder was entitled to exercise it as of the date of termination) but only within such period of time ending on the earlier of (i) the date three (3) years following the termination of the Optionholder's Continuous Service, or (ii) the expiration of the term of the Option as set forth in the Option Agreement. If, after termination, the Optionholder does not exercise his or her Option within the time specified in the Option Agreement, the Option shall terminate.

(g) Extension of Termination Date. If the exercise of the Option following the termination of the Optionholder's Continuous Service (other than upon the Optionholder's death or Disability) would be prohibited at any time solely because the issuance of shares would violate the registration requirements under the Securities Act, then the Option shall terminate on the earlier of (i) the expiration of the term of the Option set forth in subsection 7(a) or (ii) the expiration of a period of three (3) years after the

termination of the Optionholder's Continuous Service during which the exercise of the Option would not be in violation of such registration requirements.

(h) Disability of Optionholder. In the event an Optionholder's Continuous Service terminates as a result of the Optionholder's Disability, the Optionholder may exercise his or her Option (to the extent that the Optionholder was entitled to exercise it as of the date of termination), but only within such period of time ending on the earlier of (i) the date three (3) years following such termination or (ii) the expiration of the term of the Option as set forth in the Option Agreement. If, after termination, the Optionholder does not exercise his or her Option within the time specified herein, the Option shall terminate.

(i) Death of Optionholder. In the event (i) an Optionholder's Continuous Service terminates as a result of the Optionholder's death or (ii) the Optionholder dies within the three-month period after the termination of the Optionholder's Continuous Service for a reason other than death, then the Option may be exercised (to the extent the Optionholder was entitled to exercise the Option as of the date of death) by the Optionholder's estate, by a person who acquired the right to exercise the Option by bequest or inheritance or by a person designated to exercise the Option upon the Optionholder's death, but only within the period ending on the earlier of (1) the date three (3) years following the date of death or (2) the expiration of the term of such Option as set forth in the Option Agreement. If, after death, the Option is not exercised within the time specified herein, the Option shall terminate.

8. COVENANTS OF THE COMPANY.

(a) Availability of Shares. During the terms of the Options, the Company shall keep available at all times the number of shares of Common Stock required to satisfy such Options.

(b) Securities Law Compliance. The Company shall seek to obtain from each regulatory commission or agency having jurisdiction over the Plan such authority as may be required to grant Options and to issue and sell shares of Common Stock upon exercise of the Options; provided, however, that this undertaking shall not require the Company to register under the Securities Act the Plan, any Option or any stock issued or issuable pursuant to any such Option. If, after reasonable efforts, the Company is unable to obtain from any such regulatory commission or agency the authority which counsel for the Company deems necessary for the lawful issuance and sale of stock under the Plan, the Company shall be relieved from any liability for failure to issue and sell stock upon exercise of such Options unless and until such authority is obtained.

9. USE OF PROCEEDS FROM STOCK.

Proceeds from the sale of stock pursuant to Options shall constitute general funds of the Company.

10. MISCELLANEOUS.

(a) Stockholder Rights. No Optionholder shall be deemed to be the holder of, or to have any of the rights of a holder with respect to, any shares subject to such Option unless and until such Optionholder has satisfied all requirements for exercise of the Option pursuant to its terms.

(b) No Service Rights. Nothing in the Plan or any instrument executed or Option granted pursuant thereto shall confer upon any Optionholder any right to continue to serve the Company as a Non-Employee Director or shall affect the right of the Company or an Affiliate to terminate (i) the employment of an Employee with or without notice and with or without cause, (ii) the service of a Consultant pursuant to the terms of such Consultant's agreement with the Company or an Affiliate or (iii) the service of a Director pursuant to the Bylaws of the Company or an Affiliate, and any applicable provisions of the corporate law of the state in which the Company or the Affiliate is incorporated, as the case may be.

(c) Investment Assurances. The Company may require an Optionholder, as a condition of exercising or acquiring stock under any Option, (i) to give written assurances satisfactory to the Company as to the Optionholder's knowledge and experience in financial and business matters and/or to employ a purchaser representative reasonably satisfactory to the Company who is knowledgeable and experienced in financial and business matters and that he or she is capable of evaluating, alone or together with the purchaser representative, the merits and risks of exercising the Option; and (ii) to give written assurances satisfactory to the Company stating that the Optionholder is acquiring the stock subject to the Option for the Optionholder's own account and not with any present intention of selling or otherwise distributing the stock. The foregoing requirements, and any assurances given pursuant to such requirements, shall be inoperative if (iii) the issuance of the shares upon the exercise or acquisition of stock under the Option has been registered under a then currently effective registration statement under the Securities Act or (iv) as to any particular requirement, a determination is made by counsel for the Company that such requirement need not be met in the circumstances under the then applicable securities laws. The Company may, upon advice of counsel to the Company, place legends on stock certificates issued under the Plan as such counsel deems necessary or appropriate in order to comply with applicable securities laws, including, but not limited to, legends restricting the transfer of the stock.

(d) Withholding Obligations. The Optionholder may satisfy any federal, state or local tax withholding obligation relating to the exercise or acquisition of stock under an Option by any of the following means (in addition to the Company's right to withhold from any compensation paid to the Optionholder by the Company) or by a combination of such means: (i) tendering a cash payment; (ii) authorizing the Company to withhold shares from the shares of the Common Stock otherwise issuable to the Optionholder as a result of the exercise or acquisition of stock under the Option, provided, however, that no shares of Common Stock are withheld with a value exceeding the minimum amount of tax required to be withheld by law; or (iii) delivering to the Company owned and unencumbered shares of the Common Stock.

11. ADJUSTMENTS UPON CHANGES IN STOCK.

(a) Capitalization Adjustments. If any change is made in the stock subject to the Plan, or subject to any Option, without the receipt of consideration by the Company (through merger, consolidation, reorganization, recapitalization, reincorporation, stock dividend, dividend in property other than cash, stock split, liquidating dividend, combination of shares, exchange of shares, change in corporate structure or other transaction not involving the receipt of consideration by the Company), the Plan will be appropriately adjusted in the class(es) and maximum number of securities subject both to the Plan pursuant to subsection 4(a) and to the nondiscretionary Options specified in Section 5, and the outstanding Options will be appropriately adjusted in the class(es) and number of securities and price per share of stock subject to such outstanding Options. The Board shall make such adjustments, and its determination shall be final, binding and conclusive. (The conversion of any convertible securities of the Company shall not be treated as a transaction "without receipt of consideration" by the Company.)

(b) Change in Control—Dissolution or Liquidation. In the event of a dissolution or liquidation of the Company, then all outstanding Options shall terminate immediately prior to such event.

(c) Change in Control—Asset Sale, Merger, Consolidation or Reverse Merger. In the event of (i) a sale, lease or other disposition of all or substantially all of the assets of the Company, (ii) a merger or consolidation in which the Company is not the surviving corporation or (iii) a reverse merger in which the Company is the surviving corporation but the shares of Common Stock outstanding immediately preceding the merger are converted by virtue of the merger into other property, whether in the form of securities, cash or otherwise, then any surviving corporation or acquiring corporation shall assume any Options outstanding under the Plan or shall substitute similar options (including an option to acquire the same consideration paid to the stockholders in the transaction described in this subsection 11(c) for those

outstanding under the Plan). In the event any surviving corporation or acquiring corporation refuses to assume such Options or to substitute similar options for those outstanding under the Plan, then with respect to Options held by Optionholders whose Continuous Service has not terminated, the vesting of such Options and any shares of Common Stock acquired under such Options (and, if applicable, the time during which such Options may be exercised) shall be accelerated in full, and the Options shall terminate if not exercised at or prior to such event. With respect to any other Options outstanding under the Plan, such Options shall terminate if not exercised prior to such event.

(d) Change in Control—Securities Acquisition. In the event of an acquisition by any person, entity or group within the meaning of Section 13(d) or 14(d) of the Exchange Act, or any comparable successor provisions (excluding any employee benefit plan, or related trust, sponsored or maintained by the Company or an Affiliate) of the beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act, or comparable successor rule) of securities of the Company representing at least fifty percent (50%) of the combined voting power entitled to vote in the election of Directors and provided that such acquisition is not a result of, and does not constitute a transaction described in, subsection 11(c) hereof, then with respect to Options held by Optionholders whose Continuous Service has not terminated, the vesting of such Options and any shares of Common Stock acquired under such Options (and, if applicable, the time during which such Options may be exercised) shall be accelerated in full.

12. AMENDMENT OF THE PLAN AND OPTIONS.

(a) Amendment of Plan. The Board at any time, and from time to time, may amend the Plan. However, except as provided in Section 11 relating to adjustments upon changes in stock, no amendment shall be effective unless approved by the stockholders of the Company to the extent stockholder approval is necessary to satisfy the requirements of Rule 16b-3 or any Nasdaq or securities exchange listing requirements.

(b) Stockholder Approval. The Board may, in its sole discretion, submit any other amendment to the Plan for stockholder approval.

(c) No Impairment of Rights. Rights under any Option granted before amendment of the Plan shall not be impaired by any amendment of the Plan unless (i) the Company requests the consent of the Optionholder and (ii) the Optionholder consents in writing.

(d) Amendment of Options. The Board at any time, and from time to time, may amend the terms of any one or more Options; provided, however, that the rights under any Option shall not be impaired by any such amendment unless (i) the Company requests the consent of the Optionholder and (ii) the Optionholder consents in writing.

13. TERMINATION OR SUSPENSION OF THE PLAN.

(a) Plan Term. The Board may suspend or terminate the Plan at any time. No Options may be granted under the Plan while the Plan is suspended or after it is terminated.

(b) No Impairment of Rights. Suspension or termination of the Plan shall not impair rights and obligations under any Option granted while the Plan is in effect except with the written consent of the Optionholder.

14. EFFECTIVE DATE OF PLAN.

The Plan shall become effective on the IPO Date, but no Option shall be exercised unless and until the Plan has been approved by the stockholders of the Company, which approval shall be within twelve (12) months before or after the date the Plan is adopted by the Board.

15. CHOICE OF LAW.

All questions concerning the construction, validity and interpretation of this Plan shall be governed by the law of the State of Delaware, without regard to such state's conflict of laws rules.

EXELIXIS, INC.
2000 NON-EMPLOYEE DIRECTORS' STOCK OPTION PLAN

STOCK OPTION AGREEMENT
(NONSTATUTORY STOCK OPTION)

Pursuant to your Certificate of Stock Option Grant on the Smith Barney Stock Plan Services website ("the Grant Certificate") and this Stock Option Agreement, Exelixis, Inc. (the "Company") has granted you an option under its 2000 Non-Employee Directors' Stock Option Plan (the "Plan") to purchase the number of shares of the Company's Common Stock indicated in your Grant Certificate at the exercise price indicated in your Grant Certificate. Defined terms not explicitly defined in this Stock Option Agreement but defined in the Plan shall have the same definitions as in the Plan.

The details of your option are as follows:

1. VESTING. Subject to the limitations contained herein, your option will vest as provided in your Grant Certificate, provided that vesting will cease upon the termination of your Continuous Service.

2. NUMBER OF SHARES AND EXERCISE PRICE. The number of shares of Common Stock subject to your option and your exercise price per share referenced in your Grant Certificate may be adjusted from time to time for Capitalization Adjustments, as provided in the Plan.

3. DATES OF EXERCISE. The option shall be exercisable for shares of Common Stock in one or more installments as specified in the Grant Certificate. As your option becomes exercisable for such installments, those installments shall accumulate, and the option shall remain exercisable for the accumulated installments until the Expiration Date or sooner termination of the option term under Section 7 below.

4. METHOD OF PAYMENT. Payment of the exercise price is due in full upon exercise of all or any part of your option. You may elect to make payment of the exercise price in cash or by check or by one or more of the following:

(a) Provided that at the time of exercise the Common Stock is publicly traded and quoted regularly in *The Wall Street Journal*, pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board that, prior to the issuance of Common Stock, results in either the receipt of cash (or check) by the Company or the receipt of irrevocable instructions to pay the aggregate exercise price to the Company from the sales proceeds.

(b) Provided that at the time of exercise the Common Stock is publicly traded and quoted regularly in *The Wall Street Journal*, by delivery of already-owned shares of Common Stock either that you have held for the period required to avoid a charge to the

Company's reported earnings (generally six months) or that you did not acquire, directly or indirectly from the Company, that are owned free and clear of any liens, claims, encumbrances or security interests, and that are valued at Fair Market Value on the date of exercise. "Delivery" for these purposes, in the sole discretion of the Company at the time you exercise your option, shall include delivery to the Company of your attestation of ownership of such shares of Common Stock in a form approved by the Company. Notwithstanding the foregoing, you may not exercise your option by tender to the Company of Common Stock to the extent such tender would violate the provisions of any law, regulation or agreement restricting the redemption of the Company's stock.

5. WHOLE SHARES. You may exercise your option only for whole shares of Common Stock.

6. SECURITIES LAW COMPLIANCE. Notwithstanding anything to the contrary contained herein, you may not exercise your option unless the shares of Common Stock issuable upon such exercise are then registered under the Securities Act or, if such shares of Common Stock are not then so registered, the Company has determined that such exercise and issuance would be exempt from the registration requirements of the Securities Act. The exercise of your option must also comply with other applicable laws and regulations governing your option, and you may not exercise your option if the Company determines that such exercise would not be in material compliance with such laws and regulations.

7. TERM. The term of your option commences on the Date of Grant and expires upon the ***earliest*** of the following:

(a) three (3) years after the termination of your Continuous Service for any reason (including your Disability or death), provided that if during any part of such three- (3-) year period your option is not exercisable solely because of the condition set forth in the preceding paragraph relating to "Securities Law Compliance," your option shall not expire until the earlier of the Expiration Date or until it shall have been exercisable for an aggregate period of three (3) years after the termination of your Continuous Service; or

(b) the Expiration Date indicated in your Grant Certificate.

8. Exercise.

(a) You may exercise your option during its term by delivering a Cash Letter of Authorization or other appropriate form (in a form designated by the Company) together with the exercise price to the Secretary of the Company, or to such other person as the Company may designate, during regular business hours, together with such additional documents as the Company may then require.

(b) By exercising your option you agree that, as a condition to any exercise of your option, the Company may require you to enter into an arrangement providing for the payment by you to the Company of any tax withholding obligation of the Company arising by reason of the exercise of your option.

(c) TRANSFERABILITY. Your option is not transferable, except (i) by will or by the laws of descent and distribution, and (ii) to such further extent as permitted by the Rule as to Use of Form S-8 specified in the General Instructions of the Form S-8 Registration Statement under the Securities Act. Your option is exercisable during your life only by you or a transferee satisfying the above-stated conditions. The right of a transferee to exercise the transferred portion of your option after termination of your Continuous Service shall terminate in accordance with your right to exercise your option as specified in your option. In the event that your Continuous Service terminates due to your death, your transferee will be treated as a person who acquired the right to exercise your option by bequest or inheritance. In addition to the foregoing, the Company may require, as a condition of the transfer of your option to a trust or by gift, that your transferee enter into an option transfer agreement provided by, or acceptable to, the Company. The terms of your option shall be binding upon your transferees, executors, administrators, heirs, successors, and assigns. Notwithstanding the foregoing, by delivering written notice to the Company, in a form satisfactory to the Company, you may designate a third party who, in the event of your death, shall thereafter be entitled to exercise your option.

9. OPTION NOT A SERVICE CONTRACT. Your option is not an employment or service contract, and nothing in your option shall be deemed to create in any way whatsoever any obligation on your part to continue in the employ of the Company or an Affiliate, or of the Company or an Affiliate to continue your employment. In addition, nothing in your option shall obligate the Company or an Affiliate, their respective stockholders, Boards of Directors, Officers or Employees to continue any relationship that you might have as a Director or Consultant for the Company or an Affiliate.

10. NOTICES. Any notices provided for in your option or the Plan shall be given in writing and shall be deemed effectively given upon receipt or, in the case of notices delivered by mail by the Company to you, five (5) days after deposit in the United States mail, postage prepaid, addressed to you at the last address you provided to the Company.

11. GOVERNING PLAN DOCUMENT. Your option is subject to all the provisions of the Plan, the provisions of which are hereby made a part of your option, and is further subject to all interpretations, amendments, rules and regulations which may from time to time be promulgated and adopted pursuant to the Plan. In the event of any conflict between the provisions of your option and those of the Plan, the provisions of the Plan shall control.

Exhibit 10.19

January 7, 2002

Lupe M. Rivera

Dear Lupe:

We are proud to invite you to join our team.

Our offer of employment is to join Exelixis, Inc. Your title will be that of Associate Director, Human Resources reporting to Lisa Stemmerich, Director, Human Resources in our Human Resources department. Other terms of employment include:

Compensation: You will receive four thousand four hundred fifty-eight dollars and thirty-three cents ($4,458.33) per pay period. There are two pay periods per month. You will receive a sign-on bonus of eleven thousand dollars ($11,000.00) payable on the first pay date after hire. Should you elect to voluntarily terminate employment with the Company within twelve (12) months of your hire date, the sign-on bonus will be entirely re-paid by you to the Company on your last date of employment.

Options for Equity: You will also be eligible to receive a stock option for twenty-five thousand (25,000) shares of Exelixis stock pursuant to our standard Stock Plan and subject to approval by the Board of Directors. Options vest at the rate of 1/4th after one year and 1/48th every month thereafter over a total of four years.

Benefits: All full-time employees of Exelixis, Inc. enjoy a generous benefits package, which is outlined on the attached Summary of Benefits.

Performance Review: Focal reviews will take place annually during the month of December, at which time your performance will be reviewed.

Start Date: On Tuesday, January 22, 2002.

Confidentiality: As you are aware, it is very important for us to protect our confidential information and proprietary material. Therefore, as a condition of employment, you will need to sign the attached Proprietary Information and Inventions Agreement.

Other: In addition to performing the duties and responsibilities of your position, you will be expected to perform other duties and responsibilities that may be assigned to you from time to time. No provision of this letter shall be construed to create an express or implied employment contract for a specific period of time. Either you or the Company may terminate this employment relationship at any time, with or without cause. This letter shall be governed by the laws of the State of California. Also, by signing this letter, you are indicating that you are legally authorized to work in the U.S.

You may accept this offer of employment by signing both copies of this letter and Proprietary Information and Invention Agreements and returning one of each to Lisa Stemmerich, Director, Human Resources

Lupe, we look forward to your coming on board!

Sincerely,

/s/ Lisa Stemmerich
Lisa Stemmerich
Director of Human Resources

ACCEPTED BY:

/s/ Lupe M. Rivera	January 8, 2002
Lupe M. Rivera	Date

Enclosures:

Benefit Summary
Confidentiality Agreement
DE-4 (optional)
Direct Deposit Form (optional)
Employee Information Form
I-9
Insider Trading Policy
W-4

Exhibit 10.21

COMPENSATION INFORMATION FOR NAMED EXECUTIVE OFFICERS

The table below provides information regarding the 2011 base salary and target cash bonus amount for each "named executive officer" of Exelixis, Inc.

Named Executive Officer	2011 Annual Base Salary	2011 Target Cash Bonus (% of 2011 Base Salary)
Michael M. Morrissey (principal executive officer)	$ 602,000	60%
Frank L. Karbe (principal financial officer)	$ 426,368	45%
Frances K. Heller	$ 424,350	45%
Gisela M. Schwab	$ 418,399	45%

Exhibit 10.22

COMPENSATION INFORMATION FOR NON-EMPLOYEE DIRECTORS

Exelixis, Inc.
2011 Cash Compensation for Non-Employee Directors

Board of Directors	Retainer Fee	$20,000
	Additional Chair Retainer Fee	$30,000
	Regular Meeting Fee	$ 2,500
	Special Meeting Fee*	$ 1,000
Audit Committee	Retainer Fee	$ 6,000
	Additional Chair Retainer Fee	$15,000
	Meeting Fee**	$ 1,000
Compensation Committee	Retainer Fee	$ 5,000
	Additional Chair Retainer Fee	$10,000
	Meeting Fee**	$ 1,000
Nominating & Corporate Governance Committee	Retainer Fee	$ 5,000
	Additional Chair Retainer Fee	$10,000
	Meeting Fee**	$ 1,000
Research & Development Committee	Retainer Fee	$10,000
	Additional Chair Retainer Fee	$10,000
	Meeting Fee**	$ 5,000

* Meeting at which minutes are generated.
** In-person meeting or teleconference at which minutes are generated.

Exelixis, Inc.
2011 Equity Compensation for Non-Employee Directors

Board of Directors	**Initial Option Grant***	Number of Options	25,000
	Annual Option Grant	Number of Options	15,000

* For new directors only.

EXELIXIS, INC.

CHANGE IN CONTROL AND SEVERANCE BENEFIT PLAN

SECTION 1. INTRODUCTION.

The Exelixis, Inc. Change in Control and Severance Benefit Plan (the "***Plan***"), established on December 9, 2005, is hereby amended and restated effective December 23, 2008 and further amended and restated effective December 1, 2010 (the "***Effective Date***"). The purpose of the Plan is to provide for the payment of severance benefits to certain eligible employees of Exelixis, Inc. and its wholly owned subsidiaries (the "***Company***") in the event that such employees are subject to qualifying employment terminations and additional benefits if such qualifying employment termination occurs in connection with a Change in Control. This Plan shall supersede any severance benefit plan, contract, agreement, policy or practice maintained by the Company on the Effective Date; provided, however, that if any provision relating to stock options or other awards contained in the Company's 2000 Equity Incentive Plan, or any successor or similar plan adopted by the Company (the "***Equity Incentive Plan***") is more favorable to an employee than the corresponding provision or the absence of such corresponding provision in the Plan, then such more favorable provision in the Equity Incentive Plan shall govern, but the remainder of the Plan shall continue in full force and effect. As applicable, this Plan shall constitute an amendment to an employee's stock option agreement or other agreement under the Equity Incentive Plan. This document also is the Summary Plan Description for the Plan.

SECTION 2. DEFINITIONS.

For purposes of the Plan, except as otherwise provided in the applicable Participation Notice, the following terms are defined as follows:

(a) *"Base Salary"* means the Participant's annual base pay (excluding incentive pay, premium pay, commissions, overtime, bonuses and other forms of variable compensation), at the rate in effect during the last regularly scheduled payroll period immediately preceding the date of the Participant's Covered Termination divided by twelve (12).

(b) *"Board"* means the Board of Directors of Exelixis, Inc.

(c) *"Bonus"* means the Participant's target bonus established by the Company's Compensation Committee for the year in which the Covered Termination occurs divided by twelve (12).

(d) *"Change in Control"* means one of the following events or a series of more than one of the following events: (i) when a person, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934) acquires beneficial ownership of the Company's capital stock equal to 50% or more of either (x) the then-outstanding shares of the Company's common stock or (y) the combined voting power of the Company's then-outstanding securities to vote generally in the election of directors; (ii) upon the consummation by the Company of (x) a reorganization, merger or consolidation, provided that, in each case, the

persons who were the Company's stockholders immediately prior to the reorganization, merger or consolidation do not, immediately after, own more than 50% of the combined voting power entitled to vote generally in the election of directors of the reorganized, merged or consolidated company's then outstanding voting securities, or (y) a liquidation or dissolution of the Company or the sale of all or substantially all of the Company's assets; or (iii) when the Continuing Directors (as defined below) do not constitute a majority of the Board (or, if applicable, the Board of a successor corporation to the Company), where the term "Continuing Director" means at any date a member of the Board (x) who was a member of the Board on the date of the initial adoption of this Plan by the Board or (y) who was nominated or elected subsequent to such date by at least a majority of the directors who were Continuing Directors at the time of such nomination or election or whose election to the Board was recommended or endorsed by at least a majority of the directors who were Continuing Directors at the time of such nomination or election; provided, however, that any individual whose initial assumption of office occurred as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents, by or on behalf of a person other than the Board, is excluded from clause (iii)(y) above. For the purposes of this definition, (i) prior to a Change in Control, "Company" shall mean only Exelixis, Inc. or its successor and shall not include (A) its wholly owned subsidiaries or (B) the surviving or controlling entity resulting from a Change in Control or the entity to which the Company's assets were transferred in the case of an asset sale constituting a Change in Control and (ii) following a Change in Control, "Company" shall mean only Exelixis, Inc. (or its successor) and any surviving or controlling entity resulting from such Change in Control or the entity to which the Company's assets were transferred in the case of an asset sale constituting such a Change in Control and shall not include any wholly owned subsidiaries.

(e) ***"Change in Control Termination"*** means a Covered Termination which occurs within one (1) month prior to or within thirteen (13) months following the effective date of a Change in Control.

(f) ***"COBRA Period"*** means (i) in the case of a Change in Control Termination, the number of months set forth in Section 4(a)(iii) and (ii) in the case of a Covered Termination that is not a Change in Control Termination, (x) in the case of an Executive Participant, six (6) months and (y) in the case of a Participant who is not an Executive Participant, zero (0) months.

(g) ***"Code"*** means the Internal Revenue Code of 1986, as amended.

(h) ***"Company"*** means Exelixis, Inc., its wholly owned subsidiaries, any successor to Exelixis, Inc. and, following a Change in Control, the surviving or controlling entity resulting from such a Change in Control or the entity to which the Company's assets were transferred in the case where the Change in Control is an asset sale.

(i) ***"Constructive Termination"*** means a voluntary termination of employment with the Company resulting in a "separation from service" within the meaning of Treasury Regulation Section 1.409A-1(h) (without regard to any permissible alternative definition of "termination of employment" thereunder) by a Participant after one of the following is undertaken without the Participant's written consent: (i) reduction of such Participant's base salary by more than ten percent (10%) as in effect immediately prior to the time such reduction occurs; (ii) the

occurrence of a material diminution in the package of welfare benefit plans, taken as a whole, in which such Participant is entitled to participate immediately prior to the time such material diminution (except that such Participant's contributions may be raised to the extent of any cost increases imposed by third parties); provided, however, that such material diminution qualifies as an "involuntary separation from service" as provided under Treasury Regulation Section 1.409A-1(n)(2)(i) or (ii); (iii) a change in such Participant's responsibilities, authority or offices that, taken as a whole, result in a material diminution of position; provided, however, that a change in the Participant's title or reporting relationships shall not by itself constitute a Constructive Termination; (iv) a request that such Participant relocate to a worksite that is more than thirty-five (35) miles from such Participant's prior worksite, unless such Participant accepts such relocation opportunity; (v) a material reduction in duties; (vi) a failure or refusal of any successor company to assume the obligations of the Company under an agreement with such Participant; or (vii) a material breach by the Company of any of the material provisions of an agreement with such Participant, including, without limitation, a breach of the terms of any agreement or program providing for the payment of bonus compensation. Notwithstanding any provision of this definition of "Constructive Termination" to the contrary, an event or action by the Company shall not give the Participant grounds to voluntarily terminate employment as a Constructive Termination unless the Participant gives the Company written notice within thirty (30) days of the initial existence of such event or action that the event or action by the Company would give the Participant such grounds to so terminate employment and such event or action is not reversed, remedied or cured, as the case may be, by the Company as soon as possible but in no event later than within thirty (30) days of receiving such written notice from the Participant. For the avoidance of doubt, the cessation of employment followed by the immediate commencement of services as an independent contractor for the Company, which does not result in a "separation from service" with the Company within the meaning of Treasury Regulation Section 1.409A-1(h), shall not constitute a Constructive Termination.

(j) ***"Covered Termination"*** means (x) an Involuntary Termination Without Cause or (y) a Constructive Termination if such Constructive Termination occurs any time after the date that is one (1) month prior to the effective date of the first Change in Control that occurs after the Participant commences participation in the Plan. Termination of employment of a Participant due to death or disability shall not constitute a Covered Termination unless a voluntary termination of employment by the Participant immediately prior to the Participant's death or disability would have qualified as a Constructive Termination.

(k) ***"Equity Incentive Plan"*** means the 2000 Equity Incentive Plan or any successor or similar plan adopted by the Company.

(l) ***"ERISA"*** means the Employee Retirement Income Security Act of 1974, as amended.

(m) ***"Involuntary Termination Without Cause"*** means Participant's involuntary termination of employment by the Company resulting in a "separation from service" within the meaning of Treasury Regulation Section 1.409A-1(h) (without regard to any permissible alternative definition of "termination of employment" thereunder) for a reason other than Cause. "Cause" means the occurrence of any one or more of the following: (i) the Participant's conviction of, or plea of no contest with respect to, any crime involving fraud, dishonesty or

moral turpitude; (ii) the Participant's attempted commission of or participation in a fraud or act of dishonesty against the Company that results in (or might have reasonably resulted in) material harm to the business of the Company; (iii) the Participant's intentional, material violation of any contract or agreement between the Participant and the Company or any statutory duty the Participant owes to the Company; or (iv) the Participant's conduct that constitutes gross misconduct, insubordination, incompetence or habitual neglect of duties and that results in (or might have reasonably resulted in) material harm to the business of the Company; provided, however, that the conduct described under clause (iii) or (iv) above will only constitute Cause if such conduct is not cured within fifteen (15) days after the Participant's receipt of written notice from the Company or the Board specifying the particulars of the conduct that may constitute Cause. The determination that a termination of a Participant's employment is an Involuntary Termination Without Cause shall not be made unless and until there shall have been delivered to such Participant a copy of a resolution duly adopted by the affirmative vote of at least a majority of the Board at a meeting of the Board called and held for such purpose (after reasonable notice to such Participant and an opportunity for such Participant, together with such Participant's counsel, to be heard before the Board), finding that in the good faith opinion of the Board, such Participant was guilty of the conduct constituting "Cause" and specifying the particulars. For the avoidance of doubt, if, in connection with a Change in Control, an employee is terminated and offered "immediate reemployment" by the surviving or controlling entity resulting from a Change in Control or the entity to which the Company's assets were transferred in the case of an asset sale constituting a Change in Control, then such termination shall not constitute an Involuntary Termination Without Cause. For purposes of the foregoing, "immediate reemployment" shall mean that the employee's employment with the surviving or controlling entity resulting from a Change in Control or the entity to which the Company's assets were transferred in the case of an asset sale constituting a Change in Control, results in uninterrupted employment such that the employee does not suffer a lapse in pay as a result of the Change in Control and the terms of such reemployment, taken as a whole, are not less favorable than the terms of employment with the Company immediately prior to such employee's termination of employment. For the avoidance of doubt, the cessation of employment followed by the immediate commencement of services as an independent contractor for the Company, which does not result in a "separation from service" with the Company within the meaning of Treasury Regulation Section 1.409A-1(h), shall not constitute an Involuntary Termination Without Cause.

(n) "*Participant*" means an individual (i) who is employed by the Company as its Chief Executive Officer, President, senior vice president, vice president or any other officer with a rank of vice president or above and (ii) who has received a Participation Notice from and executed and returned such Participation Notice to the Company. The determination of whether an employee is a Participant shall be made by the Plan Administrator, in its sole discretion, and such determination shall be binding and conclusive on all persons. "***Executive Participant***" means a Participant who has been designated as an Executive Participant on the Participant's Participation Notice.

(o) "*Participation Notice*" means the latest notice delivered by the Company to a Participant informing the employee that the employee is a Participant in the Plan, substantially in the form of **Exhibit A** hereto.

(p) *"Plan Administrator"* means the Board or any committee duly authorized by the Board to administer the Plan. The Plan Administrator may, but is not required to be, the Compensation Committee of the Board. The Board may at any time administer the Plan, in whole or in part, notwithstanding that the Board has previously appointed a committee to act as the Plan Administrator.

SECTION 3. ELIGIBILITY FOR BENEFITS.

(a) General Rules. Subject to the provisions set forth in this Section and Section 7, in the event of a Covered Termination, the Company will provide the severance benefits described in Section 4 of the Plan to the affected Participant.

(b) Exceptions to Benefit Entitlement. An employee, including an employee who otherwise is a Participant, will not receive benefits under the Plan (or will receive reduced benefits under the Plan) in the following circumstances, as determined by the Company in its sole discretion:

(i) The employee has executed an individually negotiated employment contract or agreement with the Company relating to severance or change in control benefits that is in effect on his or her termination date, in which case such employee's severance benefit, if any, shall be governed by the terms of such individually negotiated employment contract or agreement.

(ii) The employee voluntarily terminates employment with the Company in order to accept employment with another entity that is controlled (directly or indirectly) by the Company or is otherwise an affiliate of the Company.

(iii) The employee does not confirm in writing that he or she shall be subject to the Company's Employee Proprietary Information and Inventions Agreement.

(c) Termination of Benefits. A Participant's right to receive the payment of benefits under this Plan shall terminate immediately if, at any time prior to or during the period for which the Participant is receiving benefits hereunder, the Participant, without the prior written approval of the Company:

(i) willfully breaches a material provision of the Participant's Employee Proprietary Information and Inventions Agreement with the Company, as referenced in Section 3(b)(iii); or

(ii) willfully encourages or solicits any of the Company's then current employees to leave the Company's employ.

SECTION 4. AMOUNT OF BENEFITS.

(a) Cash Severance Benefits. Except as provided in the applicable Participant Notice:

(i) Each Executive Participant who incurs a Covered Termination that is not also a Change in Control Termination shall be entitled to receive a cash severance benefit equal to six (6) months of Base Salary. Any cash severance benefits provided under this Section 4(a)(i) shall be paid pursuant to the provisions of Section 5.

(ii) Each Participant (x) who incurs a Change in Control Termination and (y) who was employed by the Company at the position or level set forth in Section 4(a)(iii) below within one (1) month immediately prior to such Change in Control Termination shall be entitled to receive a cash severance benefit equal to the sum of the Participant's Base Salary plus Bonus for the number of months set forth in Section 4(a)(iii). If a Participant serves in two or more positions set forth in the table below, such cash severance benefit shall be for the position with the greatest number of months of cash severance, with no additional cash severance for the other position(s). Any cash severance benefits provided under this Section 4(a)(ii) shall be paid pursuant to the provisions of Section 5.

(iii) For the purposes of determining the months of severance benefits in the event of a Change in Control Termination, the following periods shall be used.

Position or Level	Months of Severance Benefit
Chief Executive Officer	24 months
Executive Participants other than the Chief Executive Officer	18 months
Participants who are not Executive Participants	12 months

(b) Accelerated Stock Award Vesting and Extended Exercisability of Stock Options. If a Participant incurs a Change in Control Termination, then effective as of the date of the Participant's Change in Control Termination, (i) the vesting and exercisability of all outstanding options to purchase the Company's common stock (or stock appreciation rights or similar rights or other rights with respect to stock of the Company issued pursuant to the Equity Incentive Plan) that are held by the Participant on such date shall be accelerated in full, and (ii) any reacquisition or repurchase rights held by the Company in respect of common stock issued or issuable (or in respect of similar rights or other rights with respect to stock of the Company issued or issuable pursuant to the Equity Incentive Plan) pursuant to any other stock award granted to the Participant by the Company shall lapse.

In addition, if a Participant incurs a Change in Control Termination, the post-termination of employment exercise period of any outstanding option (or stock appreciation right or similar right or other rights with respect to stock of the Company issued pursuant to the Equity Incentive Plan) held by the Participant on the date of his or her Change in Control Termination shall be extended, if necessary, such that the post-termination of employment exercise period shall not terminate prior to the later of (i) the date twelve (12) months after the effective date of the Change in Control or (ii) the post-termination exercise period provided for in such option;

provided, however, that such stock right shall not be exercisable after the expiration of its maximum term. Notwithstanding the foregoing, stock rights granted prior to the Effective Date shall not be exercisable after the later of (A) the 15th day of the third month following the date at which, or (B) December 31 of the calendar year in which, the stock right would otherwise have expired if the stock right had not been extended.

Notwithstanding the provisions of this Section 4(b), in the event that the provisions of this Section 4(b) regarding acceleration of vesting of an option or extended exercisability of an option would adversely affect a Participant's option or other stock award (including, without limitation, its status as an incentive stock option under Section 422 of the Code) that is outstanding on the date the Participant commences participation in the Plan, such acceleration of vesting and/or extended exercisability shall be deemed null and void as to such option or other stock award unless the affected Participant consents in writing to such acceleration of vesting or extended exercisability as to such option or other stock award within thirty (30) days after becoming a Participant in the Plan.

(c) Continued Medical Benefits. If a Participant incurs a Covered Termination and the Participant was enrolled in a health, dental, or vision plan sponsored by the Company immediately prior to such Covered Termination, the Participant may be eligible to continue coverage under such health, dental, or vision plan (or to convert to an individual policy), at the time of the Participant's termination of employment, under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("***COBRA***"). The Company will notify the Participant of any such right to continue such coverage at the time of termination pursuant to COBRA. No provision of this Plan will affect the continuation coverage rules under COBRA, except that the Company's payment, if any, of applicable insurance premiums will be credited as payment by the Participant for purposes of the Participant's payment required under COBRA. Therefore, the period during which a Participant may elect to continue the Company's health, dental, or vision plan coverage at his or her own expense under COBRA, the length of time during which COBRA coverage will be made available to the Participant, and all other rights and obligations of the Participant under COBRA (except the obligation to pay insurance premiums that the Company pays, if any) will be applied in the same manner that such rules would apply in the absence of this Plan.

If a Participant timely elects continued coverage under COBRA, the Company shall pay the full amount of the Participant's COBRA premiums on behalf of the Participant for the Participant's continued coverage under the Company's health, dental and vision plans, including coverage for the Participant's eligible dependents, during the number of months equal to the COBRA Period; provided, however, that if the COBRA Period exceeds the length of time that the Participant is entitled to coverage under COBRA (including any additional period under analogous provisions of state law), the Company or any resulting or acquiring entity or transferee entity (in the case of an asset sale) involved in a Change in Control, as applicable, shall be required to provide health, dental and vision insurance coverage for the Participant and his or her eligible dependents for any portion of the COBRA Period that exceeds the length of time that the Participant is entitled to coverage under COBRA (including any additional period under analogous provisions of state law), at a level of coverage that is substantially similar to the continued coverage that the Participant and his or her eligible dependents received under the Company's health, dental and vision plans; provided further, however, that no such premium payments (or any other payments for medical, dental or vision coverage by the Company) shall

be made following the Participant's death or the effective date of the Participant's coverage by a medical, dental or vision insurance plan of a subsequent employer. Each Participant shall be required to notify the Company immediately if the Participant becomes covered by a medical, dental or vision insurance plan of a subsequent employer. Upon the conclusion of the COBRA Period (or such shorter period during which the Company is obligated to pay premiums pursuant to this Section 4(c)), the Participant will be responsible for the entire payment of premiums required under COBRA.

For purposes of this Section 4(c), (i) references to COBRA shall be deemed to refer also to analogous provisions of state law and (ii) any applicable insurance premiums that are paid by the Company shall not include any amounts payable by the Participant under an Internal Revenue Code Section 125 health care reimbursement plan, which amounts, if any, are the sole responsibility of the Participant.

Notwithstanding the foregoing, if the Company, in its sole discretion, determines that it cannot provide the foregoing subsidy of COBRA coverage without potentially violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company instead shall provide to the Participant a taxable monthly payment in an amount equal to the monthly COBRA premium that the Participant would be required to pay to continue the group health coverage in effect on the date of the Covered Termination (which amount shall be based on the premium for the first month of COBRA coverage), which payments shall be made regardless of whether the Participant elects COBRA continuation coverage, shall commence on the later of (i) the first day of the month following the month in which the Participant incurs a Covered Termination and (ii) the effective date of the Company's determination of violation of applicable law, and shall end on the earliest of (x) the Participant's death, (y) the effective date on which the Participant becomes covered by a medical, dental or vision insurance plan of a subsequent employer, and (z) the last day of the COBRA Period.

(d) Outplacement Services. If a Participant incurs a Change in Control Termination, the Company shall pay, on behalf of the Participant, for outplacement services with an outplacement service provider selected by the Company for the time periods specified below; provided, however, that the payments made by the Company for such outplacement services shall not exceed the maximum amounts set forth below; provided further, however, that such payments qualify for the exception provided by Treasury Regulation Sections 1.409A-1(b)(9)(v)(A) and (C).

Position or Level	Time Period	Maximum Amount
Chief Executive Officer	24 months	$ 50,000
Executive Participants other than the Chief Executive Officer	18 months	$ 30,000
Participants who are not Executive Participants	12 months	$ 20,000

(e) Other Employee Benefits. All other benefits (such as life insurance, disability coverage, and 401(k) plan coverage) shall terminate as of the Participant's termination date (except to the extent that a conversion privilege may be available thereunder).

(f) Additional Benefits. Notwithstanding the foregoing, the Company may, in its sole discretion, provide additional or enhanced benefits to those benefits provided for pursuant to Sections 4(a), 4(b), 4(c) and 4(d) to Participants or employees who are not Participants ("***Non-Participants***") chosen by the Company, in its sole discretion, and the provision of any such benefits to a Participant or a Non-Participant shall in no way obligate the Company to provide such benefits to any other Participant or to any other Non-Participant, even if similarly situated. If benefits under the Plan are provided to a Non-Participant, references in the Plan to "Participant" (with the exception of Sections 4(a), 4(b), 4(c) and 4(d)) shall be deemed to refer to such Non-Participants.

SECTION 5. TIME AND FORM OF SEVERANCE PAYMENTS.

(a) General Rules. Subject to Section 5(b), any cash severance benefit provided under Section 4(a) shall be paid in installments pursuant to the Company's regularly scheduled payroll periods commencing as soon as practicable following the effective date of a Participant's Covered Termination and shall be subject to all applicable withholding for federal, state and local taxes. In the event of a Participant's death prior to receiving all installment payments of his or her cash severance benefit under Section 4(a), any remaining installment payments shall be made to the Participant's estate on the same payment schedule as would have occurred absent the Participant's death. In no event shall payment of any Plan benefit be made prior to the effective date of the Participant's Covered Termination or prior to the effective date of the release described in Section 7(a).

(b) Application of Section 409A.

(i) All payments provided under this Plan are intended to constitute separate payments for purposes of Treasury Regulation Section 1.409A-2(b)(2).

(ii) If a Participant is a "specified employee" of the Company or any affiliate thereof (or any successor entity thereto) within the meaning of Section 409A(a)(2)(B)(i) of the Code on the date of a Covered Termination, then any cash severance payments pursuant to Section 4(a) (the "***Severance Payments***") shall be delayed until the date that is six (6) months after the date of the Covered Termination (such date, the "***Delayed Payment Date***"), and the Company (or the successor entity thereto, as applicable) shall (A) pay to Participant a lump sum amount equal to the sum of the Severance Payments that otherwise would have been paid to Participant on or before the Delayed Payment Date, without any adjustment on account of such delay, and (B) continue the Severance Payments in accordance with any applicable payment schedules set forth for the balance of the period specified herein. Notwithstanding the foregoing, (i) Severance Payments scheduled to be paid from the date of a Covered Termination through March 15th of the calendar year following such termination shall be paid to the maximum extent permitted pursuant to the "short-term deferral" rule set forth in Treasury Regulation Section 1.409A-1(b)(4); (ii) Severance Payments scheduled to be paid that are not paid pursuant to the preceding clause (i) shall be paid as scheduled to the maximum extent permitted pursuant to an

"involuntary separation from service" as permitted by Treasury Regulation Section 1.409A-1(b)(9)(iii), but in no event later than the last day of the second taxable year following the taxable year of the Covered Termination; and (iii) any Severance Payments that are not paid pursuant to either the preceding clause (i) or the preceding clause (ii) shall be subject to delay, if necessary, as provided in the previous sentence. Except to the extent that payments may be delayed until the Delayed Payment Date, on the first regularly scheduled payroll period following the release described in Section 7(a), the Company will pay the Participant the Severance Payments the Participant would otherwise have received under the Plan on or prior to such date but for the delay in payment related to the effectiveness of the release described in Section 7(a), with the balance of the Severance Payments being paid as otherwise provided herein.

(iii) Benefits provided under Section 4(b) are intended to be provided pursuant to the exception provided by Treasury Regulation Sections 1.409A-1(b)(5)(v)(C)(1) and 1.409A-1(b)(5)(v)(E). Amounts paid under Section 4(c) are not intended to be delayed pursuant to Section 409A(a)(2)(B)(i) of the Code and are intended to be paid pursuant to the exception provided by Treasury Regulation Section 1.409A-1(b)(9)(v)(B). Amounts paid under Section 4(d) are intended to qualify for the exception provided under Treasury Regulation Sections 1.409A-1(b)(9)(v)(A) and (C).

SECTION 6. REEMPLOYMENT.

In the event of a Participant's reemployment by the Company during the period of time in respect of which severance benefits pursuant to Section 4(a) or Section 4(f) have been paid, the Company, in its sole and absolute discretion, may require such Participant to repay to the Company all or a portion of such severance benefits as a condition of reemployment.

SECTION 7. LIMITATIONS ON BENEFITS.

(a) Release. In order to be eligible to receive benefits under the Plan and if requested by the Company, a Participant also must execute, in connection with the Participant's Covered Termination or Change in Control Termination, a general waiver and release in substantially the form attached hereto as **Exhibit B**, **Exhibit C** or **Exhibit D**, as appropriate, and such release must become effective in accordance with its terms; provided, however, (i) no such release shall require the Participant to forego any unpaid salary, any accrued but unpaid vacation pay or any benefits payable pursuant to this Plan, and (ii) cash severance benefits pursuant to Section 4(a) shall commence to be paid as soon as practicable following the effective date of such general waiver and release (the ***"Release Effective Date"***), in accordance with Section 5, and any installment payments that, in the absence of the requirement of a general waiver and release, would have been paid between the effective date of the Covered Termination and the Release Effective Date shall be made together with the first installment payment that occurs following the Release Effective Date such that the duration of payments will not be affected by the timing of the Release Effective Date. With respect to any outstanding option held by the Participant, no provision set forth in this Plan granting the Participant additional rights to exercise the option can be exercised unless and until the release, if requested, becomes effective. The Company, in its sole discretion, may modify the form of the required release to comply with applicable law and

shall determine the form of the required release, which may be incorporated into a termination agreement or other agreement with the Participant.

(b) Certain Reductions. The Company, in its sole discretion, shall have the authority to reduce a Participant's severance benefits, in whole or in part, by any other severance benefits, pay in lieu of notice, or other similar benefits payable to the Participant by the Company that become payable in connection with the Participant's termination of employment pursuant to (i) any applicable legal requirement, including, without limitation, the Worker Adjustment and Retraining Notification Act (the "***WARN Act***"), (ii) a written employment or severance agreement with the Company, or (iii) any Company policy or practice providing for the Participant to remain on the payroll for a limited period of time after being given notice of the termination of the Participant's employment. The benefits provided under this Plan are intended to satisfy, in whole or in part, any and all statutory obligations and other contractual obligations of the Company that may arise out of a Participant's termination of employment, and the Plan Administrator shall so construe and implement the terms of the Plan. The Company's decision to apply such reductions to the severance benefits of one Participant and the amount of such reductions shall in no way obligate the Company to apply the same reductions in the same amounts to the severance benefits of any other Participant, even if similarly situated. In the Company's sole discretion, such reductions may be applied on a retroactive basis, with severance benefits previously paid being recharacterized as payments pursuant to the Company's statutory or other contractual obligations.

(c) Mitigation. Except as otherwise specifically provided herein, a Participant shall not be required to mitigate damages or the amount of any payment provided under this Plan by seeking other employment or otherwise, nor shall the amount of any payment provided for under this Plan be reduced by any compensation earned by a Participant as a result of employment by another employer or any retirement benefits received by such Participant after the date of the Participant's termination of employment with the Company.

(d) Non-Duplication of Benefits. Except as otherwise specifically provided for herein, no Participant is eligible to receive benefits under this Plan or pursuant to other contractual obligations more than one time. This Plan is designed to provide certain severance pay and change in control benefits to Participants pursuant to the terms and conditions set forth in this Plan. The payments pursuant to this Plan are in addition to, and not in lieu of, any unpaid salary, bonuses or benefits (other than severance or change in control benefits) to which a Participant may be entitled for the period ending with the Participant's Covered Termination.

(e) Indebtedness of Participants. If a Participant is indebted to the Company on the effective date of his or her Covered Termination, the Company reserves the right to offset any severance payments under the Plan by the amount of such indebtedness.

(f) Parachute Payments. Except as otherwise provided in an agreement between a Participant and the Company, if any payment or benefit the Participant would receive in connection with a Change in Control from the Company or otherwise ("***Payment***") would (i) constitute a "parachute payment" within the meaning of Section 280G of the Code, and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the "***Excise Tax***"), then such Payment shall be equal to the Reduced Amount. The "Reduced Amount" shall

be either (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax, or (y) the largest portion, up to and including the total, of the Payment, whichever amount, after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in the Participant's receipt of the greatest economic benefit notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in payments or benefits constituting "parachute payments" is necessary so that the Payment equals the Reduced Amount, reduction shall occur in a manner necessary to provide the Participant with the greatest economic benefit. If more than one manner of reduction of payments or benefits necessary to arrive at the Reduced Amount yields the greatest economic benefit, the payments and benefits shall be reduced *pro rata*.

SECTION 8. RIGHT TO INTERPRET PLAN; AMENDMENT AND TERMINATION.

(a) Exclusive Discretion. The Plan Administrator shall have the exclusive discretion and authority to establish rules, forms, and procedures for the administration of the Plan and to construe and interpret the Plan and to decide any and all questions of fact, interpretation, definition, computation or administration arising in connection with the operation of the Plan, including, but not limited to, the eligibility to participate in the Plan and amount of benefits paid under the Plan. The rules, interpretations, computations and other actions of the Plan Administrator shall be binding and conclusive on all persons.

(b) Amendment or Termination. The Company reserves the right to amend or terminate this Plan, any Participation Notice issued pursuant to the Plan or the benefits provided hereunder at any time; provided, however, that (i) no such amendment or termination shall reduce or otherwise adversely affect the severance benefits provided in Sections 4(a)(i) or 4(c) to a Participant in connection with a Covered Termination that is not a Change in Control Termination, unless such Participant consents in writing to such amendment or termination and (ii) no such amendment or termination shall occur following the date one (1) month prior to a Change in Control as to any Participant who would be adversely affected by such amendment or termination unless such Participant consents in writing to such amendment or termination. Any action amending or terminating the Plan or any Participation Notice shall be in writing and executed by a duly authorized officer of the Company. Unless otherwise required by law, no approval of the shareholders of the Company shall be required for any amendment or termination including any amendment that increases the benefits provided under any option or other stock award.

SECTION 9. NO IMPLIED EMPLOYMENT CONTRACT.

The Plan shall not be deemed (i) to give any employee or other person any right to be retained in the employ of the Company or (ii) to interfere with the right of the Company to discharge any employee or other person at any time, with or without cause, which right is hereby reserved.

SECTION 10. LEGAL CONSTRUCTION.

This Plan shall be governed by and construed under the laws of the State of California (without regard to principles of conflict of laws), except to the extent preempted by ERISA.

SECTION 11. CLAIMS, INQUIRIES AND APPEALS.

(a) Applications for Benefits and Inquiries. Any application for benefits, inquiries about the Plan or inquiries about present or future rights under the Plan must be submitted to the Plan Administrator in writing by an applicant (or his or her authorized representative). The Plan Administrator is:

Exelixis, Inc.
Attn: Corporate Secretary
249 East Grand Avenue
South San Francisco, CA 94080

(b) Denial of Claims. In the event that any application for benefits is denied in whole or in part, the Plan Administrator must provide the applicant with written or electronic notice of the denial of the application, and of the applicant's right to review the denial. Any electronic notice will comply with the regulations of the U.S. Department of Labor. The notice of denial will be set forth in a manner designed to be understood by the applicant and will include the following:

(1) the specific reason or reasons for the denial;

(2) references to the specific Plan provisions upon which the denial is based;

(3) a description of any additional information or material that the Plan Administrator needs to complete the review and an explanation of why such information or material is necessary; and

(4) an explanation of the Plan's review procedures and the time limits applicable to such procedures, including a statement of the applicant's right to bring a civil action under Section 502(a) of ERISA following a denial on review of the claim, as described in Section 11(d) below.

This notice of denial will be given to the applicant within ninety (90) days after the Plan Administrator receives the application, unless special circumstances require an extension of time, in which case, the Plan Administrator has up to an additional ninety (90) days for processing the application. If an extension of time for processing is required, written notice of the extension will be furnished to the applicant before the end of the initial ninety (90) day period.

This notice of extension will describe the special circumstances necessitating the additional time and the date by which the Plan Administrator is to render its decision on the application.

(c) Request for a Review. Any person (or that person's authorized representative) for whom an application for benefits is denied, in whole or in part, may appeal the denial by submitting a request for a review to the Plan Administrator within sixty (60) days after the application is denied. A request for a review shall be in writing and shall be addressed to:

Exelixis, Inc.
Attn: Corporate Secretary
249 East Grand Avenue
South San Francisco, CA 94080

A request for review must set forth all of the grounds on which it is based, all facts in support of the request and any other matters that the applicant feels are pertinent. The applicant (or his or her representative) shall have the opportunity to submit (or the Plan Administrator may require the applicant to submit) written comments, documents, records, and other information relating to his or her claim. The applicant (or his or her representative) shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to his or her claim. The review shall take into account all comments, documents, records and other information submitted by the applicant (or his or her representative) relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

(d) Decision on Review. The Plan Administrator will act on each request for review within sixty (60) days after receipt of the request, unless special circumstances require an extension of time (not to exceed an additional sixty (60) days), for processing the request for a review. If an extension for review is required, written notice of the extension will be furnished to the applicant within the initial sixty (60) day period. This notice of extension will describe the special circumstances necessitating the additional time and the date by which the Plan Administrator is to render its decision on the review. The Plan Administrator will give prompt, written or electronic notice of its decision to the applicant. Any electronic notice will comply with the regulations of the U.S. Department of Labor. In the event that the Plan Administrator confirms the denial of the application for benefits in whole or in part, the notice will set forth, in a manner designed to be understood by the applicant, the following:

(1) the specific reason or reasons for the denial;

(2) references to the specific Plan provisions upon which the denial is based;

(3) a statement that the applicant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to his or her claim; and

(4) a statement of the applicant's right to bring a civil action under Section 502(a) of ERISA.

(e) Rules and Procedures. The Plan Administrator will establish rules and procedures, consistent with the Plan and with ERISA, as necessary and appropriate in carrying

out its responsibilities in reviewing benefit claims. The Plan Administrator may require an applicant who wishes to submit additional information in connection with an appeal from the denial of benefits to do so at the applicant's own expense.

(f) Exhaustion of Remedies. No legal action for benefits under the Plan may be brought until the applicant (i) has submitted a written application for benefits in accordance with the procedures described by Section 11(a) above, (ii) has been notified by the Plan Administrator that the application is denied, (iii) has filed a written request for a review of the application in accordance with the appeal procedure described in Section 11(c) above, and (iv) has been notified that the Plan Administrator has denied the appeal. Notwithstanding the foregoing, if the Plan Administrator does not respond to an applicant's claim or appeal within the relevant time limits specified in this Section 11, the applicant may bring legal action for benefits under the Plan pursuant to Section 502(a) of ERISA.

SECTION 12. BASIS OF PAYMENTS TO AND FROM PLAN.

All benefits under the Plan shall be paid by the Company. The Plan shall be unfunded, and benefits hereunder shall be paid only from the general assets of the Company.

SECTION 13. OTHER PLAN INFORMATION.

(a) Employer and Plan Identification Numbers. The Employer Identification Number assigned to the Company (which is the "Plan Sponsor" as that term is used in ERISA) by the Internal Revenue Service is 04-3257395. The Plan Number assigned to the Plan by the Plan Sponsor pursuant to the instructions of the Internal Revenue Service is 507.

(b) Ending Date for Plan's Fiscal Year. The date of the end of the fiscal year for the purpose of maintaining the Plan's records is December 31.

(c) Agent for the Service of Legal Process. The agent for the service of legal process with respect to the Plan is:

Exelixis, Inc.
Attn: Corporate Secretary
249 East Grand Avenue
South San Francisco, CA 94080

(d) Plan Sponsor and Administrator. The "Plan Sponsor" and the "Plan Administrator" of the Plan is:

Exelixis, Inc.
Attn: Corporate Secretary
249 East Grand Avenue
South San Francisco, CA 94080

The Plan Sponsor's and Plan Administrator's telephone number is (650) 837-7000. The Plan Administrator is the named fiduciary charged with the responsibility for administering the Plan.

SECTION 14. STATEMENT OF ERISA RIGHTS.

Participants in this Plan (which is a welfare benefit plan sponsored by Exelixis, Inc.) are entitled to certain rights and protections under ERISA. If you are a Participant, you are considered a participant in the Plan for the purposes of this Section 14 and, under ERISA, you are entitled to:

Receive Information About Your Plan and Benefits

(a) Examine, without charge, at the Plan Administrator's office and at other specified locations, such as worksites, all documents governing the Plan and a copy of the latest annual report (Form 5500 Series), if applicable, filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration;

(b) Obtain, upon written request to the Plan Administrator, copies of documents governing the operation of the Plan and copies of the latest annual report (Form 5500 Series), if applicable, and an updated (as necessary) Summary Plan Description. The Administrator may make a reasonable charge for the copies; and

(c) Receive a summary of the Plan's annual financial report, if applicable. The Plan Administrator is required by law to furnish each participant with a copy of this summary annual report.

Prudent Actions By Plan Fiduciaries

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate the Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries. No one, including your employer, your union or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a Plan benefit or exercising your rights under ERISA.

Enforce Your Rights

If your claim for a Plan benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan, if applicable, and do not receive them within thirty (30) days, you may file suit in a Federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay you up to $110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Plan Administrator.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court.

If you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

Assistance With Your Questions

If you have any questions about the Plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Plan Administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

SECTION 15. GENERAL PROVISIONS.

(a) Notices. Any notice, demand or request required or permitted to be given by either the Company or a Participant pursuant to the terms of this Plan shall be in writing and shall be deemed given when delivered personally or deposited in the U.S. mail, First Class with postage prepaid, and addressed to the parties, in the case of the Company, at the address set forth in Section 11(a) and, in the case of a Participant, at the address as set forth in the Company's employment file maintained for the Participant as previously furnished by the Participant or such other address as a party may request by notifying the other in writing.

(b) Transfer and Assignment. The rights and obligations of a Participant under this Plan may not be transferred or assigned without the prior written consent of the Company. This Plan shall be binding upon any surviving entity resulting from a Change in Control and upon any other person who is a successor by merger, acquisition, consolidation or otherwise to the business formerly carried on by the Company without regard to whether or not such person or entity actively assumes the obligations hereunder.

(c) Waiver and Costs of Enforcement. Any party's failure to enforce any provision or provisions of this Plan shall not in any way be construed as a waiver of any such provision or provisions, nor prevent any party from thereafter enforcing each and every other provision of this Plan. The rights granted to the parties herein are cumulative and shall not constitute a waiver of any party's right to assert all other legal remedies available to it under the circumstances. All out-of-pocket costs and expenses reasonably incurred by a Participant (including attorneys' fees) in connection with enforcing the Participant's rights under the Plan (including the costs and expenses of complying with the provisions of Section 11) shall be paid by the Company if such rights relate to a Covered Termination that occurs any time after the date that is one (1) month prior to the effective date of the first Change in Control that occurs after the Participant commences participation in the Plan. Notwithstanding the foregoing, if the Participant initiates

any claim or action and the claim or action is totally without merit or frivolous, the Participant shall be responsible for the Participant's own costs and expenses.

(d) Severability. Should any provision of this Plan be declared or determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

(e) Section Headings. Section headings in this Plan are included for convenience of reference only and shall not be considered part of this Plan for any other purpose.

SECTION 16. EXECUTION.

To record the adoption of the Plan as set forth herein, Exelixis, Inc. has caused its duly authorized officer to execute the same as of the Effective Date.

EXELIXIS, INC.

By: _____

Title: _____

EXHIBIT A

EXELIXIS, INC.

CHANGE IN CONTROL AND SEVERANCE BENEFIT PLAN

PARTICIPATION NOTICE

To: _____

Date: _____

Exelixis, Inc. (the "***Company***") has adopted the Exelixis, Inc. Change in Control and Severance Benefit Plan (the "***Plan***"). The Company is providing you with this Participation Notice to inform you that you have been designated as a Participant in the Plan. A copy of the Plan document is attached to this Participation Notice. The terms and conditions of your participation in the Plan are as set forth in the Plan and this Participation Notice, which together also constitute a summary plan description of the Plan.

For the purposes of the Plan you [__] are an Executive Participant [__] are not an Executive Participant.

Except as provided in the Plan, the Plan supersedes any and all severance or change in control benefits payable to you as set forth in any agreement, including offer letters, with the Company entered into prior to the date hereof.

Notwithstanding the terms of the Plan:

[_____

_____]

Please return to the Company's Corporate Secretary a copy of this Participation Notice signed by you and retain a copy of this Participation Notice, along with the Plan document, for your records.

EXELIXIS, INC.

By: _____

Its: _____

ACKNOWLEDGEMENT

The undersigned Participant hereby acknowledges receipt of the foregoing Participation Notice. In the event the undersigned holds outstanding stock options as of the date of this Participation Notice, the undersigned hereby:*

☐ accepts all of the benefits of Section 4(b) of the Plan regardless of any potential adverse effects on any outstanding option or other stock award

☐ accepts the benefits of Section 4(b) of the Plan that have no adverse effect on outstanding options or other stock awards and rejects the benefits of Section 4(b) of the Plan as to those outstanding options and other stock awards that would have potential adverse effects

☐ other (please describe): _____

_____

_____

_____

_____

The undersigned acknowledges that the undersigned has been advised to obtain tax and financial advice regarding the consequences of this election including the effect, if any, on the status of the stock options for tax purposes under Section 422 of the Internal Revenue Code.

_____

_____

Print name

* Please check one box; failure to check a box will be deemed the selection of the second alternative (*i.e.*, accepting the benefits of Section 4(b) of the Plan that have no adverse effect on outstanding options or other stock awards and rejecting the benefits of Section 4(b) of the Plan as to those outstanding options and other stock awards that would have potential adverse effects).

EXHIBIT B

RELEASE AGREEMENT

I understand and agree completely to the terms set forth in the Exelixis, Inc. Change in Control and Severance Benefit Plan (the "*Plan*").

I understand that this Release, together with the Plan, constitutes the complete, final and exclusive embodiment of the entire agreement between the Company, affiliates of the Company and me with regard to the subject matter hereof. I am not relying on any promise or representation by the Company or an affiliate of the Company that is not expressly stated therein. Certain capitalized terms used in this Release are defined in the Plan.

I hereby confirm my obligations under the Company's Employee Proprietary Information and Inventions Agreement.

Except as otherwise set forth in this Release, I hereby generally and completely release the Company and its affiliates, and their parents, subsidiaries, successors, predecessors and affiliates, and their partners, members, directors, officers, employees, stockholders, shareholders, agents, attorneys, predecessors, insurers, affiliates and assigns, from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring at any time prior to and including the date I sign this Release. This general release includes, but is not limited to: (a) all claims arising out of or in any way related to my employment with the Company and its affiliates, or their affiliates, or the termination of that employment; (b) all claims related to my compensation or benefits, including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company and its affiliates, or their affiliates; (c) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (d) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (e) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990 (as amended), the federal Age Discrimination in Employment Act (as amended) ("***ADEA***"), the federal Employee Retirement Income Security Act of 1974 (as amended), and the California Fair Employment and Housing Act (as amended).

Notwithstanding the foregoing, I understand that the following rights or claims are not included in my Release: (a) any rights or claims for indemnification I may have pursuant to any written indemnification agreement with the Company or its affiliate to which I am a party; the charter, bylaws, or operating agreements of the Company or its affiliate; or under applicable law; or (b) any rights which cannot be waived as a matter of law. In addition, I understand that nothing in this Agreement prevents me from filing, cooperating with, or participating in any proceeding before the Equal Employment Opportunity Commission, the Department of Labor, or the California Department of Fair Employment and Housing, except that I hereby waive my right to any monetary benefits in connection with any such claim, charge or proceeding. I hereby represent and warrant that, other than the claims identified in this paragraph, I am not aware of any claims I have or might have that are not included in the Release.

I acknowledge that I am knowingly and voluntarily waiving and releasing any rights I may have under the ADEA, and that the consideration given under the Plan for the waiver and release in the preceding paragraph hereof is in addition to anything of value to which I was already entitled. I further acknowledge that I have been advised by this writing, as required by the ADEA, that: (a) my waiver and release do not apply to any rights or claims that may arise after the date I sign this Release; (b) I should consult with an attorney prior to signing this Release (although I may choose voluntarily not do so); (c) I have twenty-one (21) days to consider this Release (although I may choose voluntarily to sign this Release earlier); (d) I have seven (7) days following the date I sign this Release to revoke the Release by providing written notice to an officer of the Company; and (e) this Release shall not be effective until the date upon which the revocation period has expired, which shall be the eighth day after I sign this Release.

I acknowledge that I have read and understand Section 1542 of the California Civil Code which reads as follows: **"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."** I hereby expressly waive and relinquish all rights and benefits under that section and any law of any jurisdiction of similar effect with respect to my release of any claims hereunder.

I hereby represent that I have been paid all compensation owed and for all hours worked; I have received all the leave and leave benefits and protections for which I am eligible pursuant to the Family and Medical Leave Act, the California Family Rights Act, or otherwise; and I have not suffered any on-the-job injury for which I have not already filed a workers' compensation claim.

I acknowledge that to become effective, I must sign and return this Release to the Company so that it is received not later than twenty-one (21) days following the date it is provided to me.

EMPLOYEE

Name: _____

Date: _____

For Employees Age 40 or Older
Group Termination

EXHIBIT C

RELEASE AGREEMENT

I understand and agree completely to the terms set forth in the Exelixis, Inc. Change in Control and Severance Benefit Plan (the "*Plan*").

I understand that this Release, together with the Plan, constitutes the complete, final and exclusive embodiment of the entire agreement between the Company, affiliates of the Company and me with regard to the subject matter hereof. I am not relying on any promise or representation by the Company or an affiliate of the Company that is not expressly stated therein. Certain capitalized terms used in this Release are defined in the Plan.

I hereby confirm my obligations under the Company's Employee Proprietary Information and Inventions Agreement.

Except as otherwise set forth in this Release, I hereby generally and completely release the Company and its affiliates, and their parents, subsidiaries, successors, predecessors and affiliates, and its and their partners, members, directors, officers, employees, stockholders, shareholders, agents, attorneys, predecessors, insurers, affiliates and assigns, from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring at any time prior to and including the date I sign this Release. This general release includes, but is not limited to: (a) all claims arising out of or in any way related to my employment with the Company and its affiliates, or their affiliates, or the termination of that employment; (b) all claims related to my compensation or benefits, including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company and its affiliates, or their affiliates; (c) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (d) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (e) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990 (as amended), the federal Age Discrimination in Employment Act (as amended) ("***ADEA***"), the federal Employee Retirement Income Security Act of 1974 (as amended), and the California Fair Employment and Housing Act (as amended).

Notwithstanding the foregoing, I understand that the following rights or claims are not included in my Release: (a) any rights or claims for indemnification I may have pursuant to any written indemnification agreement with the Company or its affiliate to which I am a party; the charter, bylaws, or operating agreements of the Company or its affiliate; or under applicable law; or (b) any rights which cannot be waived as a matter of law. In addition, I understand that nothing in this Agreement prevents me from filing, cooperating with, or participating in any proceeding before the Equal Employment Opportunity Commission, the Department of Labor, or the California Department of Fair Employment and Housing, except that I hereby waive my right to any monetary benefits in connection with any such claim, charge or proceeding. I hereby represent and warrant that, other than the claims identified in this paragraph, I am not aware of any claims I have or might have that are not included in the Release.

I acknowledge that I am knowingly and voluntarily waiving and releasing any rights I may have under the ADEA, and that the consideration given under the Plan for the waiver and release in the preceding paragraph hereof is in addition to anything of value to which I was already entitled. I further acknowledge that I have been advised by this writing, as required by the ADEA, that: (a) my waiver and release do not apply to any rights or claims that may arise after the date I sign this Release; (b) I should consult with an attorney prior to signing this Release (although I may choose voluntarily not to do so); (c) I have forty-five (45) days to consider this Release (although I may choose voluntarily to sign this Release earlier); (d) I have seven (7) days following the date I sign this Release to revoke the Release by providing written notice to an office of the Company; (e) this Release shall not be effective until the date upon which the revocation period has expired, which shall be the eighth day after I sign this Release; and (f) I have received with this Release a detailed list of the job titles and ages of all employees who were terminated in this group termination and the ages of all employees of the Company in the same job classification or organizational unit who were not terminated.

I acknowledge that I have read and understand Section 1542 of the California Civil Code which reads as follows: **"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."** I hereby expressly waive and relinquish all rights and benefits under that section and any law of any jurisdiction of similar effect with respect to my release of any claims hereunder.

I hereby represent that I have been paid all compensation owed and for all hours worked; I have received all the leave and leave benefits and protections for which I am eligible pursuant to the Family and Medical Leave Act, the California Family Rights Act, or otherwise; and I have not suffered any on-the-job injury for which I have not already filed a workers' compensation claim.

I acknowledge that to become effective, I must sign and return this Release to the Company so that it is received not later than forty-five (45) days following the date it is provided to me.

EMPLOYEE

Name: _____

Date: _____

EXHIBIT D

RELEASE AGREEMENT

I understand and agree completely to the terms set forth in the Exelixis, Inc. Change in Control and Severance Benefit Plan (the "*Plan*").

I understand that this Release, together with the Plan, constitutes the complete, final and exclusive embodiment of the entire agreement between the Company, affiliates of the Company and me with regard to the subject matter hereof. I am not relying on any promise or representation by the Company or an affiliate of the Company that is not expressly stated therein. Certain capitalized terms used in this Release are defined in the Plan.

I hereby confirm my obligations under the Company's Employee Proprietary Information and Inventions Agreement.

Except as otherwise set forth in this Release, I hereby generally and completely release the Company and its affiliates, and their parents, subsidiaries, successors, predecessors and affiliates, and its and their partners, members, directors, officers, employees, stockholders, shareholders, agents, attorneys, predecessors, insurers, affiliates and assigns, from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring at any time prior to and including the date I sign this Release. This general release includes, but is not limited to: (a) all claims arising out of or in any way related to my employment with the Company and its affiliates, or their affiliates, or the termination of that employment; (b) all claims related to my compensation or benefits, including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company and its affiliates, or their affiliates; (c) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (d) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (e) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990 (as amended), the federal Employee Retirement Income Security Act of 1974 (as amended), and the California Fair Employment and Housing Act (as amended).

Notwithstanding the foregoing, I understand that the following rights or claims are not included in my Release: (a) any rights or claims for indemnification I may have pursuant to any written indemnification agreement with the Company or its affiliate to which I am a party; the charter, bylaws, or operating agreements of the Company or its affiliate; or under applicable law; or (b) any rights which cannot be waived as a matter of law. In addition, I understand that nothing in this Agreement prevents me from filing, cooperating with, or participating in any proceeding before the Equal Employment Opportunity Commission, the Department of Labor, or the California Department of Fair Employment and Housing, except that I hereby waive my right to any monetary benefits in connection with any such claim, charge or proceeding. I hereby represent and warrant that, other than the claims identified in this paragraph, I am not aware of any claims I have or might have that are not included in the Release.

I acknowledge that I have read and understand Section 1542 of the California Civil Code which reads as follows: **"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."** I hereby expressly waive and relinquish all rights and benefits under that section and any law of any jurisdiction of similar effect with respect to my release of any claims hereunder.

I hereby represent that I have been paid all compensation owed and for all hours worked; I have received all the leave and leave benefits and protections for which I am eligible pursuant to the Family and Medical Leave Act, the California Family Rights Act, or otherwise; and I have not suffered any on-the-job injury for which I have not already filed a workers' compensation claim.

I acknowledge that to become effective, I must sign and return this Release to the Company so that it is received not later than fourteen (14) days following the date it is provided to me.

EMPLOYEE

Name: _____

Date: _____

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 10.39

AMENDMENT NO. 3 TO THE COLLABORATION AGREEMENT
BETWEEN
EXELIXIS, INC., AND BRISTOL-MYERS SQUIBB COMPANY

THIS AMENDMENT NO. 3 ("**Amendment No. 3**") to the Agreement (defined below) is executed as of October 8, 2010 (the "**Amendment No. 3 Execution Date**") by and between **Exelixis, Inc.**, a Delaware corporation located at 170 Harbor Way, P.O. Box 511, South San Francisco, California 94083-0511 ("**Exelixis**") and **Bristol-Myers Squibb Company**, a Delaware corporation headquartered at 345 Park Avenue, New York, New York 10154 ("**BMS**"). Exelixis and BMS may be referred to individually as a "**Party**" and collectively as the "**Parties**".

WHEREAS, Exelixis and BMS entered into that certain Collaboration Agreement executed as of December 15, 2006, amended to be effective on January 11, 2007, and subsequently amended as of October 1, 2009 (the agreement and all such amendments, collectively, the "**Agreement**") for the purposes of applying Exelixis' technology and expertise to the discovery, lead optimization and characterization of small molecule compounds that directly bind and modulate certain oncology targets, with a goal of filing Investigational New Drug applications for such small molecule compounds, and to provide for the development and commercialization of novel therapeutic and prophylactic products based on such compounds; and

WHEREAS, the Parties desire to amend the Agreement to enable Exelixis to opt-out of the development and commercialization of the Collaboration Compound known as XL139, and to revise other provisions, as set forth below.

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

1. AMENDMENT OF THE AGREEMENT

The Parties hereby agree to amend the terms of the Agreement as provided below, effective as of the Amendment No. 3 Effective Date. To the extent that the Agreement is explicitly amended by this Amendment No. 3, the terms of this Amendment No. 3 will control where the terms of the Agreement are contrary to or conflict with the following provision. Where the Agreement is not explicitly amended, the terms of the Agreement will remain in full force and effect. Capitalized terms used in this Amendment No. 3 that are not otherwise defined herein shall have the same meanings as such terms have in the Agreement.

1.1 Exelixis Opt-Out of all SMO Products. The Parties agree that Exelixis hereby ceases its involvement in the Development and Commercialization of all Products containing or

comprising Collaboration Compounds directed against the SMO target, including without limitation the compound known as XL139 (such Collaboration Compounds, the **"SMO Products"**) pursuant to a Product Opt-Out; therefore, the SMO Products are no longer Co-Developed Products and are now Royalty-Bearing Products. As of the Amendment No. 3 Effective Date, Exelixis shall have no further responsibility for conducting new activities or funding new Development or Commercialization activities with respect to SMO Products. Furthermore, as of the Amendment No. 3 Effective Date, there are no ongoing Exelixis activities with respect to SMO Products.

1.2 Economics Associated with the Opt-Out of the SMO Products. In consideration for Exelixis' opt-out of SMO Products, BMS agrees to the following:

(a) BMS shall pay Exelixis a one-time fee of twenty million dollars ($20,000,000) within [*] after the Amendment No. 3 Effective Date. Such fee shall be noncreditable and nonrefundable.

(b) BMS' obligation under **Section 9.5(a)** to pay Exelixis $20 million on the [*] is hereby cancelled.

(c) BMS shall pay royalties to Exelixis on Net Sales (by BMS or its Affiliates or sublicensees) in the U.S. of Royalty-Bearing Products containing or comprising SMO Products at the royalty rates described in **Section 9.6(b)(i), i.e.,** rates of [*]%, [*]% and [*]%.

1.3 HSR Filing. The Parties acknowledge the need, pursuant to **Section 13.6(b)** of the Agreement, to make filings under the HSR Act in relation to Exelixis' opting-out of the Co-Development of SMO Products. Accordingly, the this Amendment No. 3 shall not become effective until the expiration or earlier termination of the waiting period under the HSR Act in the U.S., the expiration or earlier termination of any applicable waiting period under the antitrust or competition laws of any other jurisdiction, and the approval or clearance of the transactions contemplated by this Agreement in any jurisdiction requiring advance approval or clearance (the **"Amendment No. 3 Effective Date"**).

1.4 Amendment of the Research Term. The Parties agree to delete **Section 3.10** and replace it with the following.

"3.10 **Research** Term. The "**Research Term**" shall commence on the Effective Date and continue until the Amendment No. 3 Effective Date. Following the end of the Research Term, Exelixis has no obligation to conduct any work under any Screening Programs, Lead Op Programs, Provisional Collaboration Programs and Collaboration Programs (other than Exelixis' responsibilities, as set forth in the remainder of this Agreement, with respect to Co-Developed Products and Backup Programs for Collaboration Targets), and all rights with respect to Lead Op

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Candidates, Lead Op Targets and Collaboration Compounds, other than Collaboration Compounds included in a Collaboration Program for which BMS has exercised its Co-Development Option under **Section 3.4**, and in any case subject to **Section 3.8(e)**, automatically and immediately revert to Exelixis."

1.5 Amendment of Patent Prosecution. The Parties agree to delete **Section 10.3(b)** and replace it with the following.

"10.3(b) Joint Patent Committee.

(i) Establishment & Meetings. Promptly after the Amendment No. 3 Effective Date, the Parties shall establish a committee (the "**Joint Patent Committee**" or "**JPC**"). The JPC shall be composed of at least one (1) representative from each Party, at least one of which shall be a patent counsel for such Party. Each Party may change its representative(s) by giving the other Party at least [*] prior written notice. The JPC shall meet within [*] after the Amendment No. 3 Effective Date, and once per [*] thereafter, or as may be requested by either Party as necessary, by teleconference, videoconference or in person (as determined by the JPC).

(1) Duties. Promptly after the Amendment No. 3 Effective Date, [*] shall oversee (subject to **Sections 10.3(b)(ii), (iv)** and **(v)** below) the preparation, filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of all [*] Patents, [*] Patents Controlled by [*], and [*] Patents that in each case are [*] (the "**[*] Patents**"), provided that, unless otherwise agreed by the Parties, such responsibilities shall be carried out by: (A) [*] by [*] the [*], unless there exists [*] of [*] and [*]; (B) [*] by [*], but only in the case where [*] described in subsection (A) had [*] of [*]; or (C) [*] in conjunction with [*] described in the preceding subsection (A) or (B), as applicable. [*], or [*], shall provide [*] with an update of the filing, prosecution and maintenance status for each of the [*] Patents on a periodic basis, and shall use commercially reasonable efforts to consult with and cooperate with [*] with respect to the filing, prosecution and maintenance of the [*] Patents, including providing [*] with drafts of proposed filings to allow [*] a reasonable opportunity for review and comment before such filings are due. [*], or [*], shall provide to [*] copies of any papers relating to the filing, prosecution and maintenance of the [*] Patents promptly upon their being filed and received.

(2) Decisions. Subsequent to the Amendment No. 3 Effective Date, in the event of a dispute between the Parties with regard to the preparation, filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of any [*] Patent, the matter shall be promptly referred to the [*] and [*] for BMS. If these two (2) individuals are unable to resolve the dispute promptly, then the matter shall be promptly elevated to the [*] of Exelixis and the [*] of BMS. If these two (2) individuals are unable to resolve the dispute promptly, then, subject to **Sections 10.3(b)(i)(3), 10.3(b)(i)(4), 10.3(b)(ii), [*] of the ROR Collaboration Agreement,** and **[*] of the ROR**

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Collaboration Agreement, BMS shall have the final decision, except if such decision: (A) conflicts with the terms of the Agreement; (B) would result in [*] described in **Section [*]** or a [*] of the [*]; or (C) materially impacts [*] prosecution of Patents that [*] a [*], in which case of **subsection 10.3(b)(i)(2)(A) - (C)**, **[*] shall have the final decision**

(3) Limitation on Subsection 10.3(b)(i)(2)(B). If [*] reasonably believes that filing a new patent application covering a [*] (other than the [*] of a [*]) would result in potential claims [*] for [*], and if [*] disputes with [*] that such patent application should be filed, then such dispute shall be discussed as described in the first two (2) sentences of **Section 10.3(b)(i)(2)**, and, if still unresolved, shall be arbitrated pursuant to **Section [*] of the ROR Collaboration Agreement**, and [*] shall not have the right to exercise its final-decision making authority pursuant to **Subsection 10.3(b)(i)(2)(B)** unless the dispute is resolved in [*] favor.

(4) Limitation on Subsection 10.3(b)(i)(2)(C). [*] hereby covenants that it shall not, without the prior written consent of [*] (which shall not be unreasonably delayed or conditioned), during the term of this Agreement, [*] the decision-making authority granted to [*] pursuant to **Subsection 10.3(b)(i)(2)(C)** [*] that is [*] existing as of the Effective Date or [*]. Furthermore, if [*] the decision-making authority granted to [*] pursuant to **Subsection 10.3(b)(i)(2)(C)** [*] by [*], [*] or [*], and such [*] is [*] or [*] a [*] that is [*], then [*] and [*] shall agree, pursuant to **Section [*] of the ROR Collaboration Agreement**, on [*] the decision-making authority granted to [*] pursuant to **Subsection 10.3(b)(i)(2)(C**).

(ii) Abandonment. In no event shall [*] knowingly permit any of the [*] Patents to be abandoned in any country, or elect not to file a new patent application claiming priority to a patent application within the [*] Patents either before such patent application's issuance or within the time period required for the filing of an international (i.e., Patent Cooperation Treaty), regional (including European Patent Office) or national application, without [*] written consent (such consent not to be unreasonably withheld, delayed or conditioned) or [*] otherwise first being given an opportunity to assume full responsibility (at [*] expense) for the continued prosecution and maintenance of such [*] Patents or the filing of such new patent application. Accordingly, [*], or [*], shall provide [*] with notice of the allowance and expected issuance date of any patent within the [*] Patents, or any of the aforementioned filing deadlines, and [*] shall provide [*] with prompt notice as to whether [*] desires [*] to file such new patent application. In the event that [*] decides either: (A) not to continue the prosecution or maintenance of a patent application or patent within the [*] Patents in any country; or (B) not to file such new patent application requested to be filed by [*], [*] shall provide [*] with notice of this decision at least [*] prior to any pending lapse or abandonment thereof, and [*] shall thereafter have the right to assume responsibility for the filing, prosecution and maintenance of such patent or patent application. In the event that [*] assumes such responsibility for such filing, prosecution and maintenance, [*] shall no longer have the responsibility for such filing, prosecution and maintenance of such patent applications and

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

patents, and [*] shall cooperate as reasonably requested by [*] to facilitate control of such filing, prosecution and maintenance by [*]. In the case where [*] takes over the filing, prosecution or maintenance of any patent or patent application as set forth above, such patent or patent application shall [*] be [*] the [*], and [*] shall [*] such patent or patent application.

(iii) Filing, Prosecution and Maintenance of Sole Invention Patents Controlled by BMS. In accordance with this **Section 10.3 (a)(iii)**, BMS shall be responsible for the filing, prosecution (including any interferences, reissues and reexaminations) and maintenance of all Sole Invention Patents Controlled by BMS. BMS shall provide to Exelixis copies of any papers relating to the filing, prosecution and maintenance of the Sole Invention Patents Controlled by BMS promptly upon their being filed and received.

(iv) Patent Term Extension. Exelixis and BMS shall each cooperate with each another and shall use commercially reasonable efforts in obtaining patent term extension (including any pediatric exclusivity extensions as may be available) or supplemental protection certificates or their equivalents in any country with respect to patent rights covering the Products. If elections with respect to obtaining such patent term extensions are to be made, [*] shall have the right to make the election to seek patent term extension or supplemental protection.

(v) Exelixis Right to Separate Claims. To the extent that any Sole Invention Patent of Exelixis contains claims that cover compounds that are not Collaboration Compounds (such compounds, **"Separable Compounds"**), Exelixis shall have the right to separate any claims that cover such Separable Compounds (and not Collaboration Compounds) and to file such claims in a separate application (e.g., a continuation, continuation-in-part, or divisional application). Exelixis shall notify BMS in writing prior to separating such claims, and such separation shall be at Exelixis' sole expense.**"**

1.6 Amendment of the Entire Agreements Provision. The Parties agree to delete **Section 15.4** and replace it with the following.

"15.4 **Entire Agreement; Amendments**. This Agreement, the collaboration agreement (for the discovery, development and commercialization of compounds that antagonize the target known as ROR) that is between Exelixis and BMS and that is dated as of the Amendment No. 3 Execution Date (the **"ROR Collaboration Agreement"**), and the letter agreement that is dated as of the Amendment No. 3 Execution Date and that describes Exelixis' creation of a licensing Affiliate (the "**Letter Agreement**"), set forth the complete, final and exclusive agreement and all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties hereto and supersedes and terminates all prior agreements and understandings between the

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Parties. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as are set forth in this Agreement, the ROR Collaboration Agreement, and the Letter Agreement. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party."

2. MISCELLANEOUS

2.1 Full Force and Effect. This Amendment No. 3 amends the terms of the Agreement and is deemed incorporated into, and governed by all other terms of, the Agreement. The provisions of the Agreement, as amended by this Amendment No. 3, remain in full force and effect.

2.2 Further Actions. Each Party shall execute, acknowledge and deliver such further instruments, and do all other acts, as may be necessary or appropriate in order to carry out the purposes and intent of this Amendment No. 3.

2.3 Counterparts. This Amendment No. 3 may be executed in two (2) or more counterparts, each of which shall be an original and all of which shall constitute together the same document. Counterparts may be signed and delivered by facsimile, or electronically in PDF format, each of which shall be binding when sent.

Signature page follows

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

IN WITNESS WHEREOF, the Parties have caused this Amendment No. 3 to be executed by their duly authorized representatives. The date that this Amendment No. 3 is signed shall not be construed to imply that the document was made effective on that date.

Bristol-Myers Squibb Company

Signature: /s/ Jeremy Levin

Name: Jeremy Levin

Title: Senior Vice President

Date: 10/08/2010

Exelixis, Inc.

Signature: /s/ Michael Morrissey

Name: Michael Morrissey

Title: CEO

Date: 10/08/2010

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 10.46

THIRD AMENDMENT TO BUILD-TO-SUIT LEASE

This Third Amendment to Build-to-Suit Lease ("**Third Amendment**") is made and entered into as of May 24, 2001, by and between BRITANNIA POINTE GRAND LIMITED PARTNERSHIP, a Delaware limited partnership ("**Landlord**"), and EXELIXIS, INC. (formerly known as Exelixis Pharmaceuticals, Inc.), a Delaware corporation ("**Tenant**"), with reference to the following facts:

A. Landlord and Tenant are parties to a Build-to-Suit Lease dated as of May 12, 1999, as amended by a First Amendment to Build-to-Suit Lease dated as of March 29, 2000 and by a Second Amendment to Build-to-Suit Lease dated as of January 31, 2001 (collectively, as so amended, the "**Existing Lease**"), covering buildings occupied by Tenant at 169 Harbor Way and 170 Harbor Way, South San Francisco, California and an elevated connector bridge between those two buildings across Harbor Way. Terms used in this Third Amendment as defined terms but not defined herein shall have the meanings assigned to such terms in the Lease.

B. Landlord and Tenant are also executing, substantially concurrently with this Third Amendment, a Lease of even date herewith (the "New Lease") covering the building presently occupied by Rigel Pharmaceuticals, Inc. at 240 East Grand Avenue, South San Francisco, California, which building is to be occupied by Tenant in the future at the time and under the conditions set forth in the New Lease.

C. The New Lease includes a "cross-default" provision providing, in substance, that any uncured default under the Existing Lease shall also constitute a default under the New Lease. By this Third Amendment, the parties wish to insert a reciprocal "cross-default" provision in the Existing Lease, as hereinafter set forth.

NOW, THEREFORE, in reliance upon the foregoing recitals and upon the mutual agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. Addition of Cross-Default Provision. Section 16.1 of the Existing Lease is amended by adding, at the end thereof, the following paragraph as an additional matter constituting an event of default on the part of Tenant under the Existing Lease:

"(i) Cross-Default. Any default by Tenant under the New Lease (as defined in the Third Amendment to this Lease), to the extent such default continues beyond any applicable cure period provided in the New Lease and to the extent Landlord therefore has (and exercises concurrently with any termination of this Lease) a right to terminate the New Lease; provided, however, that the default event set forth in this Section 16.1(i) shall not apply with respect to any default by Tenant under the New Lease if, at the time of such default, any of the following conditions exists: (A) the holder of the landlord's interest under the New Lease is neither the person or entity which is then the holder of the landlord's interest under this Lease nor a person or entity which controls, is controlled by or is under common control with the person or entity which is then the holder of the landlord's interest under this Lease; (B) the holder of the tenant's interest under the New Lease is neither the person or entity which is then the holder of the

tenant's interest under this Lease nor a person or entity which controls, is controlled by or is under common control with the person or entity which is then the holder of the tenant's interest under this Lease; or (C) either the Property under this Lease or the property subject to the New Lease is subject to one or more outstanding mortgages or deeds of trust, and the other such property is either not subject to any outstanding mortgage or deed or trust, or is subject to one or more outstanding mortgages or deeds of trust and the beneficial interest under at least one such mortgage or deed of trust on such other property is held by a person or entity as lender which is neither the holder of the beneficial interest under any of the outstanding mortgages or deeds or trust on the first such property nor a person or entity which controls, is controlled by or is under common control with the holder of the beneficial interest under any of the outstanding mortgages or deeds of trust on the first such property."

2. Entire Agreement. The Lease, as amended by this Third Amendment, contains all the representations and the entire understanding between the parties with respect to the subject matter of this Third Amendment. Any prior correspondence, memoranda or agreements are replaced in total by this Third Amendment and the Lease as amended hereby.

3. Execution and Delivery. This Third Amendment may be executed in one or more counterparts and by separate parties on separate counterparts, but each such counterpart shall constitute an original and all such counterparts together shall constitute one and the same instrument.

4. Full Force and Effect. Except as expressly set forth herein, the Lease has not been modified or amended and remains in full force and effect.

IN WITNESS WHEREOF, the parties hereto have extended this Third Amendment as of the date first set forth above.

"Landlord"

BRITANIA POINTE GRAND LIMITED PARTNERSHIP, a Delaware limited partnership

By: BRITANIA POINTE GRAND, LLC, a California limited liability company, General Partner

By: /s/ T.J. Bristow
T.J. Bristow
Its Manager, President and Chief Financial Officer

"Tenant"

EXELIXIS, INC., a Delaware corporation

By: /S/ George A. Scangos
George A. Scangos
President and CEO

By: /s/ Glen Sato
Its: CFO

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 10.68

AMENDMENT NO. 3 TO THE COLLABORATION AGREEMENT
BETWEEN
EXELIXIS, INC., AND BRISTOL-MYERS SQUIBB COMPANY

THIS AMENDMENT NO. 3 ("**Amendment No. 3**") to the Agreement (defined below) is effective as of October 8, 2010 (the "**Amendment No. 3 Effective Date**") by and between **Exelixis, Inc.**, a Delaware corporation located at 170 Harbor Way, P.O. Box 511, South San Francisco, California 94083-0511 ("**Exelixis**") and **Bristol-Myers Squibb Company**, a Delaware corporation headquartered at 345 Park Avenue, New York, New York 10154 ("**BMS**"). Exelixis and BMS may be referred to individually as a "**Party**" and collectively as the "**Parties**".

WHEREAS, Exelixis and BMS entered into that certain Collaboration Agreement effective as of December 11, 2008, amended to be effective as of December 18, 2008, and further amended as of September 1, 2009 (the agreement and amendments, collectively, the "**Agreement**") for the purposes of applying Exelixis technology and expertise to the discovery, lead optimization and characterization of small molecule compounds, including XL184 and XL281, and providing for the development and commercialization of novel therapeutic and prophylactic products based on such compounds; and

WHEREAS, the Parties desire to amend various sections of the Agreement, as set forth below.

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

AGREEMENT

1. AMENDMENT OF THE AGREEMENT

The Parties hereby agree to amend the terms of the Agreement as provided below, effective as of the Amendment No. 3 Effective Date. To the extent that the Agreement is explicitly amended by this Amendment No. 3, the terms of this Amendment No. 3 will control where the terms of the Agreement are contrary to or conflict with the following provision. Where the Agreement is not explicitly amended, the terms of the Agreement will remain in full force and effect. Capitalized terms used in this Amendment No. 3 that are not otherwise defined herein shall have the same meanings as such terms have in the Agreement.

1.1 Amendment of Section 7.6(a) of the Agreement. The Parties agree to delete Section 7.6(a) of the Agreement in its entirety and replace it with the following:

"7.6(a) [Intentionally left blank.]"

1.2 Amendment of Section 7.8(a) of the Agreement. The Parties agree to delete Section 7.8(a) of the Agreement in its entirety and replace it with the following:

"7.8(a) Joint Patent Committee.

(i) Establishment & Meetings. Promptly after the Effective Date (as defined in the TGR5 License Agreement), the Parties shall establish a committee (the **"Joint Patent Committee**" or **"JPC**"). The JPC shall be composed of at least (1) representative from each Party, at least one of which shall be a patent counsel for such Party. Each Party may change its representative(s) by giving the other Party at least [*] prior written notice. The JPC shall meet within [*] after the Effective Date (as defined in the TGR5 License Agreement), and once per [*] thereafter, or as may be requested by either Party as necessary, by teleconference, videoconference or in person (as determined by the JPC).

(1) Duties. Promptly after the Effective Date (as defined in the TGR5 License Agreement), [*] shall oversee (subject to **Sections 7.8(b)(ii), (iv)** and **(v)** below) the preparation, filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of all [*] Patents, [*] Patents Controlled by [*], and [*] Patents that in each case are [*] (the **"[*] Patents"**), provided that, unless otherwise agreed by the Parties, such responsibilities shall be carried out by: (A) [*] by [*] the [*], unless there exists [*] of [*] and [*]; (B) [*] by [*], but only in the case where [*] described in subsection (A) had [*] of [*]; or (C) [*] in conjunction with [*] described in the preceding subsection (A) or (B), as applicable. [*], or [*], shall provide [*] with an update of the filing, prosecution and maintenance status for each of the [*] Patents on a periodic basis, and shall use commercially reasonable efforts to consult with and cooperate with [*] with respect to the filing, prosecution and maintenance of the [*] Patents, including providing [*] with drafts of proposed filings to allow [*] a reasonable opportunity for review and comment before such filings are due. [*], or the external counsel, shall provide to [*] copies of any papers relating to the filing, prosecution and maintenance of the [*] Patents promptly upon their being filed and received.

(2) Decisions. Subsequent to the Effective Date (as defined in the TGR5 License Agreement), in the event of a dispute between the Parties with regard to the preparation, filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of any [*] Patent, the matter shall be promptly referred to the [*] of Exelixis and [*] for BMS. If these two (2) individuals are unable to resolve the dispute promptly, then the matter shall be promptly elevated to the [*] of Exelixis and the [*] of BMS. If these two (2) individuals are unable to resolve the dispute promptly, then, subject to **Sections 7.8(a)(i)(3), 7.8(a)(i)(4), 7.8(a)(ii), [*] of the ROR Collaboration Agreement,** and **[*] of the ROR Collaboration Agreement**, BMS shall have the final decision, except if such decision: (A) conflicts with the terms of the Agreement; (B) would result in [*] described in [*] or a [*] of the [*]; or (C) materially impacts [*] prosecution of Patents that [*] a [*], in which case of **subsection 7.8(a)(i)(2)(A) - (C)**, [*] shall have the final decision

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(3) Limitation on Subsection 7.8(a)(i)(2)(B). If [*] reasonably believes that filing a new patent application covering a [*] (other than the [*] of a [*]) would result in potential claims [*] for [*], and if [*] disputes with [*] that such patent application should be filed, then such dispute shall be discussed as described in the first two (2) sentences of **Section 7.8(a)(i)(2)**, and, if still unresolved, shall be arbitrated pursuant to **Section [*] of the ROR Collaboration Agreement**, and [*] shall not have the right to exercise its final-decision making authority pursuant to **Subsection 7.8(a)(i)(2)(B)** unless the dispute is resolved in [*] favor.

(4) Limitation on Subsection 7.8(a)(i)(2)(C). [*] hereby covenants that it shall not, without the prior written consent of [*] (which shall not be unreasonably delayed or conditioned), during the term of this Agreement, [*] the decision-making authority granted to [*] pursuant to **Subsection 7.8 (a)(i)(2)(C)** [*] that is [*] existing as of the Effective Date or [*]. Furthermore, if [*] the decision-making authority granted to [*] pursuant to **Subsection 7.8 (a)(i)(2)(C)** [*] by [*], [*] or [*], and such [*] is [*] or [*] a [*] that is [*], then [*] and [*] shall agree, pursuant to **Section [*] of the ROR Collaboration Agreement**, on [*] the decision-making authority granted to [*] pursuant to **Subsection 7.8 (a)(i)(2)(C**).

(ii) Abandonment. In no event shall [*] knowingly permit any of the [*] Patents to be abandoned in any country, or elect not to file a new patent application claiming priority to a patent application within the [*] Patents either before such patent application's issuance or within the time period required for the filing of an international (i.e., Patent Cooperation Treaty), regional (including European Patent Office) or national application, without [*] written consent (such consent not to be unreasonably withheld, delayed or conditioned) or [*] otherwise first being given an opportunity to assume full responsibility (at [*] expense) for the continued prosecution and maintenance of such [*] Patents or the filing of such new patent application. Accordingly, [*], or [*], shall provide [*] with notice of the allowance and expected issuance date of any patent within the [*] Patents, or any of the aforementioned filing deadlines, and [*] shall provide [*] with prompt notice as to whether [*] desires [*] to file such new patent application. In the event that [*] decides either: (A) not to continue the prosecution or maintenance of a patent application or patent within the [*] Patents in any country; or (B) not to file such new patent application requested to be filed by [*], [*] shall provide [*] with notice of this decision at least [*] prior to any pending lapse or abandonment thereof, and [*] shall thereafter have the right to assume responsibility for the filing, prosecution and maintenance of such patent or patent application. In the event that [*] assumes such responsibility for such filing, prosecution and maintenance, [*] shall no longer have the responsibility for such filing, prosecution and maintenance of such patent applications and patents, and [*] shall cooperate as reasonably requested by [*] to facilitate control of such filing, prosecution and maintenance by [*]. In the case where [*] takes over the filing, prosecution or maintenance of any patent or patent application as set forth above, such patent or patent application shall [*] be [*] the [*], and [*] shall [*] such patent or patent application.

(iii) Filing, Prosecution and Maintenance of Sole Invention Patents Controlled by BMS. In accordance with this **Section 7.8 (a)(iii)**, BMS shall be responsible for the filing, prosecution (including any interferences, reissues and reexaminations) and

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

maintenance of all Sole Invention Patents Controlled by BMS. [*] shall provide to Exelixis copies of any papers relating to the filing, prosecution and maintenance of the Sole Invention Patents Controlled by BMS promptly upon their being filed and received.

(iv) Patent Term Extension. Exelixis and BMS shall each cooperate with each another and shall use commercially reasonable efforts in obtaining patent term extension (including any pediatric exclusivity extensions as may be available) or supplemental protection certificates or their equivalents in any country with respect to patent rights covering the Products. If elections with respect to obtaining such patent term extensions are to be made, [*] shall have the right to make the election to seek patent term extension or supplemental protection.

(v) Exelixis Right to Separate Claims. To the extent that any Sole Invention Patent of Exelixis contains claims that cover compounds that are not Collaboration Compounds (such compounds, **"Separable Compounds"**), Exelixis shall have the right to separate any claims that cover such Separable Compounds (and not Collaboration Compounds) and to file such claims in a separate application (e.g., a continuation, continuation-in-part, or divisional application). Exelixis shall notify BMS in writing prior to separating such claims, and such separation shall be at Exelixis' sole expense."

1.3 **Amendment of Section 7.10 of the Agreement.** The Parties agree to delete Section 7.10 of the Agreement in its entirety and replace it with the following:

"**7.10** [Intentionally left blank.]"

1.4 **Amendment of Section 9.1(a) of the Agreement.** The Parties agree to delete Section 9.1(a) of the Agreement in its entirety and replace it with the following:

"**9.1(a) Prior to Commercialization.** Subject to **Sections 9.1(a)(i), 9.2 and 9.3**, [*], [*] (directly or indirectly, and either with or without a bona fide collaborator) outside the scope of this Collaboration any programs: (I) that [*] that [*] of [*]; or (II) where [*] that [*]; provided, however, that, [*], the foregoing shall [*] (either alone or with a Third Party) [*] of a [*] that [*]: (A) [*] that [*] and/or [*] a [*] that [*] of such [*], [*] (B) [*] that is [*] or [*].

(i) [*] **of a Product.** Upon either (A) the [*] of the [*] Products [*] with respect to [*] or [*]; (B) the [*] of [*] Products with respect to [*] or [*] pursuant to **Section [*]**; or (C) the [*] of [*] or [*] pursuant to **Section [*],** [*] (directly or indirectly, and either with or without a *bona fide* collaborator) outside the scope of this Collaboration programs to [*] that [*]."

1.5 **Amendment of Section 14.4 of the Agreement.** The Parties agree to delete Section 14.4 of the Agreement in its entirety and replace it with the following:

"**14.4 Entire Agreement; Amendments**. This Agreement, the license

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

agreement (for the discovery, development and commercialization of compounds that agonize the target known as TGR5) and that is dated as of the Amendment No. 3 Effective Date (the **"TGR5 License Agreement"**), the collaboration agreement (for the discovery, development and commercialization of compounds that antagonize the target known as ROR) and that is dated as of the Amendment No. 3 Effective Date (the **"ROR Collaboration Agreement"**), and the letter agreement that is dated as of the Amendment No. 3 Effective Date and that describes Exelixis' creation of a licensing Affiliate (the "**Letter Agreement**"), set forth the complete, final and exclusive agreement and all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties hereto and supersedes and terminates all prior agreements and understandings between the Parties. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as are set forth in this Agreement, the TGR5 License Agreement, the ROR Collaboration Agreement, and the Letter Agreement. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party."

2. MISCELLANEOUS

2.1 Full Force and Effect. This Amendment No. 3 amends the terms of the Agreement and is deemed incorporated into, and governed by all other terms of, the Agreement. The provisions of the Agreement, as amended by this Amendment No. 3, remain in full force and effect.

2.2 Further Actions. Each Party shall execute, acknowledge and deliver such further instruments, and do all other acts, as may be necessary or appropriate in order to carry out the purposes and intent of this Amendment No. 3.

2.3 Counterparts. This Amendment No. 3 may be executed in two (2) or more counterparts, each of which shall be an original and all of which shall constitute together the same document. Counterparts may be signed and delivered by facsimile, or electronically in PDF format, each of which shall be binding when sent.

Signature page follows

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

IN WITNESS WHEREOF, the Parties have caused this Amendment No. 3 to be executed by their duly authorized representatives. The date that this Amendment No. 3 is signed shall not be construed to imply that the document was made effective on that date.

Bristol-Myers Squibb Company		**Exelixis, Inc.**	
Signature:	/s/ Jeremy Levin	Signature:	/s/ Michael Morrissey
Name:	Jeremy Levin	Name:	Michael Morrissey
Title:	Senior Vice President	Title:	CEO
Date:	10/08/2010	Date:	10/08/2010

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 10.76

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "**Agreement**") is made and entered into as of October 8, 2010 (the "**Execution Date**") by and between **EXELIXIS, INC.,** a Delaware corporation having its principal place of business at 170 Harbor Way, P.O. Box 511, South San Francisco, California 94083-0511 ("**Exelixis**"), and **BRISTOL-MYERS SQUIBB COMPANY,** a Delaware corporation headquartered at 345 Park Avenue, New York, New York, 10154 ("**BMS**"). Exelixis and BMS are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. BMS is a multinational health care company that has expertise and capability in researching, developing and marketing human pharmaceuticals.

B. Exelixis is a drug discovery company that has expertise and proprietary technology relating to compounds that modulate the metabolic target known as TGR5.

C. BMS and Exelixis desire to establish an agreement to license such Exelixis technology and expertise for the discovery, lead optimization and characterization of small molecule compounds, and to provide for the development and commercialization of novel therapeutic and prophylactic products based on such compounds.

NOW, THEREFORE, the Parties agree as follows:

1. DEFINITIONS

Capitalized terms used in this Agreement (other than the headings of the **Sections** or **Articles**) have the following meanings set forth in this **Article 1**, or, if not listed in this **Article 1**, the meanings as designated in the text of this Agreement.

1.1 "Affiliate" means, with respect to a particular Party, a person, corporation, partnership, or other entity that controls, is controlled by or is under common control with such Party. For the purposes of the definition in this **Section 1.1**, the word "**control**" (including, with correlative meaning, the terms "**controlled by**" or "**under the common control with**") means the actual power, either directly or indirectly through one (1) or more intermediaries, to direct or cause the direction of the management and policies of such entity, whether by the ownership of at least fifty percent (50%) of the voting stock of such entity, by contract or otherwise.

1.2 "ANDA" means an Abbreviated New Drug Application submitted to the FDA in conformance with applicable laws and regulations, or the foreign equivalent of any such application in any other country.

1.3 "BMS Licensed Know-How" means all Information (other than Patents) that is Controlled by BMS and its Affiliates, including Information Controlled jointly with Exelixis, as of the Effective Date or during the term of the Agreement that: (a) relates to a Licensed Compound, a

composition containing a Licensed Compound, a formulation containing a Licensed Compound, or the manufacture or use of a Licensed Compound; and (b) is [*] for Exelixis to exercise the rights licensed to it under the Agreement or to perform its obligations under the Agreement.

1.4 "BMS Licensed Patents" means all Patents Controlled by BMS and its Affiliates, including Patents Controlled jointly with Exelixis, as of the Effective Date or during the term of this Agreement that: (a) cover a Licensed Compound, a composition containing a Licensed Compound, a formulation containing a Licensed Compound, or the manufacture or use of a Licensed Compound; and (b) are [*] for Exelixis to exercise the rights licensed to it under the Agreement or to perform its obligations under the Agreement.

1.5 "BMS TGR5 Compound" means any Small Molecule Compound that: (a) is [*] or [*] under the [*] or [*] that [*]; (b) [*] and [*] TGR5 [*]; and (c) is [*] TGR5, based on the [*].

1.6 "Change of Control" means any transaction in which a Party: (a) sells, conveys or otherwise disposes of all or substantially all of its property or business; or (b)(i) merges, consolidates with, or is acquired by any other Person (other than a wholly-owned subsidiary of such Party); or (ii) effects any other transaction or series of transactions; in each case of clause (i) or (ii), such that the stockholders of such Party immediately prior thereto, in the aggregate, no longer own, directly or indirectly, beneficially or legally, at least fifty percent (50%) of the outstanding voting securities or capital stock of the surviving Person following the closing of such merger, consolidation, other transaction or series of transactions. As used in this **Section 1.6, "Person"** means any corporation, firm, partnership or other legal entity or individual person.

1.7 "Commercialize" means to promote, market, distribute, sell (and offer for sale or contract to sell) or provide product support for a Product, including by way of example: (a) detailing and other promotional activities in support of a Product; (b) advertising and public relations in support of a Product, including market research, development and distribution of selling, advertising and promotional materials, field literature, direct-to-consumer advertising campaigns, media/journal advertising, and exhibiting at seminars and conventions; (c) developing reimbursement programs and information and data specifically intended for national accounts, managed care organizations, governmental agencies (e.g., federal, state and local), and other group purchasing organizations, including pull-through activities; (d) co-promotion activities not included in the above; (e) conducting Medical Education Activities and journal advertising; and (f) [*]. For clarity, **"Commercializing"** and **"Commercialization"** have a correlative meaning.

1.8 "Controlled" means, with respect to any compound, material, Information or intellectual property right, that the Party owns or has a license to such compound, material, Information or intellectual property right and has the ability to grant to the other Party access, a license or a sublicense (as applicable) to such compound, material, Information or intellectual property right as provided for herein without violating the terms of any agreement or other arrangements with any Third Party existing at the time such Party would be first required hereunder to grant the other Party such access, license or sublicense.

1.9 "Development" means, with respect to a Product, those activities, including clinical trials, supporting manufacturing activities and related regulatory activities, that are necessary or

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

useful to: (a) obtain the approval by the applicable Regulatory Authorities of the Drug Approval Application with respect to such Product in the applicable regulatory jurisdiction, whether alone or for use together, or in combination, with another active agent or pharmaceutical product; (b) maintain such approvals. To avoid confusion, Development [*]. For clarity, **"Develop"** and **"Developing"** have a correlative meaning.

1.10 "Diligent Efforts" means the carrying out of obligations or tasks in a sustained manner consistent with the commercially reasonable efforts a Party devotes to a product or a research, development or marketing project of similar market potential, profit potential or strategic value resulting from its own research efforts. Diligent Efforts requires that the Party: (a) [*], (b) [*], and (c) [*] with respect to such [*].

1.11 "Dollars" or **"$"** means the legal tender of the United States.

1.12 "Drug Approval Application" or "**DAA**" means: (a) in the United States, an NDA (or a supplemental NDA for following indications), and (b) in any other country or regulatory jurisdiction, an equivalent application for regulatory approval required before commercial sale or use of a Product (or with respect to a subsequent indication) in such country or regulatory jurisdiction.

1.13 "EMEA" means BMS' European, Central and Eastern European, Middle Eastern and African commercial territory, consisting of the following countries and regions: Algeria, Andorra, Austria, Baltic States, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Liechtenstein, Luxembourg, Malta, Morocco, Netherlands, Norway, Poland, Portugal, Romania, Russia, Saudi Arabia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, U.K., Ukraine, Vatican City, Lebanon, Jordan, Syria, Kuwait, Bahrain, Oman, UAE and Qatar. The EMEA also includes: (a) the former Soviet Union and commonwealth of independent states such as Georgia, Armenia and central Asian republics; and (b) exports from France to English and French speaking African countries not separately identified in the list. For clarity, the specific list of countries and regions may change to align with any corresponding changes to BMS' business structures.

1.14 "EU" means the European Union, as its membership may be altered from time to time, and any successor thereto. The member countries of the European Union as of the Execution Date are Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

1.15 "Executive Officers" means: (a) in the case of Exelixis, the [*] of Exelixis; and (b) in the case of BMS, [*].

1.16 "Exelixis Licensed Know-How" means all Information (other than Patents) that is Controlled by Exelixis and its Affiliates, including Information Controlled jointly with BMS, as of the Effective Date or during the term of this Agreement that: (a) relates to a Licensed Compound, a composition containing a Licensed Compound, a formulation containing a Licensed Compound, or the manufacture or use of a Licensed Compound; and (b) is [*] for BMS to exercise the rights licensed to it under the Agreement or to perform its obligations under the Agreement.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

1.17 "Exelixis Licensed Patents" means all Patents Controlled by Exelixis and its Affiliates, including Patents Controlled jointly with BMS, as of the Effective Date or during the term of this Agreement that: (a) cover a Licensed Compound, a composition containing a Licensed Compound, a formulation containing a Licensed Compound, or the manufacture or use of a Licensed Compound; and (b) are [*] for BMS to exercise the rights licensed to it under the Agreement or to perform its obligations under the Agreement. For clarity, the Exelixis Licensed Patents include the Patents listed on **Exhibit 1.17.**

1.18 "Exelixis TGR5 Compound" means: (a) XL475; and (b) any Small Molecule Compound that is controlled by Exelixis as of the Effective Date or during the Term of the Agreement that: (i) [*] TGR5 [*]; (ii) are [*] TGR5, based on the [*]; and (iii) are disclosed in the Exelixis Licensed Patents listed on **Exhibit 1.17**.

1.19 "FDA" means the U.S. Food and Drug Administration, and any successor thereto.

1.20 "GAAP" means U.S. generally accepted accounting principles, consistently applied.

1.21 "[*]" means, with respect to a particular Product in a country, [*]: (a) [*]; (b) is [*] ([*] or [*]); and (c) is [*] or [*] a [*].

1.22 "HSR Act" means the U.S. Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended from time to time, and the rules, regulations, guidance and requirements promulgated thereunder as may be in effect from time to time.

1.23 "IND" means an Investigational New Drug Application submitted to the FDA in conformance with applicable laws and regulations, or the foreign equivalent of any such application in any other country.

1.24 "Information" means information, results and data of any type whatsoever, in any tangible or intangible form whatsoever, including, preclinical data, clinical trial data, databases, practices, methods, techniques, specifications, formulations, formulae, knowledge, know-how, skill, experience, test data including pharmacological, biological, chemical, biochemical, toxicological and clinical test data, analytical and quality control data, stability data, studies and procedures. For clarity, Information does not include any Patents.

1.25 "Invention" means any and all inventions and improvements, whether or not patentable, that are conceived or reduced to practice or otherwise made by or on behalf of a Party (and/or its Affiliates) in the performance of its obligations, or the exercise of its rights, under this Agreement.

1.26 "Joint Invention" means any Invention invented, made or discovered jointly by or on behalf of the employee(s), contractor(s) or agent(s) of both Parties (and/or their Affiliates).

1.27 "Knowledge" means, with respect of a Party, the [*] facts and information [*], or any [*] of, or [*], [*], [*] execution of this Agreement. For purposes of this definition, [*] means any person in the [*] of a Party.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

1.28 "Launch" means, for each Product in each country, the first arm's-length sale to a Third Party for use or consumption by the public of such Product in such country after Regulatory Approval of such Product in such country. A Launch shall not include any Product sold for use in clinical trials, for research or for other non-commercial uses, or that is supplied as part of a compassionate use or similar program.

1.29 "Licensed Compounds" means: (a) any Exelixis TGR5 Compounds; (b) any BMS TGR5 Compound; and (c) and any [*], or [*] of [*].

1.30 "Major European Countries" means France, Germany, Spain, Italy, and the United Kingdom.

1.31 "Major Territory" means each of the following territories: (a) [*].

1.32 "Manufacturing" means all activities related to the production, manufacture, processing, filling, finishing, packaging, labeling, inspection, receiving, holding and shipping of Licensed Compounds, Products, or any raw materials or packaging materials with respect thereto, or any intermediate of any of the foregoing, including process and cost optimization, process qualification and validation, commercial manufacture, stability and release testing, quality assurance and quality control. For clarity, **"Manufacture"** has a correlative meaning.

1.33 "Materials" means: (a) Licensed Compounds; and (b) [*] materials, including but not limited to [*], that are in Exelixis' Control and that [*].

1.34 "NDA" means a New Drug Application submitted to the FDA in conformance with applicable laws and regulations.

1.35 "Net Sales" means the amount invoiced or otherwise billed by BMS, or its Affiliate or sublicensee, for sales or other commercial disposition of a Product to a Third Party purchaser, less the following to the extent included in such billing or otherwise actually allowed or incurred with respect to such sales: (a) discounts, including cash, trade and quantity discounts, price reduction programs, retroactive price adjustments with respect to sales of a product, charge-back payments and rebates granted to managed health care organizations or to federal, state and local governments (or their respective agencies, purchasers and reimbursers) or to trade customers, including but not limited to, wholesalers and chain and pharmacy buying groups; (b) credits or allowances actually granted upon rejections or returns of Products, including for recalls or damaged goods; (c) freight, postage, shipping and insurance charges actually allowed or paid for delivery of Products, to the extent billed; (d) customs duties, surcharges and other governmental charges incurred in connection with the exportation or importation of a Product; (e) bad debts relating to sales of Products that are actually written off by BMS in accordance with GAAP during the applicable calculation period; (f) costs due to the factoring of receivables; and (g) taxes, duties or other governmental charges levied on, absorbed or otherwise imposed on sale of Products, including without limitation any fees payable under the Health Care Reform Act of 2010, value-added taxes, or other governmental charges otherwise measured by the billing amount, when included in billing, as adjusted for rebates and refunds, but specifically excluding taxes based on net income of the seller; provided that all of the foregoing deductions are calculated in accordance with GAAP.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Notwithstanding the foregoing, if any Product is sold under a bundled or capitated arrangement with other BMS products, then, solely for the purpose of calculating Net Sales under this Agreement, any discount on such Products sold under such an arrangement shall be [*] for the applicable accounting period. In case of any dispute as to the applicable [*] under the preceding sentence, the determination of same shall be calculated and certified by [*], whose decision shall be binding.

A sale of a Product is deemed to occur upon invoicing. [*].

For sake of clarity and avoidance of doubt, sales by BMS, its Affiliates or sublicensees of a Product to [*]. Any Products [*] considered in determining Net Sales hereunder.

In the event a Product is sold as an end-user product consisting of a combination of active functional elements or as a combined product and/or service, Net Sales allocable to the Product in each such country, for purposes of determining royalty payments on such Product, shall be determined by mutual agreement reached in good faith by the Parties prior to the end of the accounting period in question based on an equitable method of determining same that takes into account, on a country-by-country basis, variations in potency, the relative contribution of each active agent, component or service, as the case may be, in the combination, and relative value to the end user of each active agent, component or service, as the case may be. Notwithstanding the foregoing, the Parties agree that, for purposes of this paragraph, drug delivery vehicles, adjuvants, and excipients shall not be deemed to be "**active ingredients**" or "**active functional elements**".

1.36 "Patent" means all: (a) unexpired letters patent (including inventor's certificates and utility models) which have not been held invalid or unenforceable by a court or other applicable governmental authority of competent jurisdiction from which no appeal can be taken or has been taken within the required time period (and which have not been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise, or been abandoned in accordance with or as permitted by the terms of this Agreement or by mutual written agreement), including any substitution, extension, registration, confirmation, reissue, re-examination, supplementary protection certificates, confirmation patents, patent of additions, renewal or any like filing thereof; (b) pending applications for letters patent which have not been canceled, withdrawn from consideration, finally determined to be unallowable by the applicable governmental authority or court for whatever reason (and from which no appeal is or can be taken), and/or abandoned in accordance with or as permitted by the terms of this Agreement or by mutual written consent, including any continuation, division or continuation-in-part thereof and any provisional or other priority applications; and (c) any international counterparts, and counterparts in any country, to clauses (a) and (b) above.

1.37 "Phase I Clinical Trial" means a clinical trial of a Product on sufficient numbers of normal volunteers and/or patients that is designed to establish that such Product is safe for its intended use, can be delivered in a dose(s) that is therapeutically useful, and to support its continued testing in Phase II Clinical Trials.

1.38 "Phase IIb Clinical Trial" means a clinical trial of a Product on sufficient numbers of patients that is designed to provide a preliminary determination of safety and efficacy of such Product in the target patient population over a range of doses and dose regimens.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

1.39 "Phase III Clinical Trial" means a clinical trial of a Product on sufficient numbers of patients that is designed to establish that such Product is safe and efficacious for its intended use, and to define warnings, precautions and adverse reactions that are associated with such Product in the dosage range to be prescribed, and to support Regulatory Approval of such Product or label expansion of such Product.

1.40 "Phase IIIb Clinical Trial" means a clinical trial of a Product, initiated before regulatory approval and is not required for same, but which may provide data that further defines how and where the drug should be used. A Phase IIIb Clinical Trial may include epidemiological studies, modeling and pharmacoeconomic studies, and investigator-sponsored clinical trials that are approved by BMS and that otherwise fit the foregoing definition.

1.41 "Phase IV Clinical Trial" means a product support clinical trial of a Product commenced after receipt of Regulatory Approval in the country where such trial is conducted. A Phase IV Clinical Trial may include epidemiological studies, modeling and pharmacoeconomic studies, and investigator-sponsored clinical trials studying Product that are approved by BMS and that otherwise fit the foregoing definition.

1.42 "Product" means any therapeutic or prophylactic product (for use in animals or humans) that contains or comprises a Licensed Compound.

1.43 "Registrational Trial" means, with respect to a given Product, either: (a) a Phase III Clinical Trial with such Product; or (b) a Phase IIb Clinical Trial that, at the time of commencement, is expected to be the basis for initial Regulatory Approval of such Product.

1.44 "Regulatory Approval" means any and all approvals (including Drug Approval Applications, supplements, amendments, pre- and post-approvals, pricing and reimbursement approvals), licenses, registrations or authorizations of any Regulatory Authority, national, supra-national (e.g., the European Commission or the Council of the EU), regional, state or local regulatory agency, department, bureau, commission, council or other governmental entity, that are necessary for the manufacture, distribution, use or sale of a Product in a regulatory jurisdiction.

1.45 "Regulatory Authority" means the applicable national (e.g., the FDA), supra-national (e.g., the European Commission or the Council of the EU), regional, state or local regulatory agency, department, bureau, commission, council or other governmental entity that, in each case, governs the approval of a Product in such applicable regulatory jurisdiction.

1.46 "Research" means the following activities: (a) identifying Small Molecule Compounds as [*] compounds that [*] and [*] TGR5 by [*]; (b) conducting a [*] program to [*] such [*] compounds to [*] that [*] and [*] TGR5 (including the conduct of [*] and [*] studies, and [*] studies); and (c) conducting [*] on [*] to [*] for [*] (including the conduct of [*] studies, and related [*] and [*] activities). To avoid confusion, Research does not include the conduct of Development.

1.47 "[*]**"** means any: (a) [*] of the Exelixis TGR5 Compounds that are specifically disclosed in the Exelixis Licensed Patents listed on **Exhibit 1.7**; and (b) [*] of a [*] described in the foregoing subsection (a).

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

1.48 "Small Molecule Compound" means a molecule that [*] or [*]. For clarity, [*], shall be considered Small Molecule Compounds.

1.49 "Sole Invention" means any Invention invented or discovered solely by or on behalf of a Party (or its Affiliate) and its employees, contractors and/or agents.

1.50 "Target Potency Threshold" means, with respect to a Small Compound Molecule, that such Small Molecule Compound [*] and [*] the activity of TGR5 with a half maximal effective concentration ("**EC_{50}**") of less than or equal to [*] in either the [*] assays or the [*] assays.

1.51 "Target Specificity Threshold" means, with respect to a Small Compound Molecule, that such Small Molecule Compound demonstrates, in a [*] or [*], [*] TGR5 [*]: (a) [*] of [*] including [*], and [*]; and (b) [*] ([*] or [*]) [*] and [*].

1.52 "Territory" means the world.

1.53 "TGR5" means: (a) the gene for the G protein-coupled bile acid receptor 1, otherwise known as TGR5 (or GPBAR1, BG37, GPCR19, GPR131, M-BAR, AND MGC40597), ([*]); (b) the protein encoded by such gene; and (c) all [*] and [*] thereof.

1.54 "Third Party" means any entity other than: (a) Exelixis; (b) BMS; or (c) an Affiliate of either Party.

1.55 "United States" or **"U.S."** means the United States of America, and its territories, districts and possessions.

1.56 "Valid Claim" means: (a) a claim in an issued Patent that has not: (i) expired or been canceled; (ii) been declared invalid by an unreversed and unappealable or unappealed (within any applicable allowable time) decision of a court or other appropriate body of competent jurisdiction; (iii) been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise; or (iv) been abandoned in accordance with or as permitted by the terms of this Agreement or by mutual written agreement of the Parties; or (b) a claim under an application for a Patent that has been pending [*], and, in any case, which has not been canceled, withdrawn from consideration, finally determined to be unallowable by the applicable governmental authority or court for whatever reason (and from which no appeal is or can be taken), or abandoned.

1.57 "XL475" means the Small Molecule Compound with Exelixis identifier EXEL-04614475, as disclosed to BMS in writing prior to the Execution Date.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Additional Definitions

The following table identifies the location of definitions set forth in various **Sections** of the Agreement.

Definition	Location (Section)
Alliance Manager	**2.3(a)**
Bankrupt Party	**13.6(a)**
[*]	**[*]**
Confidential Information	**9.1**
Cost-Terminated Patent Right	**6.7(d)(iii)**
EDI	**13.11**
Effective Date	**11.6**
[*]	**[*]**
Exelixis Sole Patent	**6.8(a)(i)**
Indemnitees	**12.3**
Joint Invention Patent	**6.5(b)**
Joint Product Patent	**6.8(b)(i)(1)**
Letter Agreement	**13.4**
[*]	**[*]**
Losses	**12.1**
Other Joint Patent	**6.8(b)(ii)(1)**
Permitted Use	**2.2(b)**
Prior CDA	**9.4**
ROR Collaboration Agreement	**13.4**
Royalty Term	**7.8**
Sales Threshold	**7.2(b)**
Separable Compound	**6.7(a)(v)**
Sole Invention Patent	**6.5(b)**
Term	**10.1**
TGR5 Technology	**2.1**
Title 11	**13.6(a)**
Transfer Addendum	**2.2(d)**
Unauthorized Invention	**2.2(c)**
Working Group	**2.6(f)**

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

2. TRANSFER OF TGR5 TECHNOLOGY

2.1 General. As soon as practicable following the Effective Date, and for [*] thereafter, Exelixis shall use Diligent Efforts to transfer to BMS, solely in accordance with **Section 2.2**, all items of Information or Materials that are in Exelixis' possession and Control as of the Effective Date and that are [*] for BMS to research or pre-clinically develop Licensed Compounds ("**TGR5 Technology**"); provided that subsequent to such [*] period, Exelixis will use commercially reasonable efforts to transfer Information and Materials that are in Exelixis' possession and Control and that are requested by BMS for purposes of making a regulatory filing or patent application. BMS may request such a transfer in writing pursuant to **Section 2.2**. Additionally, BMS may request that Exelixis provide a reasonable amount of on-site advice or support in connection with the foregoing transfer until [*], and BMS shall reimburse Exelixis for reasonable travel costs incurred.

2.2 Transfer of TGR5 Technology. Exelixis shall transfer to BMS, upon prior written approval by the Parties, reasonable quantities of Information and Materials included in the TGR5 Technology solely as described below.

(a) Ownership. Except as otherwise provided in the Agreement, all rights, title and interest in and to such Information or Materials being transferred shall remain with Exelixis. All such Information or Materials shall be considered the Confidential Information of Exelixis and shall be subject to **Article 9** of the Agreement.

(b) Permitted Use. BMS shall use the Information or Materials solely for the purposes of exercising its rights, and performing its obligations, under the Agreement, subject to any additional limitations due to Exelixis' obligations to Third Parties relating to such Information or Materials (with such limitations being set forth in the applicable Transfer Addendum) (the "**Permitted Use**"). BMS shall not transfer, deliver or disclose any of the Materials to any Third Party, other than its Affiliates or bona fide collaborators or third party contract service providers, without Exelixis' prior written consent, except as otherwise stipulated in the Transfer Addendum. The Materials shall not be used in humans, except as otherwise contemplated by the Agreement. Any unused Materials supplied by Exelixis shall be returned to Exelixis or destroyed as agreed upon in writing by the Parties.

(c) Unauthorized Use. The Parties do not intend for BMS to use the Materials other than for the Permitted Use. If BMS or its Affiliates or other transferees use the Information or Materials outside of the Permitted Use, and any inventions, improvements, discoveries or data arise (or result) from such unauthorized use (such inventions, improvements, discoveries and data, and all intellectual property rights related thereto, collectively the "**Unauthorized Inventions**"), then: (i) BMS shall promptly and fully disclose all such Unauthorized Inventions to Exelixis in writing; (ii) BMS shall comply with the terms of any upstream license agreement between Exelixis and a Third Party with respect to such Unauthorized Use of Materials; and (iii) Exelixis may pursue all rights and remedies it may have under this Agreement, or at law or in equity, with respect to any breach of BMS' obligation of Permitted Use (and creation of any Unauthorized Inventions).

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(d) Transfer Addendum. Each transfer of Materials and Information shall occur through the execution of an agreement substantially in the form of **Exhibit 2.2** (each, a "**Transfer Addendum**"), which is incorporated by reference into the Agreement. After receiving BMS' written request for a particular item of TGR5 Technology, Exelixis shall prepare and submit a Transfer Addendum listing the Information and Materials to be transferred to BMS. Upon written approval of such Transfer Addendum by the Parties, the Information and Materials shall be transferred to BMS within [*]. For clarity, the intent of the Parties is to provide BMS with the ability to use Materials and Information for the Permitted Use and without additional restrictions other than those set forth in any applicable agreements between Exelixis and a Third Party, and as such, (i) no Transfer Addendum shall contain terms that are inconsistent with this Agreement, and (ii) Exelixis shall not unreasonably withhold its signature on a Transfer Addendum to prevent BMS from obtaining access to Materials or Information where such request by BMS is consistent with Section 2.1 and this Section 2.2.

(e) Retention of Key Individual. Exelixis shall use commercially reasonable efforts to seek to retain the services of [*] as an Exelixis employee through [*]. If [*] is not available, then Exelixis will use commercially reasonable efforts to seek to make available to BMS, through [*], a qualified employee who is familiar with the Research Program. [*] or the qualified employee will be available to BMS on a part-time basis (up to no more than half-time) when and as reasonably needed during regular business hours, during the period beginning on the Effective Date and ending [*]. During such period, [*] or the qualified employee shall be available to assist BMS: (i) in the preparation of patent applications with respect to the Exelixis TGR5 Compounds; and (ii) in the transfer of the TGR5 discovery program effort to BMS.

2.3 Alliance Managers.

(a) Appointment. Each of the Parties shall appoint a single individual to act as a single point of contact between the Parties to assure a successful transfer of TGR5 Technology and to communicate with respect to matters under the Agreement (each, an "**Alliance Manager**"). Each Party may change its designated Alliance Manager from time to time upon written notice to the other Party. Any Alliance Manager may designate a substitute to temporarily perform the functions of that Alliance Manager by written notice to the other Party.

(b) Responsibilities. The Alliance Managers shall: (i) coordinate the transfer of TGR5 Technology; (ii) be the point of first referral in all matters of conflict resolution; (iii) identify and bring disputes to the attention of the appropriate Party in a timely manner; (iv) plan and coordinate cooperative efforts and internal and external communications; and (v) otherwise take responsibility for ensuring that relevant action items resulting from such Party interactions are appropriately carried out or otherwise addressed.

2.4 Independence. Subject to the terms of this Agreement, the activities and resources of each Party shall be managed by such Party, acting independently and in its individual capacity. The relationship between Exelixis and BMS is that of independent contractors and neither Party shall have the power to bind or obligate the other Party in any manner.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

3. RESEARCH, DEVELOPMENT, MANUFACTURING & COMMERCIALIZATION OF PRODUCTS

3.1 Research, Development, & Manufacturing of Products

(a) Scope & Diligence. BMS shall have sole control and responsibility for the Research, Development, Manufacture (including formulation) and Commercialization of all Products. BMS shall bear all costs and expenses associated with the Research, Development, Manufacture (including formulation) and Commercialization of all Products. BMS shall use Diligent Efforts to Develop each such Product in the Territory, and BMS shall use Diligent Efforts to Commercialize each Product in [*] and each country in the Territory in which BMS maintains a commercial presence for each indication for which it receives Regulatory Approval; provided, however, that BMS may satisfy its diligence obligations by sublicensing the Development and Commercialization of a Product to a Third Party pursuant to the terms of this Agreement. Exelixis may notify BMS in writing if Exelixis in good faith believes that BMS is not meeting its diligence obligations set forth in this **Section 3.1(a)**, and the Parties shall meet and discuss the matter in good faith. Exelixis may further request review of BMS' records generated and maintained as required under **Section 3.1(b)** below.

(b) Records. Each Party shall maintain complete and accurate records of all Research, Development, Manufacturing and Commercialization conducted by it or on its behalf related to each Product, and all Information generated by it or on its behalf in connection with Development under this Agreement with respect to each such Product; provided that in the case of Exelixis, such obligation shall be limited to those records that exist as of the Effective Date. Each Party shall maintain such records at least until the later of: (i) [*] after such records are created, or (ii) [*] after the Launch of the Product to which such records pertain; provided that the following records shall be maintained for a longer period, in accordance with each Party's internal policies on record retention: (i) scientific notebooks and (ii) any other records that either Party reasonably requests be retained in order to ensure the preservation, prosecution, maintenance or enforcement of intellectual property rights. Such records shall be at a level of detail appropriate for patent and regulatory purposes. Each Party shall have the right to review and copy such records of the other Party at reasonable times to the extent necessary or useful for such reviewing Party to conduct its obligations or enforce its rights under this Agreement.

(c) Reports. Beginning [*] after the Effective Date, and every [*] thereafter during the term of the Agreement, BMS shall submit to Exelixis a written progress report summarizing the Research, Development, Manufacturing and Commercialization performed by or on behalf of BMS with respect to Products. If reasonably necessary or useful for Exelixis to exercise its rights under this Agreement, Exelixis may request that BMS provide more detailed information and data regarding such reports by BMS, and BMS shall promptly provide Exelixis with information and data as is reasonably related to such request, at Exelixis' expense. All such reports shall be considered Confidential Information of BMS.

3.2 Standards of Conduct. BMS shall perform, or shall ensure that its Affiliates, sublicensees and Third Party contractors perform, all Research, Development, Manufacturing and Commercialization activities in a good scientific and ethical business manner and in compliance with applicable laws, rules and regulations.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

4. REGULATORY

4.1 Regulatory Lead Party. BMS shall have sole responsibility for (and bear all costs and expenses associated with) all regulatory activities regarding Products. BMS shall also have sole responsibility for (and bear all costs and expenses associated with) worldwide pharmacovigilance for such Product. BMS and its Affiliates shall have sole responsibility for all pricing and reimbursement approval proceedings relating to each Product in the Territory.

4.2 Ownership of Regulatory Dossier. BMS will own all regulatory filings for such Product in order to facilitate BMS' interactions with Regulatory Authorities. BMS shall prepare and draft all filings (including any supplements or modifications thereto and including the preparation of any electronic submission of a Drug Approval Application) to Regulatory Authorities in each such country for such Product.

4.3 Recalls in the Territory. Any decision to initiate a recall or withdrawal of a Product in the Territory shall be made by BMS. In the event of any recall or withdrawal, BMS shall take any and all necessary action to implement such recall or withdrawal in accordance with applicable law, with assistance from Exelixis as reasonably requested by BMS. The costs of any such recall or withdrawal in the Territory shall be borne solely by BMS.

5. MANUFACTURING

5.1 Transfer of Manufacturing Information.

(a) Promptly following the Effective Date, Exelixis shall transfer the Manufacturing technology Controlled by Exelixis for XL475 to BMS. As soon as is practicable after its receipt of such request, Exelixis shall transfer to BMS all Information that is Controlled by Exelixis, that is related to the Manufacturing of Licensed Compounds, and that is [*] to enable BMS to Manufacture Licensed Compounds.

(b) BMS shall use any Information transferred pursuant to **Section 5.1(a)** solely for the purpose of Manufacturing Licensed Compounds and/or Products for use by BMS under this Agreement, and for no other purpose.

6. LICENSES; INTELLECTUAL PROPERTY

6.1 Licenses to BMS. Subject to the terms of this Agreement:

(**a) Research.** Exelixis hereby grants to BMS an exclusive, worldwide, royalty-free license (without the right to sublicense except to third party contract research providers and manufacturers) under the Exelixis Licensed Know-How and the Exelixis Licensed Patents to research, identify, derivatize, pre-clinically develop, make, have made, and use Licensed Compounds solely for research purposes.

(b) Clinical Development and Commercialization. Exelixis hereby grants to BMS an exclusive, worldwide, royalty-bearing license (with the right to sublicense) under the Exelixis Licensed Know-How and Exelixis Licensed Patents to clinically develop, make, have made, use, import, sell, offer to sell and have sold Products incorporating any Licensed Compound.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(c) Exelixis Retained Rights. Exelixis retains all rights to use the Exelixis Licensed Know-How and Exelixis Licensed Patents except those expressly granted to BMS on an exclusive basis under the terms of this Agreement. In addition, notwithstanding the exclusive licenses granted to BMS pursuant to **Section 6.1**, Exelixis retains the right under the Exelixis Licensed Patents and the Exelixis Licensed Know-How to make, have made, use, and test Exelixis TGR5 Compounds solely for internal research purposes.

6.2 BMS Covenants. BMS hereby covenants that BMS shall not (and shall ensure that any of its permitted sublicensees shall not) use any Exelixis Licensed Know-How or Exelixis Licensed Patents for a purpose other than that expressly permitted in **Section 6.1**.

6.3 No Additional Licenses. Except as expressly provided in **Sections 6.1, 6.2**, and **Article 10**, nothing in this Agreement grants either Party any right, title or interest in and to the intellectual property rights of the other Party (either expressly or by implication or estoppel). For clarity, the licenses granted in **Sections 6.1** by Exelixis to BMS does not give BMS any right or license to incorporate into any Product (e.g., as a combination product) any compound that is Controlled by Exelixis and that is not a Licensed Compound. For clarity, the licenses granted in **Section 10.5** by BMS to Exelixis do not give Exelixis any right or license to incorporate into any Product (e.g., as a combination product) any compound that is Controlled by BMS and that is not a Licensed Compound.

6.4 Sublicensing. The license granted to BMS in **Section 6.1(b)** shall be freely sublicenseable by BMS in connection with the Development, Commercialization and/or Manufacturing of Products. BMS shall provide Exelixis with the name of each permitted sublicensee of its rights under this **Article 6** and a copy of the applicable sublicense agreement; *provided* that BMS may redact confidential or proprietary terms from such copy, including financial terms. BMS shall remain responsible for each permitted sublicensee's compliance with the applicable terms and conditions of this Agreement. Each sublicense granted by BMS under this **Article 6** to a party that is an Affiliate of BMS at the time such license is granted shall terminate immediately upon such party ceasing to be an Affiliate of BMS.

6.5 Ownership.

(a) The inventorship of all Inventions shall be determined under the U.S. patent laws.

(b) Each Party shall own the entire right, title and interest in and to any and all of its Sole Inventions, and Patents claiming only such Sole Inventions (and no Joint Inventions) (**"Sole Invention Patents"**). BMS and Exelixis shall be joint owners in and to any and all Joint Inventions and Patents claiming such Joint Inventions (**"Joint Invention Patents"**). Subject to **Section 6.1**, BMS and Exelixis as joint owners each shall have the right to exploit and to grant licenses under such Joint Inventions, and where exercise of such rights require, under the laws of a country, the consent of the other Party, with the consent of the other Party (such consent not to be unreasonably withheld, delayed or conditioned) unless otherwise specified in this Agreement (including where such rights are exclusively licensed to the other Party hereunder).

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(c) All employees, agents and contractors of each Party shall be under written obligation to assign any inventions and related intellectual property to the Party for whom they are employed or are providing services.

(d) The Parties acknowledge and agree that this Agreement shall be deemed to be a **"Joint Research Agreement"** as defined under 35 U.S.C. 103(c).

6.6 Disclosure. Each Party shall submit a written report to the other Party no less frequently than within [*] of the end of each [*] describing any Sole Invention or Joint Invention arising during the prior [*] in the course of the Agreement which it believes may be patentable or at such earlier time as may be necessary to preserve patentability of such invention. Each Party shall provide to the other Party such assistance and execute such documents as are reasonably necessary to permit the filing and prosecution of such patent application to be filed on any such Sole Invention or Joint Invention, or the issuance, maintenance or extension of any resulting Patent.

6.7 Patent Prosecution and Maintenance; Abandonment.

(a) Joint Patent Committee.

(i) Establishment & Meetings. Promptly after the Effective Date, the Parties shall establish a committee (the "**Joint Patent Committee**" or "**JPC**"). The JPC shall be composed of at least (1) representative from each Party, at least one of which shall be a patent counsel for such Party. Each Party may change its representative(s) by giving the other Party at least [*] prior written notice. The JPC shall meet within [*] after the Effective Date, and once per [*] thereafter, or as may be requested by either Party as necessary, by teleconference, videoconference or in person (as determined by the JPC).

(1) Duties. Promptly after the Effective Date, [*] shall oversee (subject to **Sections 6.7(a)(ii)**, **(iv)** and **(v)** below) the preparation, filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of all [*] Patents, [*] Patents Controlled by [*], and [*] Patents that in each case are [*] (the **"[*] Patents"**), provided that, unless otherwise agreed by the Parties, such responsibilities shall be carried out by: (A) [*] by [*] the [*], unless there exists [*] and [*]; (B) [*] by [*], but only in the case where [*] described in subsection (A) had [*] of [*]; or (C) [*] in conjunction with [*] described in the preceding subsection (A) or (B), as applicable. [*], or [*], shall provide [*] with an update of the filing, prosecution and maintenance status for each of the [*] Patents on a periodic basis, and shall use commercially reasonable efforts to consult with and cooperate with [*] with respect to the filing, prosecution and maintenance of the [*] Patents, including providing [*] with drafts of proposed filings to allow [*] a reasonable opportunity for review and comment before such filings are due. [*], or [*], shall provide to [*] copies of any papers relating to the filing, prosecution and maintenance of the [*] Patents promptly upon their being filed and received.

(2) Decisions. Subsequent to the Effective Date, in the event of a dispute between the Parties with regard to the preparation, filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of any [*] Patent, the matter shall be promptly referred to the [*] of Exelixis and [*] for BMS. If these two (2) individuals are unable to resolve the dispute promptly, then the matter shall be promptly elevated to

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

the [*] of Exelixis and the [*] of BMS. If these two (2) individuals are unable to resolve the dispute promptly, then, subject to **Sections 6.7(a)(i)(3), 6.7(a)(i)(4), 6.7(a)(ii), [*] of the ROR Collaboration Agreement,** and **[*] of the ROR Collaboration Agreement**, [*] shall have the final decision, except if such decision: (A) conflicts with the terms of the Agreement; (B) would result in [*] described in [*] or a [*] of the [*]; or (C) materially impacts [*] prosecution of Patents that [*] a [*], in which case of **subsection 6.7(a)(i)(2)(A) - (C)**, [*] shall have the final decision.

(3) Limitation on Subsection 6.7(a)(i)(2)(B). If [*] reasonably believes that filing a new patent application covering a [*] (other than the [*] of a [*]) would result in potential claims [*] for [*], and if [*] disputes with [*] that such patent application should be filed, then such dispute shall be discussed as described in the first two (2) sentences of **Section 6.7(a)(i)(2)**, and, if still unresolved, shall be arbitrated pursuant to **Section [*] of the ROR Collaboration Agreement**, and [*] shall not have the right to exercise its final-decision making authority pursuant to **Subsection 6.7(a)(i)(2)(B)** unless the dispute is resolved in [*] favor.

(4) Limitation on Subsection 6.7(a)(i)(2)(C). [*] hereby covenants that it shall not, without the prior written consent of [*] (which shall not be unreasonably delayed or conditioned), during the term of this Agreement, [*] the decision-making authority granted to [*] pursuant to **Subsection 6.7(a)(i)(2)(C)** [*] that is [*] as of the Effective Date or [*]. Furthermore, if [*] the decision-making authority granted to [*] pursuant to **Subsection 6.7(a)(i)(2)(C)** [*] by [*], [*] or [*], and such [*] is [*] or [*] a [*] that is [*], then [*] and [*] shall agree, pursuant to **Section [*] of the ROR Collaboration Agreement**, on [*] the decision-making authority granted to [*] pursuant to **Subsection 6.7(a)(i)(2)(C**).

(ii) Abandonment. In no event shall [*] knowingly permit any of the [*] Patents to be abandoned in any country, or elect not to file a new patent application claiming priority to a patent application within the [*] Patents either before such patent application's issuance or within the time period required for the filing of an international (i.e., Patent Cooperation Treaty), regional (including European Patent Office) or national application, without [*] written consent (such consent not to be unreasonably withheld, delayed or conditioned) or [*] otherwise first being given an opportunity to assume full responsibility (at [*] expense) for the continued prosecution and maintenance of such [*] Patents or the filing of such new patent application. Accordingly, [*], or [*], shall provide [*] with notice of the allowance and expected issuance date of any patent within the [*] Patents, or any of the aforementioned filing deadlines, and [*] shall provide [*] with prompt notice as to whether [*] desires [*] to file such new patent application. In the event that [*] decides either: (A) not to continue the prosecution or maintenance of a patent application or patent within the [*] Patents in any country; or (B) not to file such new patent application requested to be filed by [*], [*] shall provide [*] with notice of this decision at least [*] prior to any pending lapse or abandonment thereof, and [*] shall thereafter have the right to assume responsibility for the filing, prosecution and maintenance of such patent or patent application. In the event that [*] assumes such responsibility for such filing, prosecution and maintenance, [*] shall no longer have the responsibility for such filing, prosecution and maintenance of such patent applications and patents, and [*] shall cooperate as reasonably requested by [*] to facilitate control of such filing, prosecution and maintenance by [*]. In the case where [*] takes over the filing, prosecution or maintenance of any patent or patent

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

application as set forth above, such patent or patent application shall [*] be [*] the [*], and [*] shall [*] such patent or patent application.

(iii) Filing, Prosecution and Maintenance of Sole Invention Patents Controlled by BMS. In accordance with this **Section 6.7(a)(iii)**, BMS shall be responsible for the filing, prosecution (including any interferences, reissues and reexaminations) and maintenance of all Sole Invention Patents Controlled by BMS. BMS shall provide to Exelixis copies of any papers relating to the filing, prosecution and maintenance of the Sole Invention Patents Controlled by BMS promptly upon their being filed and received.

(iv) Patent Term Extension. Exelixis and BMS shall each cooperate with each another and shall use commercially reasonable efforts in obtaining patent term extension (including any pediatric exclusivity extensions as may be available) or supplemental protection certificates or their equivalents in any country with respect to patent rights covering the Products. If elections with respect to obtaining such patent term extensions are to be made, [*] shall have the right to make the election to seek patent term extension or supplemental protection.

(v) Exelixis Right to Separate Claims. To the extent that any Sole Invention Patent of Exelixis contains claims that cover compounds that are not Licensed Compounds (such compounds, **"Separable Compounds"**), Exelixis shall have the right to separate any claims that cover such Separable Compounds (and not Licensed Compounds) and to file such claims in a separate application (e.g., a continuation, continuation-in-part, or divisional application). Exelixis shall notify BMS in writing prior to separating such claims, and such separation shall be at Exelixis' sole expense.

(b) Payment of Prosecution Costs. [*] shall bear the out-of-pocket expenses (including reasonable fees for any outside counsel, [*]) associated with the filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of: (X) Patents covering [*]; and (Y) the [*] Patents, *provided* that if any [*] or [*] is part of a patent application or patent that [*] that are [*], then the Parties shall mutually agree upon an appropriate allocation of the expenses so that [*] does not bear any portion of the out-of-pocket expenses attributable to [*].

(c) Payment of Expenses for Joint Inventions. Exelixis and BMS shall mutually agree on the percentage of expenses that each Party shall bear with respect to Joint Inventions for which the cost of filing, prosecuting or maintaining such Joint Invention is not the responsibility of a Party under **Section 6.7(b)** hereof (which, in the absence of any other agreement between the Parties, shall be divided evenly).

(d) Non-payment of Expenses.

(i) If a Party elects not to pay its share of any expenses with respect to a Patent covering a [*] in a given country under any of **Sections [*]** (each, a "[*] **Patent**"), such Party shall inform the other Party in writing not less than [*] before any relevant deadline (or, in the event of a shorter period in which to respond to a patent office, as soon as reasonably practicable), and, if the other Party assumes the expenses associated with the [*] Patent, then the assuming Party shall thereby become the sole owner of such [*] Patent in such country and the

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

other Party shall assign to the assuming Party its rights, title and interests in such [*] Patent in such country.

(ii) If a Party is the assignee or owner of a Patent (other than a [*] Patent) that is licensed to the other Party under **Section 6.1**, and such owning Party elects not to pay its share of expenses pursuant to **Sections [*]** in a given country, such owning Party shall inform the other Party in writing not less than [*] before any relevant deadline (or, in the event of a shorter period in which to respond to a patent office, as soon as reasonably practicable). If the other Party assumes the expenses associated with the Patent in such country, then the assuming Party shall thereby [*] such Patent and the owning Party shall [*] such Patent in such country.

(iii) If a Party is the licensee of a Patent (other than a [*] Patent) under any of **Sections 6.1** or **6.2**, and such Party elects not to pay its share of expenses pursuant to **Sections [*]** in a given country, such Party shall inform the other Party in writing not less than [*] before any relevant deadline (or, in the event of a shorter period in which to respond to a patent office, as soon as reasonably practicable) (such Patent(s) in such countries, as identified in such notice, being a **"Cost-Terminated Patent Right"**), and shall no longer have any rights under such **Sections 6.1** or **6.2**, as applicable, with respect to the relevant Patent in such country, *provided* that all remaining rights and licenses under all other Patent(s) within such licensed Patents would remain in effect. It is also understood that such licensee shall be offered the opportunity to assume its share of the responsibility for the costs of filing, prosecution and maintenance of any Patent(s) claiming priority directly or indirectly from any such Cost-Terminated Patent Right, and that where such expenses are assumed by such licensee, it shall be afforded all the rights and licenses as provided under this Agreement for the licensed Patents (other than the Cost-Terminated Patent Right) with respect to such Patent(s) claiming priority directly or indirectly from any such Cost-Terminated Patent Right.

(e) Each Party shall provide to the other Party, on [*] basis, a patent report that includes the serial number, docket number and status of each Patent for which such Party has the right to direct the filing, prosecution and maintenance and which [*] (in the case of [*] such [*] that are [*]) or [*]. The Parties through their patent counsel shall discuss as appropriate (but not more than [*]) ways in which to allocate such out-of-pocket expenses in an appropriate, cost-effective manner consistent with the purposes of this Agreement [*].

6.8 Enforcement of Patent Rights.

(a) Enforcement of Exelixis Sole Patents.

(i) Enforcement by [*]. In the event that management or in-house counsel for either Party becomes aware of a suspected infringement by a Third Party of a Patent claiming a Sole Invention of Exelixis that claims the composition of matter (including formulation), manufacture or use of one or more Licensed Compound(s) or Product(s) that is being Developed or Commercialized by BMS or its Affiliate or sublicensee using Diligent Efforts and which is exclusively licensed to BMS under **Section 6.1** (for purposes of this **Section 6.8(a)(i)** only, an "**Exelixis Sole Patent**"), such Party shall notify the other Party promptly, and following such notification, the Parties shall confer. Each Party shall provide the same level of disclosure to the other Party's in-house counsel concerning suspected infringement of an Exelixis Sole Patent as such

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Party would provide with respect to suspected infringement of its own issued Patent or an exclusively licensed issued Patent claiming a product it is developing or commercializing independent of this Agreement. [*] shall have the right, but shall not be obligated, to bring an infringement action against any such Third Party or to defend such proceedings at its own expense, in its own name and entirely under its own direction and control. [*] shall reasonably assist [*] (at [*] expense) in such actions or proceedings if so requested, and shall lend its name to such actions or proceedings if requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions at [*] request. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope, or adversely affects the enforceability, of any such Exelixis Sole Patent may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

(ii) Enforcement by [*]. If [*] elects not to bring any action for infringement or to defend any proceeding described in **Section 6.8(a)(i)** and so notifies [*], or where [*] otherwise desires to bring an action or to defend any proceeding directly involving an Exelixis Sole Patent, then [*] may bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and control; *provided* that [*] must confer with [*] with respect to any such action or proceeding and obtain the prior written consent of [*] to commence such action or proceeding, such consent not to be unreasonably withheld, delayed or conditioned; *provided further,* that with respect to any Exelixis Sole Patent that is a Patent [*] the [*] (or foreign equivalent(s) of such Patent or the [*]) by [*] (a **"[*] Patent"**), if [*] fails to consent to any such action or proceeding, the [*] for any [*] such Exelixis Sole Patent shall in no event [*] by any failure to enforce such Exelixis Sole Patent. [*] shall reasonably assist [*] (at [*] expense) in any action or proceeding being prosecuted or defended by [*]s, if so requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope, or adversely affects the enforceability, of a [*]Patent, may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

(b) Enforcement of Joint Patents.

(i) Joint Product Patents.

(1) Enforcement by [*]. In the event that management or in-house counsel for either Party becomes aware of a suspected infringement of a Patent claiming a Joint Invention that pertains to the composition of matter (including formulation), manufacture or use of one or more Licensed Compound(s) or Product(s) that is being Developed or Commercialized by BMS or its Affiliate or sublicensee using Diligent Efforts and (a "**Joint Product Patent**"), such Party shall notify the other Party promptly, and following such notification, the Parties shall confer. Each Party shall provide the same level of disclosure to the other Party's in-house counsel concerning suspected infringement of a Joint Product Patent as such Party would provide with respect to suspected infringement of its own issued Patent or an exclusively licensed issued Patent claiming a product it is developing or commercializing independent of this Agreement. [*] shall have the right, but shall not be obligated, to bring an infringement action or

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

to defend such proceedings at its own expense, in its own name and entirely under its own direction and control. [*] shall reasonably assist [*] (at [*] expense) in such actions or proceedings if so requested, and shall lend its name to such actions or proceedings if requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope or affects the enforceability of a Joint Product Patent may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

(2) Enforcement by [*]. If [*] elects not to bring any action for infringement or to defend any proceeding described in **Section 6.8(b)(i)(1)** and so notifies [*], or for any other enforcement by [*] of a Joint Product Patent which is exclusively licensed to BMS under **Section 6.1**, then [*] may bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and control; *provided* that [*] must confer with [*] with respect to any such action or proceeding and obtain the prior written consent of [*] to commence such action or proceeding, such consent not to be unreasonably withheld, delayed or conditioned; *provided further*, that with respect to any Joint Product Patent that is a [*] Patent, if [*] fails to consent to any such action or proceeding, the [*] for any [*] such Joint Product Patent shall in no event [*] by any failure to enforce such Joint Product Patent. [*] shall reasonably assist [*] (at [*] expense) in any action or proceeding being prosecuted or defended by [*], if so requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope or affects the enforceability of a Joint Product Patent may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

(ii) Other Joint Patents.

(1) Enforcement by [*]. In the event that management or in-house counsel for either Party becomes aware of a suspected infringement of a Patent that claims a Joint Invention but is not a Joint Product Patent (an "**Other Joint Patent**"), such Party shall notify the other Party promptly, and following such notification, the Parties shall confer. Each Party shall provide the same level of disclosure to the other Party's in-house counsel concerning suspected infringement of an Other Joint Patent as such Party would provide with respect to suspected infringement of its own issued Patent or an exclusively licensed issued Patent claiming a product it is developing or commercializing independent of this Agreement. [*] shall have the right, but shall not be obligated, to prosecute an infringement action or to defend such proceedings at its own expense, in its own name and entirely under its own direction and control. [*] shall reasonably assist [*] (at [*] expense) in such actions or proceedings if so requested, and shall lend its name to such actions or proceedings if requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope or affects the enforceability of an Other Joint Patent may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(2) Enforcement by [*]. If [*] elects not to bring any action for infringement or to defend any proceeding described in **Section 6.8(b)(ii)(1)** and so notifies [*], then [*] may bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and control; *provided* that [*] must confer with [*] with respect to any such action or proceeding and obtain the prior written consent of [*] to commence such action or proceeding, such consent not to be unreasonably withheld, delayed or conditioned; *provided further*, that with respect to any Other Joint Patent that is a [*] Patent, if [*] fails to consent to any such action or proceeding, the [*] for any [*] such Other Joint Patent shall in no event [*] by any failure to enforce such Other Joint Patent. [*] shall reasonably assist [*] (at [*] expense) in any action or proceeding being prosecuted or defended by [*], if so requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope or affects the enforceability of an Other Joint Patent may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

(c) General Provisions Relating to Enforcement of Patents.

(i) Withdrawal. If either Party brings such an action or defends such a proceeding under this **Section 6.8** and subsequently ceases to pursue or withdraws from such action or proceeding, it shall promptly notify the other Party and the other Party may substitute itself for the withdrawing Party under the terms of this **Section 6.8** (including such prior written consent as provided for under this **Section 6.8**) at its own expense.

(ii) Recoveries. In the event either Party exercises the rights conferred in this **Section 6.8** and recovers any damages or other sums in such action, suit or proceeding or in settlement thereof, such damages or other sums recovered shall first be applied to all out-of-pocket costs and expenses incurred by the Parties in connection therewith, including attorneys fees. If such recovery is insufficient to cover all such costs and expenses of both Parties, it shall be shared in proportion to the total such costs and expenses incurred by each Party. If after such reimbursement any funds shall remain from such damages or other sums recovered, such funds shall be [*].

(d) Data Exclusivity and Orange Book Listings. With respect to data exclusivity periods (such as those periods listed in the FDA's Orange Book (including any available pediatric extensions) or periods under national implementations of Article 9.1(a)(iii) of Directive 2001/EC/83, and all international equivalents), BMS shall use commercially reasonable efforts consistent with its obligations under applicable law (including any applicable consent order) to seek, maintain and enforce all such data exclusivity periods available for the Products. With respect to filings in the FDA Orange Book (and foreign equivalents) for issued patents for a Product, upon request by BMS (and at BMS' expense), Exelixis shall provide reasonable cooperation to BMS in filing and maintaining such Orange Book (and foreign equivalent) listings.

(e) No Action in Violation of Law. Neither Party shall be required to take any action pursuant to this **Section 6.8** that such Party reasonably determines in its sole judgment and discretion conflicts with or violates any court or government order or decree applicable to such Party.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(f) Notification of Patent Certification. [*] shall notify and provide [*] with copies of any allegations of alleged patent invalidity, unenforceability or non-infringement of any [*] Patent [*] hereunder pursuant to a Paragraph IV Patent Certification by a Third Party filing an Abbreviated New Drug Application, an application under §505(b)(2) or other similar patent certification by a Third Party, and any foreign equivalent thereof. Such notification and copies shall be provided to [*] by [*] as soon as practicable and at least within [*] after [*] receives such certification, and shall be sent by facsimile and overnight courier to the address set forth below:

[*]

6.9 Defense of Third Party Claims. If a claim is brought by a Third Party that any activity related to work performed by a Party under the Agreement infringes the intellectual property rights of such Third Party, each Party shall give prompt written notice to the other Party of such claim, and following such notification, the Parties shall confer on how to respond.

6.10 Copyright Registrations. Copyrights and copyright registrations on copyrightable subject matter shall be filed, prosecuted, defended, and maintained, and the Parties shall have the right to pursue infringers of any copyrights owned or Controlled by it, in substantially the same manner as the Parties have allocated such responsibilities, and the expenses therefor, for patent rights under this **Article 6.**

7. COMPENSATION

7.1 Upfront Payment. BMS shall pay Exelixis an upfront payment of Thirty-Five Million Dollars ($35,000,000) within [*] after the Effective Date. Such payment shall be noncreditable and nonrefundable.

7.2 Milestone Payments to Exelixis.

(a) Development and Regulatory Milestones. For each Product, BMS shall make the milestone payments set forth below to Exelixis within [*] after the first achievement of each indicated event by BMS or any of its Affiliates or sublicensees with respect to such Product. All such milestone payments made by BMS to Exelixis hereunder shall be noncreditable and nonrefundable. For clarity, with respect to milestones that are triggered by the [*], such [*] must be [*] that is [*] and [*] the [*] or [*] the [*]. For example, if the [*] is [*] the [*] or [*], a milestone for [*] would be possible for the first occurrence of [*] that is [*] and [*] the [*] or [*] (such as [*], etc).

Event	Milestone Payment
(i) [*]	$ [*]
(ii) [*]	$ [*]
(iii) [*]	$ [*]

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(iv) [*]	$	[*]
(v) [*]	$	[*]
(vi) [*]	$	[*]
(vii) [*]	$	[*]
(viii) [*]	$	[*]
(ix) [*]	$	[*]
(x) [*]	$	[*]
(xi) [*]	$	[*]
(xii) [*]	$	[*]

(b) Commercial Milestones. BMS shall make the milestone payments set forth below to Exelixis after first achievement of each indicated event by BMS or any of its Affiliates or sublicensees with respect to each Product. Each milestone payment shall be made by BMS [*], [*] due and payable [*] after the end of the [*] in which such milestone event is met. BMS shall pay [*] to Exelixis [*] if, at the time [*], the [*] the payment obligation (the **"[*]"**) was [*] for the [*]. Otherwise, the [*] shall be [*], provided that [*]. BMS shall pay [*] to Exelixis [*] if, at the time [*], the [*] for the [*]. Otherwise, the [*] shall be [*], provided that the [*]. All such milestone payments made by BMS to Exelixis hereunder shall be noncreditable and nonrefundable, and shall be paid only once with respect to each Product.

Event	Milestone Payment
[*]	$[*]
[*]	$[*]
[*]	$[*]

(c) Milestone Payment Restrictions. Each milestone payment set forth in **Section 7.2(a)** shall be paid [*] with respect to [*], [*] the [*] or [*] the [*] in [*] for [*], or the [*] or [*] for [*].

(d) Milestone Payments for [*]. If BMS is diligently developing and paying milestones to Exelixis under Section 7.2(a) [*], the payments otherwise to be made to Exelixis under Sections 7.2(a) for [*] shall be [*] such [*] the [*] in [*], in which case BMS shall pay Exelixis [*] any such [*] in [*] within [*] of the [*] such [*]; provided, however, that if this Agreement terminates before such [*], then BMS shall [*] pay Exelixis the [*]. If [*] the [*]

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

or [*], then BMS shall only pay milestones [*] for the events that [*] the [*] such [*]; however, if a [*], then BMS shall pay the milestones [*] a [*] have been paid [*]. For clarity, the Parties agree that [*] shall [*], [*], or [*] of the [*] the [*].

7.3 Royalty Payments to Exelixis for Net Sales of Products. For each Product, and for all Program Backups that are Products, BMS shall pay to Exelixis royalties on Net Sales of such Product by BMS (or its Affiliates or sublicensees) in the Territory at a royalty rate determined by aggregate Net Sales in the Territory of such Product in a calendar year as follows:

Calendar year Net Sales of Products in the Territory	Royalty Rate
First $[*]	[*]%
Portion above $[*] and up to and including $[*]	[*]%
Portion above $[*]	[*]%

For clarity, Net Sales shall be [*]. For the purpose of this **Section 7.3**, all Products [*] shall be [*] and the Net Sales of such Products shall be [*] the [*], regardless of whether [*] or [*], or [*] or [*]. All royalty payments made by BMS to Exelixis hereunder shall be noncreditable and nonrefundable, [*] to Exelixis, in which case such [*] shall be [*] (or, in the event that [*], such [*] shall be [*]).

7.4 Third Party Royalties for Products in the Territory and Products in the U.S.

(a) [*] all Third Party royalties owed with respect to either a Product in the Territory on intellectual property that is intellectual property that: (A) [*] from a Third Party prior to the Effective Date and [*]; and (B) [*]. Subject to **Section 7.4(b)**, [*] Third Party royalties owed on intellectual property in connection with the development and commercialization of a Product in the Territory; *provided* that each Party shall bear all Third Party royalties arising from any infringing activities by such Party prior to the Effective Date.

(b) BMS may deduct from the royalties it would otherwise owe to Exelixis pursuant to **Section 7.3** for a particular Product, an amount equal to [*] of all royalties payable to a Third Party in consideration for rights necessary or reasonably useful for the manufacture, use or sale of such Product, up to a maximum deduction of [*] of the royalties due Exelixis for such Product.

7.5 [*]. During the applicable Royalty Term for a particular Product, if the Patents claiming the composition of matter of such Product have expired, and if any [*]: (a) [*] in any given country in any year; and (b) such [*] in such country for such year are, [*]:

(i) [*], but [*] of the [*] in such country, then [*]; or

(ii) [*] of the [*] in such country, then [*].

7.6 Limitation on Deductions. Notwithstanding anything to the contrary in this Agreement, the operation of **Section 7.4** and **Section 7.5** for a given Product, whether singularly or in combination with each other, shall not [*].

7.7 Quarterly Payments and Reports. All royalties due under **Section 7.3** shall be paid quarterly, on a country-by-country basis, within [*] of the end of the relevant quarter for which royalties are due. BMS shall provide to Exelixis within [*] after the end of each quarter a report that summarizes the Net Sales of a Product during such quarter, *provided* that to the extent additional information is reasonably required by Exelixis to comply with its obligations to any of its licensors, the Parties shall work together in good faith to timely compile and produce such additional information. Such reports shall also include detailed information regarding the calculation of royalties due pursuant to **Section 7.3**, including allowable deductions in the calculation of Net Sales of each Product on which royalties are paid, and, to the extent **Section 7.5** is applicable, the calculation of [*] and [*] of [*].

7.8 Term of Royalties. Exelixis' right to receive royalties under **Section 7.3** shall expire on a country-by-country and Product-by-Product basis upon the later of: (a) [*]; or (b) [*] (the "**Royalty Term**"). Upon the expiration of the Royalty Term with respect to a Product in a country, BMS shall have a fully-paid-up perpetual license under **Sections 6.1(a) and 6.1(b)** for the making, using, selling, offering for sale and importing of such Product in such country.

7.9 Payment Method. All payments due under this Agreement to Exelixis shall be made by bank wire transfer in immediately available funds to an account designated by Exelixis. All payments hereunder shall be made in Dollars.

7.10 Taxes. Exelixis shall pay any and all taxes levied on account of all payments it receives under this Agreement. If laws or regulations require that taxes be withheld, BMS shall: (a) deduct those taxes from the remittable payment; (b) pay the taxes to the proper taxing authority; and (c) send evidence of the obligation together with proof of tax payment to Exelixis within [*] following that tax payment. The Parties shall discuss appropriate mechanisms for minimizing such taxes to the extent possible in compliance with applicable law.

7.11 Blocked Currency. In each country where the local currency is blocked and cannot be removed from the country, royalties accrued in that country shall be paid to Exelixis in Dollars based on the Dollar reported sales for the quarter (translated for such country per Statement of Financial Standards No. 52), unless otherwise mutually agreed.

7.12 Sublicenses. In the event BMS grants any permitted licenses or sublicenses to Third Parties to sell Products that are subject to royalty payments under **Section 7.3**, BMS shall have the responsibility to account for and report sales of any Product by a licensee or a sublicensee on the same basis as if such sales were Net Sales by BMS. BMS shall pay to Exelixis (or cause the licensee or sublicensee to pay to Exelixis, with BMS remaining responsible for any failure of the licensee or sublicensee to pay amounts when due under this Agreement): (a) royalties on such sales as if such sales of the licensee or sublicensee were Net Sales of BMS or any of its Affiliates; and (b) milestones payments pursuant to **Section 7.2** based on the achievement by such licensee or sublicensee of any milestone event contemplated in such Sections as if such milestone event had

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

been achieved by BMS or any of its Affiliates hereunder. Any sales by BMS' Affiliates and sublicensees of BMS or such sublicensee's Affiliates, in each case to Third Parties, shall be aggregated with sales by BMS for the purpose of calculating the aggregate Net Sales in **Sections 7.2** and **7.3**.

7.13 Foreign Exchange. Conversion of sales recorded in local currencies to Dollars shall be performed in a manner consistent with BMS' normal practices used to prepare its audited financial statements for internal and external reporting purposes, which uses a widely accepted source of published exchange rates.

7.14 Records. BMS shall keep (and shall ensure that its Affiliates and sublicensees shall keep) such records as are required to determine, in a manner consistent with GAAP and this Agreement, the sums due under this Agreement, including Net Sales. All such books, records and accounts shall be retained by such Party until the later of (a) [*] after the end of the period to which such books, records and accounts pertain and (b) the [*] (or any extensions thereof), or for such longer period as may be required by applicable law. BMS shall require its sublicensees to provide to it a report detailing the foregoing expenses and calculations incurred or made by such sublicensee, which report shall be made available to Exelixis in connection with any audit conducted by Exelixis pursuant to **Section 7.15**.

7.15 Audits. Exelixis shall have the right to have an independent certified public accountant, reasonably acceptable to BMS, to have access during normal business hours, and upon reasonable prior written notice, to examine only those records of BMS (and its Affiliates and sublicensees) as may be reasonably necessary to determine, with respect to any calendar year ending not more than [*] prior to Exelixis' request, the correctness or completeness of any report or payment made under this Agreement. The foregoing right of review may be exercised [*]. Results of any such examination shall be: (a) limited to information relating to the Products; (b) made available to both Parties; and (c) subject to **Article 9.** Exelixis shall bear the full cost of the performance of any such audit, unless such audit discloses a variance to the detriment of Exelixis of more than [*] from the amount of the original report, royalty or payment calculation, in which case BMS shall bear the full cost of the performance of such audit. The results of such audit shall be [*].

7.16 Interest. Any payments or portions thereof due hereunder that are not paid on the date such payments are due under this Agreement shall bear interest at a rate equal to the lesser of: (a) [*] Rate as published by Citibank, N.A., New York, New York, or any successor thereto, at 12:01 a.m. on the first day of each quarter in which such payments are overdue; or (b) the maximum rate permitted by law, in each case calculated on the number of days such payment is delinquent, compounded monthly.

7.17 Non-Monetary Consideration. In the event that BMS or its Affiliates or sublicensees receives any non-monetary consideration in connection with the sale of a Product, BMS' payment obligations under this **Article 7** shall be based on the fair market value of such other consideration. In such case, BMS shall disclose the terms of such arrangement to Exelixis and the Parties shall endeavor in good faith to agree on such fair market value.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

7.18 Payments to or Reports by Affiliates. Any payment required under any provision of this Agreement to be made to either Party or any report required to be made by any Party shall be made to or by an Affiliate of that Party if designated in writing by that Party as the appropriate recipient or reporting entity.

8. EXCLUSIVITY

8.1 Licensed Compounds. This Agreement will be exclusive with respect to the Development, Manufacture, and Commercialization of [*] that are intended to [*], as described below.

(a) Prior to Commercialization. Subject to **Sections 8.1(a)(i), 8.2, 8.3** and **8.4**, [*], [*] (directly or indirectly, and either with or without a *bona fide* collaborator) outside the scope of this Agreement any programs: (I) that [*] that [*]; or (II) where [*].

(i) [*] of a Product. Upon either (A) the [*] of [*] Products pursuant to **Section [*]**; or (B) the [*] of [*] Product pursuant to **Section [*],** [*] (directly or indirectly, and either with or without a *bona fide* collaborator) outside the scope of this Agreement programs to [*] that [directly bind and modulate such TGR5 without any further obligation to the other Party].

(ii) [*] of a [*]. In the event of any [*] of a [*] that is permitted under **Section [*]**, the Party [*] shall [*] a [*] of [*] of any [*] a [*] subsequent to [*] of a [*] and [*] the [*] the [*] with respect to such [*] or [*] of this Agreement (in either case, [*]).

(b) Subsequent to Commercialization. Subject to **Sections 8.2, 8.3** and **8.4**, [*], [*] (directly or indirectly, and either with or without a *bona fide* collaborator) outside the scope of this Agreement any programs to [*] that [*], and any [*] subject to the following terms and conditions:

(i) Commercial Launch of [*]. [Neither Party may commercialize outside of the Agreement], any product [*]: (A) that is [*] and [*]; or (B) where the [*] that [such Small Molecule Compound directly binds and modulates TGR5 at the Target Potency Threshold] (any such product, a "[*]"), for a [*] of a [*].

8.2 [*]. Notwithstanding anything to the contrary set forth in this **Article 8**, if a Party is engaged in [*] a program that is [*] that is [*], and [*] such program [*], such Party shall [*] with such [*] in order to [*] so the [*] the [*] for [*].

8.3 Not Applicable to [*]. The restrictions and obligations in **Section 8.1** shall not apply with respect to either Party for [*] that are [*] by such Party [*] (either with or without a *bona fide* collaborator).

8.4 [*] Right. [*] may [*] with a [*] that [*] a [*] solely with respect to the [*] of [*] and/or a [*] that [*]: (a) any [*] product that is [*] a [*]; and (b) such [*] a [*], on the condition that [*] to [*] of [*] with respect to [*] as set forth herein (assuming such [*] and/or a [*]).

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

9. CONFIDENTIALITY

9.1 Nondisclosure of Confidential Information. All Information or Materials disclosed by one Party to the other Party pursuant to this Agreement, and, subject to **Section 9.6**, Information that is generated pursuant to this Agreement with respect to Licensed Compounds or Products (for so long as such Licensed Compound or Product is not removed from the Agreement as a result of a Product specific termination pursuant to **Section 10.2** or **Section 10.3**), shall be "**Confidential Information**" for all purposes hereunder. The Parties agree that during the period from the Execution Date to the Effective Date, during term of this Agreement and for a period of [*] thereafter, a Party receiving Confidential Information of the other Party shall: (a) use Diligent Efforts to maintain in confidence such Confidential Information (but not less than those efforts as such Party uses to maintain in confidence its own proprietary industrial information of similar kind and value) and not to disclose such Confidential Information to any Third Party without prior written consent of the other Party (such consent not to be unreasonably withheld, delayed or conditioned), except for disclosures made in confidence to any Third Party under terms consistent with this Agreement and made in furtherance of this Agreement or of rights granted to a Party hereunder; and (b) not use such other Party's Confidential Information for any purpose except those permitted by this Agreement (it being understood that this **Section 9.1** shall not create or imply any rights or licenses not expressly granted under **Article 6** or **Article 10** hereof).

9.2 Exceptions. The obligations in **Section 9.1** shall not apply with respect to any portion of the Confidential Information that the receiving Party can show by competent written proof:

(a) Is publicly disclosed by the disclosing Party, either before or after it is disclosed to the receiving Party hereunder; or

(b) Was known to the receiving Party or any of its Affiliates, without obligation to keep it confidential, prior to disclosure by the disclosing Party; or

(c) Is subsequently disclosed to the receiving Party or any of its Affiliates by a Third Party lawfully in possession thereof and without obligation to keep it confidential; or

(d) Is published by a Third Party or otherwise becomes publicly available or enters the public domain, either before or after it is disclosed to the receiving Party, and is not directly or indirectly supplied by the receiving Party in violation of this Agreement; or

(e) Has been independently developed by employees or contractors of the receiving Party or any of its Affiliates without the aid, application or use of the disclosing Party's Confidential Information.

9.3 Authorized Disclosure. A Party may disclose the Confidential Information belonging to the other Party to the extent such disclosure is reasonably necessary in the following instances; *provided* that notice of any such disclosure shall be provided as soon as practicable to the other Party:

(a) Filing or prosecuting Patents relating to Sole Inventions, Joint Inventions or Products, in each case pursuant to activities under this Agreement;

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(b) Regulatory filings;

(c) Prosecuting or defending litigation;

(d) Complying with applicable governmental laws and regulations; and

(e) Disclosure, in connection with the performance of this Agreement, or exercise of its rights hereunder, to Affiliates, potential collaborators, partners, and actual and potential licensees (including potential co-marketing and co-promotion contractors, research contractors and manufacturing contractors), research collaborators, potential investment bankers, investors, lenders, and investors, employees, consultants, or agents, each of whom prior to disclosure must be bound by similar obligations of confidentiality and non-use at least equivalent in scope to those set forth in this **Article 9.**

The Parties acknowledge that the terms of this Agreement shall be treated as Confidential Information of both Parties. Such terms may be disclosed by a Party to individuals or entities covered by **Section 9.3(e)** above, each of whom prior to disclosure must be bound by similar obligations of confidentiality and non-use at least equivalent in scope to those set forth in this **Article 9.** In addition, a copy of this Agreement may be filed by either Party with the Securities and Exchange Commission in connection with any public offering of such Party's securities, in connection with such Party's on-going periodic reporting requirements under the federal securities laws, or as otherwise necessary under applicable law or regulations. In connection with any such filing, such Party shall endeavor to obtain confidential treatment of economic, competitively sensitive, and trade secret information.

9.4 Termination of Prior Agreements. All Information exchanged between the Parties under the Confidential Disclosure Agreement between Exelixis and BMS executed as of [*], and amended as of [*] and [*] (such confidential disclosure agreement, as amended, the **"Prior CDA"**) that relates to TGR5, Licensed Compounds or Products shall be deemed Confidential Information and shall, commencing upon the Execution Date, be subject to the terms of this **Article 9** rather than the Prior CDA. The Prior CDA shall otherwise remain in full force and effect, including with respect to each Party's rights with respect to breaches thereof, if any, that occurred prior to the Execution Date with respect to Information described in the first sentence of this **Section 9.4**.

9.5 Publicity. The Parties agree that the public announcement of the execution of this Agreement shall be substantially in the form of the press release attached as **Exhibit 9.5**. Any other publication, news release or other public announcement relating to this Agreement or to the performance hereunder, shall first be reviewed and approved by both Parties; *provided, however*, that any disclosure which is required by law, including disclosures required by the U.S. Securities and Exchange Commission or made pursuant to the requirements of the national securities exchange or other stock market on which such Party's securities are traded, as advised by the disclosing Party's counsel may be made without the prior consent of the other Party, although the other Party shall be given prompt notice of any such legally required disclosure and to the extent practicable shall provide the other Party an opportunity to comment on the proposed disclosure.

9.6 Publications. Subject to **Section 9.3**, each Party agrees to provide the other Party the opportunity to review any proposed disclosure which contains Confidential Information of the

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

other Party and would or may constitute an oral, written or electronic public disclosure if made (including the full content of proposed abstracts, manuscripts or presentations), and which relate to any Inventions, at least [*] prior to its intended submission for publication and agrees, upon request, not to submit any such abstract or manuscript for publication until the other Party is given a reasonable period of time to secure patent protection for any material in such publication which it believes to be patentable; *provided, however*, that BMS may publish results of clinical studies relating to Licensed Compounds without the prior review or approval of Exelixis. Both Parties understand that a reasonable commercial strategy may require delay of publication of information or filing of patent applications. The Parties agree to review and consider delay of publication and filing of patent applications under certain circumstances. The Alliance Managers (or the Parties), as appropriate, shall review such requests and recommend subsequent action. Subject to **Section 9.3,** neither Party shall have the right to publish or present Confidential Information of the other Party which is subject to **Section 9.1**. Nothing contained in this **Section 9.6** shall prohibit the inclusion of Confidential Information of the non-filing Party necessary for a patent application, *provided* the non-filing Party is given a reasonable opportunity to review the extent and necessity for its Confidential Information to be included prior to submission of such patent application related to the Agreement. Any disputes between the Parties regarding delaying a publication or presentation to permit the filing of a patent application shall be referred to the Alliance Managers (or the Parties), as appropriate.

10. TERM AND TERMINATION

10.1 Term. This Agreement shall become effective on the Effective Date and shall remain in effect until terminated in accordance with **Sections 10.2 or 10.3** or by mutual written agreement, or until the expiration of all payment obligations under **Article 7** (the **"Term"**).

10.2 BMS' Right to Terminate. BMS shall have the right to terminate this Agreement, at any time, on a Product-by-Product and country-by-country basis upon: (a) [*] prior written notice to Exelixis, in the event that such termination is [*] of the [*] or (b) [*] prior written notice to Exelixis, in the event that such termination is [*] of the [*].

10.3 Termination for Material Breach or Patent Challenge

(a) Notice. If either Party believes that the other is in material breach of this Agreement (including any material breach of a representation or warranty made in this Agreement), then the non-breaching Party may deliver notice of such breach to the other Party. In such notice the non-breaching Party shall identify the actions or conduct that such Party would consider to be an acceptable cure of such breach. For all breaches other than a failure to make a payment set forth in **Article 7**, the allegedly breaching Party shall have [*] to cure such breach. For any breach arising from a failure to make a payment set forth in **Article 7**, the allegedly breaching Party shall have [*] to cure such breach.

(b) Cure Period. Subject to **Section 10.3(c)**, if the Party receiving notice of breach fails to cure such breach within the [*] period or [*] period (as applicable), or the Party providing the notice reasonably determines that the proposed corrective plan or the actions being taken to carry it out is not commercially practicable, the Party originally delivering the notice may

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

terminate this Agreement upon [*] advance written notice, *provided*, that if the breach [*] or [*], the non-breaching Party may [*] the [*] with respect to [*].

(c) [*] Material Breach. If a Party gives notice of termination under **Section 10.3(a)** and the other Party [*], or if a Party determines under **Section 10.3(b)** that the [*] or the [*] is [*] and such [*] such [*], then the [*]: (i) [*]; or (ii) [*] or the [*], shall in any case [*]. If [*] such [*] it is [*] the [*], then such termination shall [*] if the breaching Party fails [*] to cure such breach in accordance with the [*] within the time period set forth in **Section 10.3(a)** for the applicable breach [*]. If [*] such [*] it is [*] the [*], then [*] and [*].

(d) Termination for Patent Challenge. Exelixis may terminate this Agreement with respect to a given Product in a given country if BMS or its Affiliates or sublicensees, directly or indirectly, individually or in association with any other person or entity, challenge the validity, enforceability or scope of any Exelixis Licensed Patents that relate to such Product in such country; *provided* that, if BMS, due to a Change of Control transaction, acquires control of a company that is challenging, directly or indirectly, individually or in association with another person or entity, the validity, enforceability or scope of any Exelixis Licensed Patents, BMS shall have [*] from the date of such acquisition to terminate such challenge to such Exelixis Licensed Patents before Exelixis' right to terminate under this **Section 10.3(d)** becomes effective. For clarity, any dispute as to whether a given Patent is within the scope of Exelixis Licensed Patents, such matter shall be subject to dispute resolution as set forth in **Section 13.3**.

10.4 Survival; Effect of Termination.

(a) In the event of expiration or termination of this Agreement, the following provisions of this Agreement shall survive: **Articles [*]**; and **Sections [*]**.

(b) In any event, expiration or termination of this Agreement shall not relieve the Parties of any liability which accrued hereunder prior to the effective date of such expiration or termination nor preclude either Party from pursuing all rights and remedies it may have hereunder or at law or in equity with respect to any breach of this Agreement nor prejudice either Party's right to obtain performance of any obligation.

10.5 Licenses and Payments on Termination.

(a) Termination by BMS (Section 10.2). Subject to **Section 10.5(e)**, if BMS terminates this Agreement pursuant to **Section 10.2** with respect to a particular Product in any country, then the license granted to BMS under **Section 6.1** shall automatically terminate solely with respect to such Product in such country, and BMS shall, and hereby does, grant to Exelixis a royalty-free license, with the right to grant sublicenses, under the BMS Licensed Patents and BMS Licensed Know-How to clinically develop, make, use, sell, offer for sale and import such Product in such country**.** The license described in this **Section 10.5(a)** shall be [*], except that it shall be [*] with respect to the [*].

(b) Termination by Exelixis (Section 10.3). If this Agreement terminates pursuant to **Section 10.3** [*], and BMS is the breaching Party, then the license granted to BMS under **Section 6.1** shall automatically terminate [*], and BMS shall, and hereby does, grant to Exelixis a license, with the right to grant sublicenses, under the BMS Licensed Patents and BMS

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Licensed Know-How to clinically develop, make, use, sell, offer for sale and import such Product [*]. The license described in this **Section 10.5(b)** shall be [*], except that it shall be [*] with respect to the [*]. For Products on which [*], the license described in this **Section 10.5(b)** shall be [*]. For Products on which [*] but which [*] and that are [*] of [*] or [*] in [*] that, in either case, [*] or the [*] or [*], the license described in this **Section 10.5(b)** shall bear a royalty of [*] of Exelixis' Net Sales of such Product. For Products on which [*] and that are [*] of [*] or [*] in [*] that, in either case, [*] or the [*] or [*], the license described in this **Section 10.5(b)** shall bear a royalty of [*] of Exelixis' Net Sales of such Product. BMS' right to receive royalties under this **Section 10.5(b)** shall expire on a country-by-country and Product-by-Product basis upon the later of: (i) [*]; or [*] or the [*].

(c) Termination by BMS (Section 10.3). If this Agreement terminates pursuant to **Section 10.3** [*], and Exelixis is the breaching Party, then the license granted to BMS under **Section 6.1,** shall automatically terminate [*], and Exelixis shall, and hereby does, grant to BMS a license, with the right to grant sublicenses, under the Exelixis Licensed Patents and Exelixis Licensed Know-How to clinically develop, make, use, sell, offer for sale and import such Product [*]. The license described in this **Section 10.5(c)** shall be [*], except that it shall be [*] with respect to the [*]. For Products on which [*], the license described in this **Section 10.5(c)** shall [*]. For Products on which [*] but which [*] and that are [*] of [*] or [*] in [*] that, in either case, [*] or the [*] or [*], the license described in this **Section 10.5(c)** shall bear a royalty of [*] of BMS' Net Sales of such Product. For Products on which [*] and that [*] of [*] or [*] in [*] that, in either case, [*] or the [*] or [*], the license described in this **Section 10.5(c)** shall bear a royalty of [*] of BMS' Net Sales of such Product. Exelixis' right to receive royalties under this **Section 10.5(c)** shall expire on a country-by-country and Product-by-Product basis upon the later of: (i) [*]; or (ii) [*] or the [*].

(d) Transfers Related to Licenses. For each license granted under **Sections 10.5(a) – 10.5(c)**, the licensing Party shall transfer via assignment, license or sublicense to the licensee Party: (i) all Information reasonably necessary for the development and commercialization of the Product to which such license relates; (ii) [*] that [*] relate to such Product and that are [*]; (iii) [*] that [*] relate to such Product; (iv) [*] Controlled by the licensing Party that [*] relate to such Product; and (v) supplies of such Product (including any intermediates, retained samples and reference standards), that, in each case ((i) through (v)) are existing and in the Control of the licensing Party. Any such transfer(s) shall be [*] of the [*].

(e) Exception for Termination for [*]. The license granted to [*] under **Section [*]** shall be of [*] with respect to any given Product where [*] termination of Development and/or Commercialization of such Product was due to [*]. For purposes of this **Section 10.5(e)**, "[*]" means it is [*] or [*] or [*] that there is [*] for [*]: (i) [*], including [*]; or (ii) the [*] of [*] a Product [*] or [*], such as [*] or [*] a Product. Notwithstanding anything to the contrary, this **Section 10.5(e)** shall not prevent [*] from using its license in **Section [*]** to [*] by [*] that was [*]. [*] shall provide [*] with all [*] for such [*] but shall not [*] to [*] any [*] relating to such [*].

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(f) Additional Effects of Termination.

(i) At-Will Transfer. In the event of any termination pursuant to **Section 10.2**, BMS shall transfer and assign to Exelixis: (i) all Information relating to the Product, and [*] with respect to Product in BMS' name; (ii) all [*] related to the Product, to the extent that [*]; (iii) all [*] related to the Product; and (iv) all supplies of Product (including any intermediates, retained samples and reference standards) that in each case are in BMS' Control and that relate to the Product. BMS shall take such other actions and execute such other instruments, assignments and documents as may be necessary to effect the transfer of rights hereunder to Exelixis.

(ii) Breach Transfer. In the event of any termination pursuant to **Section 10.3**, the breaching Party shall transfer and assign to the non-breaching Party: (i) all Information relating to the Product, and [*] with respect to Product in the breaching Party's name; (ii) all [*] related to the Product, to the extent that [*]; (iii) all [*] related to the Product; and (iv) all supplies of Product (including any intermediates, retained samples and reference standards) that in each case are in the breaching Party's Control and that relate to the Product. The breaching Party shall take such other actions and execute such other instruments, assignments and documents as may be necessary to effect the transfer of rights hereunder to the non-breaching Party.

10.6 Interim Supply. In the event of any termination of a Product pursuant to **Section 10.2**, or **Section 10.3** (where BMS is the breaching Party), in each case [*], at Exelixis' written request, BMS shall supply, or cause to be supplied, to Exelixis sufficient quantities of Product to satisfy Exelixis' requirements for Product for a period of up to [*] following the effective date of termination, as Exelixis may require until Exelixis can itself assume or transition to a Third Party such manufacturing responsibilities; *provided, however* that Exelixis shall use Diligent Efforts to affect such assumption (or transition) as promptly as practicable. Such supply shall be [*] with respect to development supply, and shall be [*] for such Product(s) with respect to commercial supply. Any such supply will be made pursuant to a supply agreement between the Parties with typical provisions relating to quality, forecasting and ordering to forecast, force majeure and product liability and indemnity. In the event that BMS has one or more agreements with Third Party manufacturers with respect to the manufacture of a Product, at Exelixis' request, BMS shall use commercially reasonable efforts to transfer its rights and obligations under such agreement(s) to Exelixis upon any such termination.

11. REPRESENTATIONS AND WARRANTIES AND COVENANTS

11.1 Mutual Authority. Exelixis and BMS each represents and warrants to the other as of the Execution Date that: (a) it has the authority and right to enter into and perform this Agreement, (b) this Agreement is a legal and valid obligation binding upon it and is enforceable in accordance with its terms, subject to applicable limitations on such enforcement based on bankruptcy laws and other debtors' rights, and (c) its execution, delivery and performance of this Agreement shall not conflict in any material fashion with the terms of any other agreement or instrument to which it is or becomes a party or by which it is or becomes bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having authority over it.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

11.2 Rights in Technology.

(a) During the term of this Agreement, each Party shall use commercially reasonable efforts to maintain (but without an obligation to renew) and not to breach any agreements with Third Parties that provide a grant of rights from such Third Party to a Party that are Controlled by such Party and are licensed or become subject to a license from such Party to the other Party under **Article 6.** Each Party agrees to provide promptly the other Party with notice of any such alleged breach or obligation to renew. As of the Execution Date, each Party is in compliance in all material respects with any aforementioned agreements with Third Parties.

(b) Each Party represents and warrants that it: (i) has the ability to grant the licenses contained in or required by this Agreement; and (ii) is not currently subject to any agreement with any Third Party or to any outstanding order, judgment or decree of any court or administrative agency that restricts it in any way from granting to the other Party such licenses or the right to exercise its rights hereunder.

(c) Each Party represents and warrants that: (i) it has not granted, and covenants that it shall not grant after the Execution Date and during the term of this Agreement, any right, license or interest in or to, or an option to acquire any of the foregoing with respect to, the intellectual property rights licensed to the other Party hereunder (including the Exelixis Licensed Patents and the BMS Licensed Patents, as the case may be) that is in conflict with the rights (including the rights set forth in **Article 6**) or licenses granted or to be granted (including any conditional license rights) to the other Party under this Agreement; and (ii) it has not granted any lien, security interest or other encumbrance (excluding any licenses) with respect to any of the intellectual property rights licensed to the other Party hereunder that would prevent it from performing its obligations under this Agreement, or permitted such a lien, security interest or other encumbrance (excluding any permitted licenses) to attach to the intellectual property rights licensed to the other Party hereunder.

(d) To the Knowledge of Exelixis as of the Effective Date, Exelixis does not Control any Small Molecule Compounds that: (i) [*] TGR5 [*]; (ii) [*] TGR5, [*]; and (iii) are not disclosed in the Exelixis Licensed Patents listed on **Exhibit 1.17.**

11.3 Performance by Affiliates. The Parties recognize that each may perform some or all of its obligations under this Agreement through Affiliates; *provided*, *however*, that each Party shall remain responsible and be guarantor of the performance by its Affiliates and shall cause its Affiliates to comply with the provisions of this Agreement in connection with such performance. In particular, if any Affiliate of a Party participates under this Agreement with respect to Licensed Compounds: (a) the restrictions of this Agreement which apply to the activities of a Party with respect to Licensed Compounds shall apply equally to the activities of such Affiliate; and (b) the Party affiliated with such Affiliate shall assure, and hereby guarantees, that any intellectual property developed by such Affiliate shall be governed by the provisions of this Agreement (and subject to the licenses set forth in **Article 6**) as if such intellectual property had been developed by the Party.

11.4 Third Party Rights. Each Party represents and warrants to the other Party that, to its Knowledge as of the Execution Date, its performance of work as contemplated by this Agreement shall not infringe the valid patent, trade secret or other intellectual property rights of any

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Third Party. Each Party represents and warrants to the other Party that, to its Knowledge as of the Execution Date, it will not violate a contractual or fiduciary obligation owed to such Third Party (including misappropriation of trade secrets) by performing its work as contemplated by this Agreement.

11.5 Notice of Infringement or Misappropriation. Each Party represents and warrants to the other Party that, as of the Execution Date, it has received no notice of infringement or misappropriation of any alleged rights asserted by any Third Party in relation to any technology that such Party intends, as of the Execution Date, to use in connection with the Agreement.

11.6 HSR Act Filing; Effective Date. The Parties shall each, prior to or as promptly as practicable after the Execution Date of this Agreement, file or cause to be filed with the U.S. Federal Trade Commission and the U.S. Department of Justice and any relevant foreign governmental authority any notifications required to be filed under the HSR Act and any applicable foreign equivalent thereof with respect to the transactions contemplated hereby; *provided* that the Parties shall each file the notifications required to be filed under the HSR Act no later than [*] after the Execution Date of this Agreement. Each Party shall be responsible for its own costs in connection with such filing, except that BMS shall be [*]. The Parties shall use commercially reasonable efforts to respond promptly to any requests for additional information made by either of such agencies, and to cause the waiting periods under the HSR Act and any applicable foreign equivalent thereof to terminate or expire at the earliest possible date after the date of filing. Each Party shall use its commercially reasonable efforts to ensure that its representations and warranties set forth in this Agreement remain true and correct at and as of the Effective Date as if such representations and warranties were made at and as of the Effective Date. Notwithstanding anything in this Agreement to the contrary, this Agreement (other than **Article 9** and this **Section 11.6**) [*] under the HSR Act in the U.S., the expiration or earlier termination of any applicable waiting period under the antitrust or competition laws of any other jurisdiction, and the approval or clearance of the transactions contemplated by this Agreement in any jurisdiction requiring advance approval or clearance (the **"Effective Date"**).

12. INDEMNIFICATION AND LIMITATION OF LIABILITY

12.1 Mutual Indemnification. Subject to **Section 12.3**, each Party hereby agrees to indemnify, defend and hold harmless the other Party, its Affiliates, and their respective directors, employees and agents from and against any and all Third Party suits, claims, actions, demands, liabilities, expenses and/or losses, including reasonable legal expenses and reasonable attorneys' fees ("**Losses**") to the extent such Losses result from any: (a) breach of warranty by the indemnifying Party contained in the Agreement; (b) breach of the Agreement or applicable law by such indemnifying Party; (c) negligence or willful misconduct of the indemnifying Party, its Affiliates or (sub)licensees, or their respective directors, employees and agents in the performance of the Agreement; and/or (d) breach of a contractual or fiduciary obligation owed by it to a Third Party (including misappropriation of trade secrets).

12.2 Indemnification.

(a) Indemnification by BMS. Subject to **Section 12.3**, BMS hereby agrees to indemnify, defend and hold harmless Exelixis and its directors, employees and agents from and

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

against any and all Losses to the extent such Losses result from [*] or [*] by BMS or its Affiliates, agents or sublicensees, except to the extent such Losses result from any: (a) breach of warranty by Exelixis contained in the Agreement; (b) breach of the Agreement or applicable law by Exelixis; (c) negligence or willful misconduct by Exelixis, its Affiliates or (sub)licensees, or their respective directors, employees and agents in the performance of the Agreement; and/or (d) breach of a contractual or fiduciary obligation owed by Exelixis to a Third Party (including misappropriation of trade secrets).

(b) Indemnification by Exelixis. Subject to **Section 12.3**, Exelixis hereby agrees to indemnify, defend and hold harmless BMS and its directors, employees and agents from and against any and all Losses to the extent such Losses result from [*] or [*] by Exelixis or its Affiliates, agents or sublicensees, except to the extent such Losses result from any: (a) breach of warranty by BMS contained in the Agreement; (b) breach of the Agreement or applicable law by BMS; (c) negligence or willful misconduct by BMS, its Affiliates or (sub)licensees, or their respective directors, employees and agents in the performance of the Agreement; and/or (d) breach of a contractual or fiduciary obligation owed by BMS to a Third Party (including misappropriation of trade secrets).

12.3 Conditions to Indemnification. As used herein, "**Indemnitee**" shall mean a party entitled to indemnification under the terms of **Sections 12.1 or 12.2**. A condition precedent to each Indemnitee's right to seek indemnification under such **Sections 12.1 or 12.2** is that such Indemnitee shall:

(a) inform the indemnifying Party under such applicable Section of a Loss as soon as reasonably practicable after it receives notice of the Loss;

(b) if the indemnifying Party acknowledges that such Loss falls within the scope of its indemnification obligations hereunder, permit the indemnifying Party to assume direction and control of the defense, litigation, settlement, appeal or other disposition of the Loss (including the right to settle the claim solely for monetary consideration); *provided*, that the indemnifying Party shall seek the prior written consent (such consent not to be unreasonably withheld, delayed or conditioned) of any such Indemnitee as to any settlement which would materially diminish or materially adversely affect the scope, exclusivity or duration of any Patents licensed under this Agreement, would require any payment by such Indemnitee, would require an admission of legal wrongdoing in any way on the part of an Indemnitee, or would effect an amendment of this Agreement; and

(c) fully cooperate (including providing access to and copies of pertinent records and making available for testimony relevant individuals subject to its control) as reasonably requested by, and at the expense of, the indemnifying Party in the defense of the Loss.

Provided that an Indemnitee has complied with all of the conditions described in **subsections 12.3(a) – (c)**, as applicable, the indemnifying Party shall provide attorneys reasonably acceptable to the Indemnitee to defend against any such Loss. Subject to the foregoing, an Indemnitee may participate in any proceedings involving such Loss using attorneys of the Indemnitee's choice and at the Indemnitee's expense. In no event may an Indemnitee settle or compromise any Loss for which the Indemnitee intends to seek indemnification from the indemnifying Party hereunder

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

without the prior written consent of the indemnifying Party (such consent not to be unreasonably withheld, delayed or conditioned), or the indemnification provided under such **Section 12.1 or 12.2** as to such Loss shall be null and void.

12.4 Limitation of Liability. EXCEPT FOR AMOUNTS PAYABLE TO THIRD PARTIES BY A PARTY FOR WHICH IT SEEKS REIMBURSEMENT OR INDEMNIFICATION PROTECTION FROM THE OTHER PARTY PURSUANT TO **SECTIONS 12.1 AND 12.2**, AND EXCEPT FOR BREACH OF **SECTION 9.1** HEREOF, IN NO EVENT SHALL EITHER PARTY, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR AFFILIATES BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER BASED UPON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE, ARISING OUT OF THE AGREEMENT, UNLESS SUCH DAMAGES ARE DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE LIABLE PARTY (INCLUDING GROSS NEGLIGENCE OR WILLFUL BREACH WITH RESPECT TO A PARTY'S REPRESENTATIONS AND WARRANTIES IN **ARTICLE 11**). FOR CLARITY, THE AMOUNT OF THE UPFRONT PAYMENTS DESCRIBED IN **SECTION 7.1** MAY SERVE AS A MEASURE OF A REMEDY IN THE EVENT OF A BREACH WITH RESPECT TO EXELIXIS' REPRESENTATIONS AND WARRANTIES IN **ARTICLE 11.**

12.5 Agreement Disclaimer. EXCEPT AS PROVIDED IN **ARTICLE 11** ABOVE, BMS EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES WITH RESPECT TO ANY COMPOUNDS, MATERIALS OR INFORMATION (AND ANY PATENT RIGHTS OBTAINED THEREON) IDENTIFIED, MADE OR GENERATED BY BMS AS PART OF THE COLLABORATION OR OTHERWISE MADE AVAILABLE TO EXELIXIS PURSUANT TO THE TERMS OF THE AGREEMENT. EXCEPT AS PROVIDED IN **ARTICLE 11** ABOVE, EXELIXIS EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES WITH RESPECT TO ANY COMPOUNDS, MATERIALS OR INFORMATION (AND ANY PATENT RIGHTS OBTAINED THEREON) IDENTIFIED, MADE OR GENERATED BY EXELIXIS AS PART OF THE COLLABORATION OR OTHERWISE MADE AVAILABLE TO BMS PURSUANT TO THE TERMS OF THE AGREEMENT.

13. MISCELLANEOUS

13.1 Dispute Resolution. Unless otherwise set forth in this Agreement and excluding in particular any dispute described in **Section 13.3** (which will be handled exclusively in accordance with **Section 13.3**), in the event of any dispute, controversy or claim arising out of, relating to or in connection with any provision of the Agreement, the Parties shall try to settle their differences amicably between themselves first, by referring the disputed matter to the Party's respective Executive Officers. Either Party may initiate such informal dispute resolution by sending written

notice of the dispute to the other Party, and, within [*] after such notice, such Executive Officers shall meet for attempted resolution by good faith negotiations. If such Executive Officers are unable to resolve such dispute within [*] of their first meeting for such negotiations, either Party may seek to have such dispute resolved in any U.S. federal or state court of competent jurisdiction and appropriate venue, *provided*, that if such suit includes a Third Party claimant or defendant, and jurisdiction and venue with respect to such Third Party appropriately resides outside the U.S., then in any other jurisdiction or venue permitted by applicable law.

13.2 Governing Law. Resolution of all disputes, controversies or claims arising out of, relating to or in connection with the Agreement or the performance, enforcement, breach or termination of the Agreement and any remedies relating thereto, shall be governed by and construed under the substantive laws of the State of Delaware, without regard to conflicts of law rules.

13.3 Patents and Trademarks; Equitable Relief.

(a) Except as set forth in **Section 6.7(a)(i)**, any dispute, controversy or claim arising out of, relating to or in connection with: (i) the scope, validity, enforceability or infringement of any Patent rights covering the research, development, manufacture, use or sale of any Product; or (ii) any trademark rights related to any Product, shall in each case be submitted to a court of competent jurisdiction in the territory in which such Patent or trademark rights were granted or arose.

(b) Any dispute, controversy or claim arising out of, relating to or in connection with the need to seek preliminary or injunctive measures or other equitable relief (e.g., in the event of a potential or actual breach of the confidentiality and non-use provisions in **Article 9**) need not be resolved through the procedure described in **Section 13.1** but may be immediately brought in a court of competent jurisdiction.

13.4 Entire Agreement; Amendments. This Agreement, the collaboration agreement (for the discovery, development and commercialization of compounds that antagonize the target known as ROR) that is between Exelixis and BMS and that is dated as of the Execution Date (the **"ROR Collaboration Agreement"**), and the letter agreement that is dated as of the Execution Date and that describes Exelixis' creation of a licensing Affiliate (the "**Letter Agreement**"), set forth the complete, final and exclusive agreement and all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties hereto and supersedes and terminates all prior agreements and understandings between the Parties. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as are set forth in this Agreement, the ROR Collaboration Agreement, and the Letter Agreement. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party.

13.5 Export Control. This Agreement is made subject to any restrictions concerning the export of products or technical information from the U.S. or other countries which may be imposed upon or related to Exelixis or BMS from time to time. Each Party agrees that it shall not export, directly or indirectly, any technical information acquired from the other Party under this Agreement or any products using such technical information to a location or in a manner that at the time of

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

export requires an export license or other governmental approval, without first obtaining the written consent to do so from the appropriate agency or other governmental entity.

13.6 Bankruptcy.

(a) All rights and licenses granted under or pursuant to this Agreement, including amendments hereto, by each Party to the other Party are, for all purposes of Section 365(n) of Title 11 of the U.S. Code ("**Title 11**"), licenses of rights to intellectual property as defined in Title 11. Each Party agrees during the term of this Agreement to create and maintain current copies or, if not amenable to copying, detailed descriptions or other appropriate embodiments, to the extent feasible, of all such intellectual property. If a case is commenced by or against either Party (the "**Bankrupt Party**") under Title 11, then, unless and until this Agreement is rejected as provided in Title 11, the Bankrupt Party (in any capacity, including debtor-in-possession) and its successors and assigns (including a Title 11 Trustee) shall, at the election of the Bankrupt Party made within sixty (60) days after the commencement of the case (or, if no such election is made, immediately upon the request of the non-Bankrupt Party) either (i) perform all of the obligations provided in this Agreement to be performed by the Bankrupt Party including, where applicable, providing to the non-Bankrupt Party portions of such intellectual property (including embodiments thereof) held by the Bankrupt Party and such successors and assigns or otherwise available to them or (ii) provide to the non-Bankrupt Party all such intellectual property (including all embodiments thereof) held by the Bankrupt Party and such successors and assigns or otherwise available to them.

(b) If a Title 11 case is commenced by or against the Bankrupt Party and this Agreement is rejected as provided in Title 11 and the non-Bankrupt Party elects to retain its rights hereunder as provided in Title 11, then the Bankrupt Party (in any capacity, including debtor-in-possession) and its successors and assigns (including a Title 11 Trustee) shall provide to the non-Bankrupt Party all such intellectual property (including all embodiments thereof) held by the Bankrupt Party and such successors and assigns or otherwise available to them immediately upon the non-Bankrupt Party's written request therefor. Whenever the Bankrupt Party or any of its successors or assigns provides to the non-Bankrupt Party any of the intellectual property licensed hereunder (or any embodiment thereof) pursuant to this **Section 13.6**, the non-Bankrupt Party shall have the right to perform the obligations of the Bankrupt Party hereunder with respect to such intellectual property, but neither such provision nor such performance by the non-Bankrupt Party shall release the Bankrupt Party from any such obligation or liability for failing to perform it.

(c) All rights, powers and remedies of the non-Bankrupt Party provided herein are in addition to and not in substitution for any and all other rights, powers and remedies now or hereafter existing at law or in equity (including Title 11) in the event of the commencement of a Title 11 case by or against the Bankrupt Party. The non-Bankrupt Party, in addition to the rights, power and remedies expressly provided herein, shall be entitled to exercise all other such rights and powers and resort to all other such remedies as may now or hereafter exist at law or in equity (including under Title 11) in such event. The Parties agree that they intend the foregoing non-Bankrupt Party rights to extend to the maximum extent permitted by law and any provisions of applicable contracts with Third Parties, including for purposes of Title 11, (i) the right of access to any intellectual property (including all embodiments thereof) of the Bankrupt Party or any Third Party with whom the Bankrupt Party contracts to perform an obligation of the Bankrupt Party under this Agreement, and, in the case of the Third Party, which is necessary for the development,

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

registration and manufacture of Products and (ii) the right to contract directly with any Third Party described in (i) in this sentence to complete the contracted work. Any intellectual property provided pursuant to the provisions of this **Section 13.6** shall be subject to the licenses set forth elsewhere in this Agreement and the payment obligations of this Agreement, which shall be deemed to be royalties for purposes of Title 11.

13.7 Force Majeure. Each Party shall be excused from the performance of its obligations under this Agreement to the extent that such performance is prevented by force majeure (defined below) and the nonperforming Party promptly provides notice of the prevention to the other Party. Such excuse shall be continued so long as the condition constituting force majeure continues and the nonperforming Party takes reasonable efforts to remove the condition. For purposes of this Agreement, "**force majeure**" shall include conditions beyond the control of the Parties, including an act of God, acts of terrorism, voluntary or involuntary compliance with any regulation, law or order of any government, war, civil commotion, labor strike or lock-out, epidemic, failure or default of public utilities or common carriers, destruction of production facilities or materials by fire, earthquake, storm or like catastrophe. The payment of invoices due and owing hereunder shall in no event be delayed by the payer because of a force majeure affecting the payer.

13.8 Notices. Any notices given under this Agreement shall be in writing, addressed to the Parties at the following addresses, and delivered by person, by facsimile (with receipt confirmation), or by FedEx or other reputable courier service. Any such notice shall be deemed to have been given: (a) as of the day of personal delivery; (b) one (1) day after the date sent by facsimile service; or (c) on the day of successful delivery to the other Party confirmed by the courier service. Unless otherwise specified in writing, the mailing addresses of the Parties shall be as described below.

For Exelixis:	Exelixis, Inc. 170 Harbor Way P.O. Box 511 So. San Francisco, CA 94083-0511 Attention: EVP, General Counsel
With a copy to:	Cooley LLP Five Palo Alto Square 3000 El Camino Real Palo Alto, CA 94306 Attention: Marya A. Postner, Esq.
For BMS:	Bristol-Myers Squibb Company P.O. Box 4000 Route 206 and Province Line Road Princeton, NJ 08543-4000 Attention: Senior Vice President, Strategy, Transactions and Alliances Phone: 609-252-5333 Fax: 609-252-7212

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

With a copy to: Bristol-Myers Squibb Company
P.O. Box 4000
Route 206 and Province Line Road
Princeton, NJ 08543-4000
Attention: Vice President and Asst. General Counsel, Business Development
Phone: 609-252-5328
Fax: 609-252-4232

Furthermore, a copy of any notices required or given under **Article 6** of this Agreement shall also be addressed to the [*] of [*] at the address set forth in **Section 6.8(f)**.

13.9 Maintenance of Records Required by Law or Regulation. Each Party shall keep and maintain all records required by law or regulation with respect to Products and shall make copies of such records available to the other Party upon request.

13.10 Assignment. Neither Party may assign or transfer this Agreement or any rights or obligations hereunder without the prior written consent of the other (such consent not to be unreasonably withheld, delayed or conditioned), except a Party may make such an assignment without the other Party's consent to an Affiliate or to a Third Party successor to all or substantially all of the business of such Party to which this Agreement relates, whether in a merger, sale of stock, sale of assets or other transaction; *provided* that any such permitted successor or assignee of rights and/or obligations hereunder is obligated, by reason of operation of law or pursuant to a written agreement with the other Party, to assume performance of this Agreement or such rights and/or obligations; and *provided, further*, that if assigned to an Affiliate, the assigning Party shall remain jointly and severally responsible for the performance of this Agreement by such Affiliate. 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 13.10** shall be null and void and of no legal effect.

13.11 Electronic Data Interchange. If both Parties elect to facilitate business activities hereunder by electronically sending and receiving data in agreed formats (also referred to as Electronic Data Interchange or "**EDI**") in substitution for conventional paper-based documents, the terms and conditions of this Agreement shall apply to such EDI activities.

13.12 Non-Solicitation of Employees. [*], each Party agrees that neither it nor any of its divisions, operating groups or Affiliates shall recruit, solicit or induce any employee of the other Party directly involved in the activities conducted pursuant to this Agreement to terminate his or her employment with such other Party and become employed by or consult for such Party, whether or not such employee is a full-time employee of such other Party, and whether or not such employment is pursuant to a written agreement or is at-will. For purposes of the foregoing, **"recruit"**, **"solicit"** or **"induce"** shall not be deemed to mean: (a) circumstances where an employee of a Party initiates contact with the other Party or any of its Affiliates with regard to possible employment; or (b) general solicitations of employment not specifically targeted at employees of a Party or any of its Affiliates, including responses to general advertisements.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

13.13 Further Actions. Each Party agrees to execute, acknowledge and deliver such further instruments, and to do all such other acts, as may be necessary or appropriate in order to carry out the purposes and intent of this Agreement.

13.14 Severability. If any of the provisions of this Agreement are held to be invalid or unenforceable by any court of competent jurisdiction from which no appeal can be or is taken, the provision shall be considered severed from this Agreement and shall not serve to invalidate any remaining provisions hereof. The Parties shall make a good faith effort to replace any invalid or unenforceable provision with a valid and enforceable one such that the objectives contemplated by the Parties when entering this Agreement may be realized.

13.15 No Waiver. Any delay in enforcing a Party's rights under this Agreement or any waiver as to a particular default or other matter shall not constitute a waiver of such Party's rights to the future enforcement of its rights under this Agreement, excepting only as to an express written and signed waiver as to a particular matter for a particular period of time.

13.16 Construction of this Agreement. Except where the context otherwise requires, wherever used, the use of any gender shall be applicable to all genders, and the word "**or**" are used in the inclusive sense. When used in this Agreement, "**including**" means "**including without limitation**". References to either Party include the successors and permitted assigns of that Party. The headings of this Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement. The Parties have each consulted counsel of their choice regarding this Agreement, and, accordingly, no provisions of this Agreement shall be construed against either Party on the basis that the Party drafted this Agreement or any provision thereof. If the terms of this Agreement conflict with the terms of any Exhibit, then the terms of this Agreement shall govern. The official text of this Agreement and any Exhibits hereto, any notice given or accounts or statements required by this Agreement, and any dispute proceeding related to or arising hereunder, shall be in English. In the event of any dispute concerning the construction or meaning of this Agreement, reference shall be made only to this Agreement as written in English and not to any other translation into any other language.

13.17 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be an original and all of which shall constitute together the same document. Counterparts may be signed and delivered by facsimile, or electronically in PDF format, each of which shall be binding when sent.

Signature page follows.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals by their proper officers. The date that this Agreement is signed shall not be construed to imply that the document was made effective on that date.

BRISTOL-MYERS SQUIBB COMPANY		**EXELIXIS, INC.**	
By:	/s/ Jeremy Levin	By:	/s/ Michael Morrissey
Title:	Senior Vice President	Title:	CEO
Date:	10/08/2010	Date:	10/08/2010

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 1.17

List of Exelixis Licensed Patents

Exelixis Ref. No.	External Counsel ("EC")	EC Ref. No.	Country	App. No.	Title
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]
[*]	[*]	[*]	[*]	[*]	[*]

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 2.2

Form of Transfer Addendum

This Transfer Addendum No. ____(the "**Transfer Addendum**") to the license agreement between Bristol-Myers Squibb Company and Exelixis, Inc., effective as of _____, 2010 (the "**License Agreement**"), is made as of _____**{Note: Please insert date} (**the **"Addendum Effective Date"),** by and between:

Transferring Party: **Exelixis, Inc.**

And

Receiving Party: **Bristol-Myers Squibb Company**

for the transfer of:

(1) Information:

{Note: Please identify any Information other than the Materials that would be transferred, e.g., assay protocols, or else add "N/A" if not applicable.}

(2) Materials:

(i) the following biological materials:

{Note: Please identify any cell-lines, reagents, genes, vectors and constructs that would be transferred, or else add "N/A" if not applicable.}

(ii) the following {Licensed Compounds} known as:

{Note: Please insert identifier of the applicable compounds, or else add "N/A" if not applicable.}

Terms and Special Terms

The Parties agree that the transfer of the above defined Information and Materials pursuant to this Transfer Addendum shall be covered and submitted to the terms and conditions of the License Agreement. Any special terms and conditions identified on Appendix A, attached hereto and incorporated herein, shall also apply to the transfer of the Materials under this Transfer Addendum.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

IN WITNESS WHEREOF, this Transfer Addendum is entered into as of the Addendum Effective Date, and it is accepted and agreed to by the Parties' authorized representatives. The date that this Transfer Addendum is signed shall not be construed to imply that the document was made effective on that date.

Name: **{Note: insert name of AM}**	Name: **{Note: insert name of AM}**
For Exelixis	For BMS
Title: Alliance Manager	Title: Alliance Manager
Date:	Date:

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Appendix A to Transfer Addendum
Special Terms

The following special terms and conditions apply to the transfer of the Materials under this Transfer Addendum.

{Note: Please identify any special terms and conditions, or else add "N/A" if not applicable.}

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 9.5

Press Release

www.exelixis.com

210 East Grand Ave, P.O. Box 511
South San Francisco, CA 94083-0511
650.837.7000 main
650.837.8205 fax

Contact:
Charles Butler
Vice President
Corporate Communications
& Investor Relations
Exelixis, Inc.
(650) 837-7277
cbutler@exelixis.com

DeDe Sheel
Associate Director,
Investor Relations
Exelixis, Inc.
(650) 837-8231
dsheel@exelixis.com

EXELIXIS LICENSES PROGRAMS TO BRISTOL-MYERS SQUIBB COMPANY

-***Exelixis to receive initial payment of $60 million***-

SOUTH SAN FRANCISCO, Calif., October XX, 2010 — Exelixis, Inc. (NASDAQ: EXEL) announced today that it has entered into two new collaboration agreements with Bristol-Myers Squibb Company (NYSE:BMY). Under the first agreement, Exelixis will grant to Bristol-Myers Squibb an exclusive license to its small-molecule TGR5 agonist program including backups. Under the second agreement, the companies will collaborate to discover, optimize, and characterize small-molecule ROR antagonists. The companies have also made minor amendments to their XL281 and liver X receptor (LXR) agreements. Finally, under the companies' cancer collaboration agreement Exelixis has opted to exercise its right to opt out of further co-development of XL139 and will receive an accelerated milestone payment.

Under the terms of the new agreements, Bristol-Myers Squibb will make a combined initial payment of $60 million to Exelixis. Exelixis will be eligible for potential development and approval milestone payments of up to $250 million on TGR5 and $255 million on the ROR antagonists. Exelixis will also be eligible for combined sales performance milestones, and royalties on net sales of products from each of the TGR5 and ROR programs. Bristol-Myers Squibb will receive an exclusive worldwide license to develop and commercialize small molecule TGR5 agonists and ROR antagonists. Under the TGR5 agreement, Bristol-Myers Squibb will have sole responsibility for research, development, manufacturing, and commercialization. Under the ROR agreement, Bristol-Myers Squibb and Exelixis will collaborate on ROR antagonist programs up to a pre-clinical transition point and then Bristol-Myers Squibb will have sole responsibility for the further research, development, manufacture, and commercialization.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exelixis is granting rights to the ROR program in exchange for Bristol-Myers Squibb waiving rights to receive a third Investigational New Drug (IND) candidate as agreed to under a collaboration signed in 2006 between the two companies in the area of oncology.

After Exelixis opts-out of further co-development of XL139, Bristol-Myers Squibb will receive an exclusive worldwide license to develop and commercialize, and will have sole responsibility for the further development, manufacture, and commercialization of the compound.

“We continue our strong relationship with Bristol-Myers Squibb and are excited for these collaborations to maximize the potential of these novel programs and bring benefits to patients with serious diseases,” said Michael M. Morrissey, Ph.D., president and chief executive officer of Exelixis. “These transactions leverage our discovery expertise with the development expertise of Bristol-Myers Squibb in inflammation and metabolic diseases, and provide important additional resources for us to continue our focus on our clinical stage development pipeline.”

TGR5 is a G-protein coupled bile acid receptor (GPCR) which is highly expressed in the gall bladder and intestine. Through TGR5, bile acids promote the secretion of glucogen-like peptide-1 (GLP-1), a hormone that affects multiple metabolic parameters including increased insulin secretion from the pancreas and lowering of blood glucose. Stimulating GLP-1 secretion by activation of TGR5 has the potential to be complementary to the use of dipeptidyl peptidase-4 (DPP-IV) inhibitors for the treatment of diabetes.

ROR is a member of the nuclear hormone receptor family that is expressed in multiple cell types including T-cells. ROR plays a prominent role in the development and activity of the TH17 subset of T-cells, which secrete IL-17 and are associated with a variety of inflammatory disorders. Small molecule antagonists of ROR inhibit production of these pro-inflammatory cytokines and have broad potential as novel anti-inflammatory compounds.

The TGR5 license agreement and the amendment to the 2007 cancer collaboration agreement are subject to antitrust clearance under the Hart-Scott-Rodino Antitrust Improvements Act and other customary regulatory approvals.

About Exelixis

Exelixis, Inc. is a development-stage biotechnology company dedicated to the discovery and development of novel small molecule therapeutics for the treatment of cancer and other serious diseases. The company is leveraging its biological expertise and integrated research and development capabilities to generate a pipeline of development compounds with significant therapeutic and commercial potential for the treatment of cancer and potentially other serious diseases. Currently, Exelixis’ broad product pipeline includes investigational compounds in phase 3, phase 2, and phase 1 clinical development. Exelixis has established strategic corporate alliances with major pharmaceutical and biotechnology companies, including Bristol-Myers Squibb Company, sanofi-aventis, GlaxoSmithKline, Genentech (a wholly owned member of the Roche Group), Boehringer Ingelheim, and Daiichi-Sankyo. For more information, please visit the company’s web site at http://www.exelixis.com.

Exelixis and the Exelixis logo are registered U.S. trademarks.

{Insert Forward-Looking Statements}

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 10.77

COLLABORATION AGREEMENT

THIS COLLABORATION AGREEMENT (the "**Agreement**") is made and entered into as of October 8, 2010 (the "**Effective Date**") by and between **EXELIXIS, INC.,** a Delaware corporation having its principal place of business at 170 Harbor Way, P.O. Box 511, South San Francisco, California 94083-0511 ("**Exelixis**"), and **BRISTOL-MYERS SQUIBB COMPANY,** a Delaware corporation headquartered at 345 Park Avenue, New York, New York, 10154 ("**BMS**"). Exelixis and BMS are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. BMS is a multinational health care company that has expertise and capability in researching, developing and marketing human pharmaceuticals.

B. Exelixis is a drug discovery company that has expertise and proprietary technology relating to compounds that modulate the target known as ROR.

C. BMS and Exelixis desire to establish a collaboration to apply such Exelixis technology and expertise to the discovery, lead optimization and characterization of Small Molecule Compounds, and to provide for the development and commercialization of novel therapeutic and prophylactic products based on such compounds.

NOW, THEREFORE, the Parties agree as follows:

1. DEFINITIONS

Capitalized terms used in this Agreement (other than the headings of the **Sections** or **Articles**) have the following meanings set forth in this **Article 1**, or, if not listed in this **Article 1**, the meanings as designated in the text of this Agreement.

1.1 "Affiliate" means, with respect to a particular Party, a person, corporation, partnership, or other entity that controls, is controlled by or is under common control with such Party. For the purposes of the definition in this **Section 1.1**, the word "**control**" (including, with correlative meaning, the terms "**controlled by**" or "**under the common control with**") means the actual power, either directly or indirectly through one (1) or more intermediaries, to direct or cause the direction of the management and policies of such entity, whether by the ownership of at least fifty percent (50%) of the voting stock of such entity, by contract or otherwise.

1.2 "ANDA" means an Abbreviated New Drug Application submitted to the FDA in conformance with applicable laws and regulations, or the foreign equivalent of any such application in any other country.

1.3 "BMS Licensed Know-How" means all Information (other than Patents) Controlled by BMS and its Affiliates, including Information Controlled jointly with Exelixis, as of the

Effective Date or during the term of the Agreement that: (a) relates to a Licensed Compound, a composition containing a Licensed Compound, a formulation containing a Licensed Compound, or the manufacture or use of a Licensed Compound; and (b) is [*] for Exelixis to exercise the rights licensed to it under the Agreement or to perform its obligations under the Agreement.

1.4 "BMS Licensed Patents" means all Patents Controlled by BMS and its Affiliates, including Patents Controlled jointly with Exelixis, as of the Effective Date or during the term of this Agreement that: (a) cover a Licensed Compound, a composition containing a Licensed Compound, a formulation containing a Licensed Compound, or the manufacture or use of a Licensed Compound; and (b) are [*] for Exelixis to exercise the rights licensed to it under the Agreement or to perform its obligations under the Agreement.

1.5 "BMS ROR Compound" means: (a) any Small Molecule Compound that is an ROR Antagonist and is Controlled by BMS and/or its Affiliates as of the Effective Date or during the Term, wherein such compound (i) (1) [*] or [*] and/or [*] an ROR Antagonist [*] the [*] or (2) is [*] and [*] an ROR Antagonist (A) [*] or [*] and/or [*] in the [*] the [*] or (B) [*] or [*] and/or [*] in the [*] the [*], and (ii) is [*], a [*], or a [*] or [*]; or (b) any [*], or [*] of [*]. Those ROR Antagonists that are [*] Controlled by BMS and/or its Affiliates as of the Effective Date are set forth in the Disclosure Letter dated as of even date herewith.

1.6 "Change of Control" means any transaction in which a Party: (a) sells, conveys or otherwise disposes of all or substantially all of its property or business; or (b)(i) merges, consolidates with, or is acquired by any other Person (other than a wholly-owned subsidiary of such Party); or (ii) effects any other transaction or series of transactions; in each case of clause (i) or (ii), such that the stockholders of such Party immediately prior thereto, in the aggregate, no longer own, directly or indirectly, beneficially or legally, at least fifty percent (50%) of the outstanding voting securities or capital stock of the surviving Person following the closing of such merger, consolidation, other transaction or series of transactions. As used in this **Section 1.6, "Person"** means any corporation, firm, partnership or other legal entity or individual person.

1.7 "Collaboration" means all the activities performed by or on behalf of either Exelixis or BMS in the course of performing work contemplated in **Article 3, 4** or **5**.

1.8 "Collaborative Research Period" means the period described in **Section 3.2**.

1.9 "Commercialize" means to promote, market, distribute, sell (and offer for sale or contract to sell) or provide product support for a Product, including by way of example: (a) detailing and other promotional activities in support of a Product; (b) advertising and public relations in support of a Product, including market research, development and distribution of selling, advertising and promotional materials, field literature, direct-to-consumer advertising campaigns, media/journal advertising, and exhibiting at seminars and conventions; (c) developing reimbursement programs and information and data specifically intended for national accounts, managed care organizations, governmental agencies (e.g., federal, state and local), and other group purchasing organizations, including pull-through activities; (d) co-promotion activities not included in the above; (e) conducting Medical Education Activities and journal advertising; and (f) [*]. For clarity, **"Commercializing"** and **"Commercialization"** have a correlative meaning.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

1.10 "Controlled" means, with respect to any compound, material, Information or intellectual property right, that the Party owns or has a license to such compound, material, Information or intellectual property right and has the ability to grant to the other Party access, a license or a sublicense (as applicable) to such compound, material, Information or intellectual property right as provided for herein without violating the terms of any agreement or other arrangements with any Third Party existing at the time such Party would be first required hereunder to grant the other Party such access, license or sublicense.

1.11 "Decision Point [*]" or "[*]" means the point at which [*] decides whether to [*] a [*] to [*] to [*], including [*] of [*] or [*] and the [*] of [*] and [*] of [*] ([*], etc.) to that effort. At [*], the following [*]: (a) [*] or [*] with [*] and [*] (through [*]); (b) [*] to [*]; (c) [*] or [*]; (d) [*] in [*]; (e) [*] for the [*] through [*] and [*]; (f) [*] for [*] for [*]; and (g) [*].

1.12 "Derivative" means, for a particular ROR Antagonist, each ROR Antagonist that is [*] or [*] or [*] that are [*] of such ROR Antagonist.

1.13 "Development" means, with respect to a Product, those activities, including clinical trials, supporting manufacturing activities and related regulatory activities, that are [*] to: (a) obtain the approval by the applicable Regulatory Authorities of the Drug Approval Application with respect to such Product in the applicable regulatory jurisdiction, whether alone or for use together, or in combination, with another active agent or pharmaceutical product; or (b) maintain such approvals. To avoid confusion, Development [*]. For clarity, **"Develop"** and **"Developing"** have a correlative meaning.

1.14 "Diligent Efforts" means the carrying out of obligations or tasks in a sustained manner consistent with the commercially reasonable efforts a Party devotes to a product or a research, development or marketing project of similar market potential, profit potential or strategic value resulting from its own research efforts. Diligent Efforts requires that the Party: (a) [*], (b) [*], and (c) [*] with respect to such [*].

1.15 "Disclosure Letter" means one or more mutually agreed written letters or memoranda that are delivered by each of Exelixis and BMS to the other contemporaneously with or subsequent to the execution of this Agreement and are identified therein as a Disclosure Letter contemplated by this Agreement and any amendments or replacement thereof approved in writing by both Parties.

1.16 "Dollars" or **"$"** means the legal tender of the United States.

1.17 "Drug Approval Application" or "**DAA**" means: (a) in the United States, an NDA (or a supplemental NDA for following indications), and (b) in any other country or regulatory jurisdiction, an equivalent application for regulatory approval required before commercial sale or use of a Product (or with respect to a subsequent indication) in such country or regulatory jurisdiction.

1.18 "[*]" or **"[*]"** means the point at which [*] decides whether to [*] a [*] to [*] to [*]. This decision point is known [*] as "**Decision Point [*]**" or "[*]". This decision point

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

is typically made [*] to [*] prior to the [*] of the [*] for such [*]. For such a [*], the relevant [*] for such [*] shall [*] include: (a) [*] of [*] in [*]; (b) [*] that [*] and is [*] to be [*]; (c) [*] that [*] includes [*] and [*] and [*] to [*], [*], [*] and [*]; and (d) [*], and [*] and [*], including [*] and [*]. For clarity, [*] (whether [*] or [*] or [*]) shall be [*] at [*]; however, [*] must be [*] a [*]. Typically, the [*] shall also be [*] and deemed suitable for [*].

1.19 "EMEA" means BMS' European, Central and Eastern European, Middle Eastern and African commercial territory, consisting of the following countries and regions: Algeria, Andorra, Austria, Baltic States, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Liechtenstein, Luxembourg, Malta, Morocco, Netherlands, Norway, Poland, Portugal, Romania, Russia, Saudi Arabia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, U.K., Ukraine, Vatican City, Lebanon, Jordan, Syria, Kuwait, Bahrain, Oman, UAE and Qatar. The EMEA also includes: (a) the former Soviet Union and commonwealth of independent states such as Georgia, Armenia and central Asian republics; and (b) exports from France to English and French speaking African countries not separately identified in the list. For clarity, the specific list of countries and regions may change to align with any corresponding changes to BMS' business structures.

1.20 "EU" means the European Union, as its membership may be altered from time to time, and any successor thereto. The member countries of the European Union as of the Effective Date are Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

1.21 "Executive Officers" means: (a) in the case of Exelixis, the [*] of Exelixis; and (b) in the case of BMS, [*].

1.22 "Exelixis ROR Compound" means:

(a) any Small Molecule Compound that is an ROR Antagonist and is Controlled by Exelixis and/or its Affiliates as of the Effective Date or during the Term, wherein such compound (i) [*] an ROR Antagonist [*] or [*] and/or [*] the [*]; (ii) [*] an ROR Antagonist [*] or [*] and/or [*] in the [*] the [*] and is [*] a Small Molecule Compound that [*] or [*] and/or [*] an ROR Antagonist [*] the [*]; or (iii) is [*] or [*] and such [*] an ROR Antagonist (A) [*] or [*] and/or [*] in the [*] the [*] or (B) [*] or [*] and/or [*] in the [*] the [*];

(b) any [*] or [*] that is an ROR Antagonist and is [*] or [*] and/or [*] the [*] or [*], wherein such [*] (i) [*] an ROR Antagonist [*] or [*] and/or [*] the [*]; or (ii) [*] an ROR Antagonist [*] or [*] and/or [*] in the [*] the [*];

(c) any [*] or a [*], wherein such [*] is [*] or [*] and/or [*] the [*] or [*] and such [*] an ROR Antagonist (i) [*] or [*] and/or [*] in the [*] the [*] or (ii) [*] or [*] and/or [*] in the [*] the [*]; or

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(d) any [*], or [*] of [*] or [*].

Those ROR Antagonists that are [*] Controlled by Exelixis and/or its Affiliates as of the Effective Date are set forth in the Disclosure Letter dated as of even date herewith.

1.23 "Exelixis Licensed Know-How" means all Information (other than Patents) Controlled by Exelixis and its Affiliates, including Information Controlled jointly with BMS, as of the Effective Date or during the term of this Agreement that: (a) relates to a Licensed Compound, a composition containing a Licensed Compound, a formulation containing a Licensed Compound, or the manufacture or use of a Licensed Compound; and (b) is [*] for BMS to exercise the rights licensed to it under the Agreement or to perform its obligations under the Agreement.

1.24 "Exelixis Licensed Patents" means all Patents Controlled by Exelixis and its Affiliates, including Patents Controlled jointly with BMS, as of the Effective Date or during the term of this Agreement that: (a) cover a Licensed Compound, a composition containing a Licensed Compound, a formulation containing a Licensed Compound, or the manufacture or use of a Licensed Compound; and (b) are [*] for BMS to exercise the rights licensed to it under the Agreement or to perform its obligations under the Agreement.

1.25 "FDA" means the U.S. Food and Drug Administration, and any successor thereto.

1.26 "GAAP" means U.S. generally accepted accounting principles, consistently applied.

1.27 "[*]" means, with respect to a particular Product in a country, [*]: (a) [*] such Product (or [*]) and [*]; (b) is [*] ([*] or [*]); and (c) is [*] or [*] a [*].

1.28 "IND" means an Investigational New Drug Application submitted to the FDA in conformance with applicable laws and regulations, or the foreign equivalent of any such application in any other country.

1.29 "Information" means information, results and data of any type whatsoever, in any tangible or intangible form whatsoever, including, preclinical data, clinical trial data, databases, practices, methods, techniques, specifications, formulations, formulae, knowledge, know-how, skill, experience, test data including pharmacological, biological, chemical, biochemical, toxicological and clinical test data, analytical and quality control data, stability data, studies and procedures. For clarity, Information does not include any Patents.

1.30 "Invention" means any and all inventions and improvements, whether or not patentable, that are conceived or reduced to practice or otherwise made by or on behalf of a Party (and/or its Affiliates) in the performance of its obligations, or the exercise of its rights, under this Agreement.

1.31 "Joint Invention" means any Invention invented or discovered jointly by or on behalf of the employee(s), contractor(s) or agent(s) of both Parties (and/or their Affiliates).

1.32 "Joint Research Committee" or **"JRC"** means the committee described in **Section 2.1**.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

1.33 "Knowledge" means, with respect of a Party, the [*] facts and information [*], or any [*] of, or [*], [*], [*] execution of this Agreement. For purposes of this definition, [*] means any person in the [*] of a Party.

1.34 "Launch" means, for each Product in each country, the first arm's-length sale to a Third Party for use or consumption by the public of such Product in such country after Regulatory Approval of such Product in such country. A Launch shall not include any Product sold for use in clinical trials, for research or for other non-commercial uses, or that is supplied as part of a compassionate use or similar program.

1.35 "Licensed Compound" means any BMS ROR Compound or Exelixis ROR Compound.

1.36 "**LXR Collaboration Agreement**" means the Collaboration Agreement between Exelixis and BMS, executed as of December 5, 2005, as amended.

1.37 "[*]" means [*] or [*] to the [*] that [*] the [*] set forth in [*] of the [*].

1.38 "Major European Countries" means France, Germany, Spain, Italy, and the United Kingdom.

1.39 "Major Territory" means each of the following territories: (a) [*].

1.40 "Manufacturing" means all activities related to the production, manufacture, processing, filling, finishing, packaging, labeling, inspection, receiving, holding and shipping of Licensed Compounds, Products, or any raw materials or packaging materials with respect thereto, or any intermediate of any of the foregoing, including process and cost optimization, process qualification and validation, commercial manufacture, stability and release testing, quality assurance and quality control. For clarity, **"Manufacture"** has a correlative meaning.

1.41 "Materials" means: (a) Licensed Compounds; and (b) biological materials, including but not limited to cell-lines, reagents, genes, vectors and constructs, that are in Exelixis' Control and that were used by Exelixis in the performance of its obligations under the Research Plan.

1.42 "NDA" means a New Drug Application submitted to the FDA in conformance with applicable laws and regulations.

1.43 "Net Sales" means the amount invoiced or otherwise billed by BMS, or its Affiliate or sublicensee, for sales or other commercial disposition of a Product to a Third Party purchaser, less the following to the extent included in such billing or otherwise actually allowed or incurred with respect to such sales: (a) discounts, including cash, trade and quantity discounts, price reduction programs, retroactive price adjustments with respect to sales of a product, charge-back payments and rebates granted to managed health care organizations or to federal, state and local governments (or their respective agencies, purchasers and reimbursers) or to trade customers, including but not limited to, wholesalers and chain and pharmacy buying groups; (b) credits or allowances actually granted upon rejections or returns of Products, including for recalls or damaged

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

goods; (c) freight, postage, shipping and insurance charges actually allowed or paid for delivery of Products, to the extent billed; (d) customs duties, surcharges and other governmental charges incurred in connection with the exportation or importation of a Product; (e) bad debts relating to sales of Products that are actually written off by BMS in accordance with GAAP during the applicable calculation period; (f) costs due to the factoring of receivables; and (g) taxes, duties or other governmental charges levied on, absorbed or otherwise imposed on sale of Products, without limitation any fees payable under the Health Care Reform Act of 2010, value-added taxes, or other governmental charges otherwise measured by the billing amount, when included in billing, as adjusted for rebates and refunds, but specifically excluding taxes based on net income of the seller; provided that all of the foregoing deductions are calculated in accordance with GAAP.

Notwithstanding the foregoing, if any Product is sold under a bundled or capitated arrangement with other BMS products, then, solely for the purpose of calculating Net Sales under this Agreement, any discount on such Products sold under such an arrangement shall be [*] for the applicable accounting period. In case of any dispute as to the applicable [*] under the preceding sentence, the determination of same shall be calculated and certified by [*], whose decision shall be binding.

A sale of a Product is deemed to occur upon invoicing. [*].

For sake of clarity and avoidance of doubt, sales by BMS, its Affiliates or sublicensees of a Product to [*]. Any Products [*] considered in determining Net Sales hereunder.

In the event a Product is sold as an end-user product consisting of a combination of active functional elements or as a combined product and/or service, Net Sales allocable to the Product in each such country, for purposes of determining royalty payments on such Product, shall be determined by mutual agreement reached in good faith by the Parties prior to the end of the accounting period in question based on an equitable method of determining such Net Sales that takes into account, on a country-by-country basis, variations in potency, the relative contribution of each active agent, component or service, as the case may be, in the combination, and relative value to the end user of each active agent, component or service, as the case may be. Notwithstanding the foregoing, the Parties agree that, for purposes of this paragraph, drug delivery vehicles, adjuvants, and excipients shall not be deemed to be "**active ingredients**" or "**active functional elements**".

1.44 "[*]" means a [*] or [*] to the [*] that [*] the [*] set forth in [*] of the [*].

1.45 "Patent" means all: (a) unexpired letters patent (including inventor's certificates and utility models) which have not been held invalid or unenforceable by a court or other applicable governmental authority of competent jurisdiction from which no appeal can be taken or has been taken within the required time period (and which have not been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise, or been abandoned in accordance with or as permitted by the terms of this Agreement or by mutual written agreement), including any substitution, extension, registration, confirmation, reissue, re-examination, supplementary protection certificates, confirmation patents, patent of additions, renewal or any like filing thereof; (b) pending applications for letters patent which have not been canceled, withdrawn from consideration, finally determined to be unallowable by the applicable governmental authority or court for whatever reason (and from which no appeal is or can be taken), and/or abandoned in accordance with or as permitted by the terms of this Agreement or by mutual written consent,

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

including any continuation, division or continuation-in-part thereof and any provisional or other priority applications; and (c) any international counterparts, and counterparts in any country, to clauses (a) and (b) above.

1.46 "Phase IIb Clinical Trial" means a clinical trial of a Product on sufficient numbers of patients that is designed to provide a preliminary determination of safety and efficacy of such Product in the target patient population over a range of doses and dose regimens.

1.47 "Phase III Clinical Trial" means a clinical trial of a Product on sufficient numbers of patients that is designed to establish that such Product is safe and efficacious for its intended use**,** and to define warnings, precautions and adverse reactions that are associated with such Product in the dosage range to be prescribed, and to support Regulatory Approval of such Product or label expansion of such Product.

1.48 "Phase IV Clinical Trial" means a product support clinical trial of a Product commenced after receipt of Regulatory Approval in the country where such trial is conducted. A Phase IV Clinical Trial may include epidemiological studies, modeling and pharmacoeconomic studies, and investigator-sponsored clinical trials studying Product that are approved by BMS and that otherwise fit the foregoing definition.

1.49 "Post-Termination Compound" means any ROR Antagonist for which [*] such compound in any of the following time periods after the expiration or termination of the Agreement: (i) within [*] thereafter in the event the Agreement expires or terminates prior to the [*] anniversary of the Effective Date; (ii) within [*] thereafter in the event the Agreement expires or terminates on or after the [*] anniversary and prior to the [*] anniversary of the Effective Date; (iii) within [*] thereafter in the event the Agreement terminates on or after [*] anniversary and prior to the [*] anniversary of the Effective Date; and (iv) within [*] in the event the Agreement terminates on or after the [*] anniversary of the Effective Date. For clarity, Post-Termination Compounds shall not include: (A) any compound with respect to which [*] such compound [*] and [*] the [*] any [*] or [*] or [*]; or (B) any compound that [*] or [*] that is [*] and that is [*] under **Article [*]** of this Agreement.

1.50 "**Product**" means any human pharmaceutical product containing or comprising a Licensed Compound, either alone or with other active ingredients and in all forms, presentations, formulations and dosage forms.

1.51 "Registrational Trial" means, with respect to a given Product, either: (a) a Phase III Clinical Trial with such Product; or (b) a Phase IIb Clinical Trial that, at the time of commencement, is expected to be the basis for initial Regulatory Approval of such Product.

1.52 "Regulatory Approval" means any and all approvals (including Drug Approval Applications, supplements, amendments, pre- and post-approvals, pricing and reimbursement approvals), licenses, registrations or authorizations of any Regulatory Authority, national, supra-national (e.g., the European Commission or the Council of the EU), regional, state or local regulatory agency, department, bureau, commission, council or other governmental entity, that are necessary for the manufacture, distribution, use or sale of a Product in a regulatory jurisdiction.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

1.53 "Regulatory Authority" means the applicable national (e.g., the FDA), supra-national (e.g., the European Commission or the Council of the EU), regional, state or local regulatory agency, department, bureau, commission, council or other governmental entity that, in each case, governs the approval of a Product in such applicable regulatory jurisdiction.

1.54 "Research" means the following activities: (a) identifying Small Molecule Compounds as [*] that [*] and [*] ROR by [*]; (b) conducting a [*] program to [*] such [*] to [*] that [*] and [*] ROR (including the conduct of [*] and [*] studies, and [*] studies); and (c) conducting [*] on [*] to [*] for [*] (including the conduct of [*] studies, and related [*] and [*] activities). To avoid confusion, Research does not include the conduct of Development.

1.55 "Reverted Compound" means: (a) any Licensed Compound that has [*] prior to the effective date of termination of this Agreement; and (b) any Licensed Compound that: (i) has [*] prior to the effective date of termination of this Agreement; and (ii) are [*].

1.56 "Reverted Compounds License Agreement" has the meaning set forth in **Section 11.5(a)(v)**.

1.57 "ROR" means: (a) the RAR-related orphan receptor [*] gene, otherwise known as the [*] gene, ([*]); (b) the RAR-related orphan receptor [*] (otherwise known as [*] or [*]) and RAR-related orphan receptor [*] (otherwise known as [*] or [*]) proteins encoded by such gene (**"[*]"**); (c) the RAR-related orphan receptor [*] (otherwise known as [RORa) including all RAR-related orphan receptor [*] (otherwise known as [*]) proteins encoded by such gene (**"[*]"**); and (d) all [*] and [*] thereof.

1.58 "**ROR Antagonist**" means any Small Molecule Compound that (a) directly binds and antagonizes (or is an inverse agonist of) ROR at the Target Potency Threshold and (b) is specific for ROR, based upon the Target Specificity Threshold.

1.59 "Small Molecule Compound" means a small molecule compound [*] or [*]. For clarity, [*], shall be considered Small Molecule Compounds.

1.60 "Sole Invention" means any Invention invented or discovered solely by or on behalf of a Party (or its Affiliate) and its employees, contractors and/or agents.

1.61 "Success Criteria" has the meaning set forth in **Section 3.3(b)**.

1.62 "Target Potency Threshold" means, with respect to a Small Molecule Compound, that such Small Molecule Compound [*] and [*] (or [*] of) the activity of ROR with a half maximal inhibitory concentration ("**IC_{50}**") of less than or equal to [*] in the [*] using [*].

1.63 "Target Specificity Threshold" means, with respect to a Small Molecule Compound, that such Small Molecule Compound demonstrates, in a [*] or [*], [*] ROR [*], [*] (i.e., the RAR-related orphan receptor [*] gene, otherwise known as the [*] gene, and the protein encoded by such gene) (**"ROR [*]"**).

1.64 "Territory" means the world.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

1.65 "Third Party" means any entity other than: (a) Exelixis; (b) BMS; or (c) an Affiliate of either Party.

1.66 "United States" or **"U.S."** means the United States of America, and its territories, districts and possessions.

1.67 "Valid Claim" means: (a) a claim in an issued Patent that has not: (i) expired or been canceled; (ii) been declared invalid by an unreversed and unappealable or unappealed decision of a court or other appropriate body of competent jurisdiction; (iii) been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise; or (iv) been abandoned in accordance with or as permitted by the terms of this Agreement or by mutual written agreement of the Parties; or (b) a claim under an application for a Patent that has been pending [*], and, in any case, which has not been canceled, withdrawn from consideration, finally determined to be unallowable by the applicable governmental authority or court for whatever reason (and from which no appeal is or can be taken), or abandoned.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Additional Definitions

The following table identifies the location of definitions set forth in various **Sections** of the Agreement.

Definition	Location (Section)
Alliance Manager	**2.3(a)**
Bankrupt Party	**14.6(a)**
[*]	**[*]**
[*]	**[*]**
BMS Independent Program	**5.1(b)**
[*]	**[*]**
Confidential Information	**10.1**
Cost-Terminated Patent Right	**7.7(d)(iii)**
[*] Notice	**[*]**
[*] Notice	**[*]**
EDI	**14.11**
[*]	**[*]**
Exelixis Sole Patent	**7.8(a)(i)**
Indemnitee	**13.3**
JAMS	**14.3(c)**
Joint Invention Patents	**7.5(b)**
Joint Product Patent	**7.8(b)(i)(1)**
Letter Agreement	**14.4**
[*]	**[*]**
Losses	**13.1**
Other Joint Patent	**7.8(b)(ii)(1)**
Permitted Use	**4.2(b)**
Prior CDA	**10.4**
Proposed Terms	**14.3(d)**
Research Plan	**3.3(a)**
ROR Technology	**4.1**
Royalty Term	**8.8**
[*]	**[*]**
Sales Threshold	**8.2(b)**
Separable Compounds	**7.7(a)(v)**
Sole Invention Patents	**7.5(b)**
Support Memorandum	**14.3(c)**
Term	**11.1**
TGR5 License Agreement	**14.4**
[*]	**[*]**
Title 11	**14.6(a)**
Transfer Addendum	**4.2(d)**
Unauthorized Invention	**4.2(c)**

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

2. GOVERNANCE

2.1 Joint Research Committee.

(a) Membership of JRC. The JRC shall be composed of four (4) members. Within [*] after the Effective Date, each Party shall appoint two (2) representatives to the JRC. Each Party may replace its appointed JRC representatives at any time upon written notice to the other Party. Each Party shall designate one (1) of its representatives as co-chairperson of the JRC. Each of the co-chairpersons shall be responsible, on an alternating basis with the BMS co-chairperson having responsibility with respect to the initial meeting, for working with the Alliance Managers to schedule meetings, prepare and circulate an agenda in advance of each meeting, and to prepare and issue minutes of each meeting within [*] thereafter. Any JRC member may add topics to the draft agenda.

(b) Decision-making. The two (2) JRC representatives of each Party shall collectively have one (1) vote, and the JRC shall operate by unanimous consent of all JRC members present and in accordance with the principles set forth in this **Article 2**. The JRC shall not have any authority or jurisdiction to amend, modify, or waive compliance with this Agreement, any of which shall require mutual written agreement of the Parties. In the event of a dispute between the Parties with regard to the performance of the Collaboration, the matter shall be first referred to the Alliance Managers for resolution. If these two (2) individuals are unable to resolve the dispute, then the matter shall be elevated to the [*] of Exelixis and the [*] of BMS (or in either case a direct report of such individual). If these two (2) individuals are unable to resolve the dispute, then, subject to the last sentence of this **Section 2.1(b)** and to **Section 2.1(c)**, [*] shall have the final decision for [*] disputes relating to the [*] or [*] of the [*], so long as such decision does not [*] or conflict with the terms of the Agreement, the Parties shall mutually agree as to the [*] of the [*] of [*] that [*] the [*] under the [*], and [*] shall have the final decision with respect to [*] disputes with respect to the [*], so long as such decision does not conflict with the terms of the Agreement. Notwithstanding anything to the contrary, no decision by a Party shall (i) require the other Party to: (1) [*] or [*] that such other Party [*] or [*]; (2) [*] that are [*] or [*] those [*] the [*]; or (3) [*] any [*] (e.g., [*] of the [*] for [*] in the [*] for [*]) in connection with [*] of [*] the [*], or [*] associated with such [*]; or (ii) amend, modify, or waive such Party's compliance with, this Agreement, any of which shall require mutual written agreement of the Parties.

(c) Exceptions to Decision-making. Notwithstanding anything to the contrary, [*] shall not have the final decision with respect to any dispute involving any of the following: (i) [*] of the [*] the [*] and [*] of [*] the [*] and [*] of [*]; (ii) changing the [*]; (iii) changing [*] for [*] in a manner that [*] for [*] that are [*] with [*] for the [*] the [*]; (iv) whether the [*] by [*] pursuant to [*] that a [*] the [*]; (v) changing the [*] in a manner that [*] that are [*] with [*] for the [*] the [*]; (vi) whether the [*] by [*] pursuant to [*] that a [*] the [*]; (vii) changing the [*] or the [*]; or (viii) changing the [*] the [*] so as to modify [*] (including [*]) under the [*], or the [*] associated therewith.

(d) Responsibilities of the JRC. The JRC shall be responsible for the overall planning and execution of the Collaboration and the approval and oversight of the Research Plan.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

At its meetings, the JRC shall evaluate the Parties' progress in carrying out the Research Plan and the data generated by the Parties in the course of carrying out the Research Plan, shall discuss and approve project prioritization within the Research Plan, shall discuss and approve any revisions to the Research Plan, and shall perform those activities specifically described in this Agreement. To the extent necessary to carry out its responsibilities, a Party's JRC members shall be granted access to the other Party's Confidential Information relevant to any decision required to be made by the JRC.

2.2 Meetings of JRC. During the Collaborative Research Period, the JRC shall meet [*] by audio or video teleconference and, at a minimum, [*] in person (which in-person meeting shall be held on an alternating basis in New Jersey and in San Francisco). With the consent of the representatives of each Party serving on the JRC, other representatives of each Party may attend meetings of the JRC as nonvoting observers (provided such representatives: (i) have contractual confidentiality obligations to such Party that are at least as stringent as those set forth in this Agreement; and (ii) are under intellectual property assignment obligations to such Party in accordance with **Section 7.5(c)**). Meetings of the JRC shall be effective only if at least one (1) representative of each Party is present or participating. Each Party shall be responsible for all of its own expenses of participating in JRC meetings. The Parties shall endeavor to schedule meetings of the JRC at least [*] in advance. Upon the conclusion of the Collaborative Research Period, the JRC shall be discontinued.

2.3 Alliance Managers.

(a) Appointment. Each of the Parties shall appoint an individual (each, an "**Alliance Manager**") who possesses a general understanding of the scientific and business issues relevant to this Agreement. Each Party may change its designated Alliance Manager from time to time upon prior written notice to the other Party. Any Alliance Manager may designate a substitute to temporarily perform the functions of that Alliance Manager by prior written notice to the other Party.

(b) Responsibilities. The Alliance Managers shall use good faith efforts to attend all JRC meetings and support the co-chairpersons of the JRC in the discharge of their responsibilities. Alliance Managers shall be nonvoting participants in JRC meetings. An Alliance Manager may bring any matter to the attention of the JRC if such Alliance Manager reasonably believes that such matter warrants such attention. Each Alliance Manager shall be charged with creating and maintaining a collaborative work environment within the JRC. In addition, each Alliance Manager: (a) shall be the point of first referral in all matters of conflict resolution; (b) shall identify and bring disputes to the attention of the JRC in a timely manner; (c) shall plan and coordinate cooperative efforts and internal and external communications; and (d) shall take responsibility for ensuring that governance activities, such as the conduct of required JRC meetings and production of meeting minutes, occur as set forth in this Agreement, and that relevant action items resulting from such meetings are appropriately carried out or otherwise addressed.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

3. RESEARCH COLLABORATION.

3.1 Overview. The general goals and intent of the research portion of the Collaboration are to apply each Party's technology to discover, optimize and characterize ROR Antagonists that may be developed into Products by BMS. Each Party shall use Diligent Efforts to carry out its research responsibilities in accordance with the allocation of duties set forth in the Research Plan, including responsibilities for [*], [*] and [*] of Licensed Compounds and activities to be conducted by the Parties that lead to the submission by Exelixis of data to BMS [*].

3.2 Collaborative Research Period. Subject to termination of this Agreement pursuant to **Section 11.2** or **11.3** (which will in turn terminate the Collaborative Research Period), the Collaborative Research Period shall begin on the Effective Date and shall, unless otherwise agreed by the Parties, terminate as follows (such period, the **"Collaborative Research Period"**):

(a) In the event that [*] as of third (3rd) anniversary of the Effective Date, then the Collaborative Research Period shall end on such third (3rd) anniversary of the Effective Date.

(b) In the event that [*] prior to the third (3rd) anniversary of the Effective Date, then the Collaborative Research Period shall end upon the earlier of (i) the second (2nd) anniversary of the date on which in such series of Licensed Compounds has achieved [*], or (ii) achievement of the first [*] for a Licensed Compound.

During the Collaborative Research Period, each Party shall use Diligent Efforts to perform the tasks assigned to it in the Research Plan then in effect. For clarity, upon [*], Exelixis shall be deemed to have fulfilled its obligations under the Research Plan.

3.3 Research Plan; Success Criteria.

(a) The Parties have agreed in writing upon a detailed plan for the research to be carried out by the Parties during the Collaborative Research Period, which is set forth in the Disclosure Letter and incorporated herein by reference (the "**Research Plan**"). The Research Plan includes each Party's respective obligations in furtherance of the research portion of the Collaboration and timelines for completion of key stages. The JRC shall review the Research Plan at least [*] and may propose and approve, subject to **Sections 2.1(b)** and **2.1(c)**, a revised version of the Research Plan that is consistent with the terms of this Agreement. Once approved by the JRC, such revised Research Plan shall replace the prior Research Plan.

(b) The Research Plan shall also contain criteria that a Licensed Compound must satisfy in order for BMS to make the [*] decision (each set of criteria, "**Success Criteria**"). Any Success Criteria that are not reasonably ascertainable or completely known as of the Effective Date, or requiring adjustment based on results obtained during the conduct of the Research Plan, shall be supplemented and/or modified as approved by mutual agreement of the JRC from time to time as appropriate.

3.4 Activities and Costs under the Research Plan.

(a) The Parties intend: (i) for Exelixis to perform [*] activities during the "[*]"

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

phase of the Research Plan, including [*] of certain [*], known as "[*]" and "[*]" in the [*], that were [*] or [*] pursuant to the [*] (with [*] the [*] to [*] activities with respect to such [*] pursuant to the [*]); (ii) for Exelixis to perform the [*] activities in "[*]" phase of the Research Plan, which may include [*] of [*] that were [*] and [*] as [*] to the [*]; and (iii) for the Parties, after [*], to jointly perform the "[*]" phase of the Research Plan, in each case as set forth in more detail in the Research Plan. Exelixis shall provide no less than the minimum number of FTEs for the periods and activities set forth in the Research Plan, and shall continue to support the Research Plan using Diligent Efforts upon the expiration of any such period until the conclusion of the Collaborative Research Period, and BMS shall provide adequate resources to meet its activities set forth in the Research Plan.

(b) Each Party shall bear its own internal and out-of-pocket costs and expenses incurred in connection with the conduct of the activities assigned to it under the Research Plan.

3.5 [*]. Promptly after the Parties' activities pursuant to the Research Plan generate data demonstrating that a particular series of Licensed Compounds meets the Success Criteria for [*], and subsequent to activities in **Section 3.7**, Exelixis shall submit such data to BMS. BMS shall promptly (and in good faith) review such data, and, within [*] of such submission, shall notify Exelixis in writing if BMS believes in good faith that such data do not demonstrate that such series of Licensed Compounds [*], which notice shall specify the deficiencies in such data that cause it not to demonstrate that such series of Licensed Compounds [*] (such notice, a "[*] **Notice**"). If Exelixis does not receive [*] Notice from BMS by the end of such 30-day period, then BMS will, as of the end of such 30-day period, be deemed to have agreed that the series of Licensed Compounds [*] (**"[*]"**) and BMS shall be obligated to [*] set forth in **Section [*]** no later than [*] after the end of such period. If Exelixis receives [*] Notice within such [*] period and it disagrees with BMS' assessment of such data, then such dispute shall be resolved by a mutually acceptable independent Third Party expert. Such Third Party expert shall determine, within [*] of receipt of the data submitted by Exelixis to BMS pursuant to this **Section 3.5** and the [*], whether such data demonstrate that such series of Licensed Compounds [*], and the Parties agree that such Third Party expert's determination on this issue shall be final, binding, and determinative. The Party against whom the Third Party expert rules shall bear all costs of such Third Party determination. If such Third Party expert determines that data submitted by Exelixis to BMS pursuant to this **Section 3.5** demonstrate that such series of Licensed Compounds [*], then BMS will, as of the date of such determination, be deemed to have made a [*] and BMS shall be obligated to [*] set forth in **Section [*]** no later than [*] after the date of such determination. If such Third Party expert determines that data submitted by Exelixis to BMS pursuant to this **Section 3.5** does not demonstrate that such series of Licensed Compounds [*], then [*] will not have occurred and the parties shall continue to work under the Research Plan in order to [*].

3.6 [*]. Promptly after the Parties' activities pursuant to the Research Plan generate data demonstrating that a particular Licensed Compound [*], Exelixis shall submit such data to BMS. BMS shall promptly (and in good faith) review such data, and, within [*] of such submission, shall notify Exelixis in writing if BMS believes in good faith that such data do not demonstrate that such Licensed Compound [*], which notice shall specify the deficiencies in such data that cause it not to demonstrate that such Licensed Compound [*] (such notice, an "[*] **Notice**"). If Exelixis does not receive [*] Notice from BMS by the end of such [*] period, then BMS will, as of the end of such [*] period, be deemed to have agreed the Licensed Compound [*

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

] (**"[*]"**) and BMS shall be obligated to [*] set forth in **Section [*]** no later than [*] after the end of such period. If Exelixis receives [*] Notice within such [*] period and it disagrees with BMS' assessment of such data, then such dispute shall be resolved by a mutually acceptable independent Third Party expert. Such Third Party expert shall determine, within [*] of receipt of the data submitted by Exelixis to BMS pursuant to this **Section 3.6** and [*], whether such data demonstrate that such Licensed Compound [*], and the Parties agree that such Third Party expert's determination on this issue shall be final, binding, and determinative. The Party against whom the Third Party expert rules shall bear all costs of such Third Party determination. If such Third Party expert determines that data submitted by Exelixis to BMS pursuant to this **Section 3.6** demonstrate that such Licensed Compound [*], then BMS will, as of the date of such determination, be deemed to have made a [*] and BMS shall be obligated to make the milestone payment set forth in **Section [*]** no later than [*] after the date of such determination. If such Third Party expert determines that data submitted by Exelixis to BMS pursuant to this **Section 3.6** does not demonstrate that such Licensed Compound [*], then [*] will not have occurred and the parties shall continue to work under the Research Plan in order to [*].

3.7 Review of Licensed Compounds. Prior to any determination whether a Licensed Compound meets the Success Criteria for [*], Exelixis shall review the results of all [*] assays for [*] conducted by either Party for a compound that is expected to progress to [*]. BMS shall provide Exelixis with the results of all [*] assays conducted by or on behalf of relating to [*] for each [*] Licensed Compound, and sufficient samples of each [*] Licensed Compound to have such assays conducted. Exelixis may use such results and samples for the sole purpose of performing assays to verify that such [*] Licensed Compound [*] of [*] any [*] for [*] to any [*] (**"[*]"**). Exelixis shall be responsible for having such assays conducted [*] associated with such assays. If Exelixis notifies BMS in writing within [*] of receiving a sample of a submitted [*] Licensed Compound that such Licensed Compound [*], then BMS shall [*] or [*] such Licensed Compound, and [*] to [*] such Licensed Compound shall [*] ([*] to such Licensed Compound); *provided*, *however*, that BMS [*] such Licensed Compound [*] in [*] to [*] the [*] such Licensed Compound. For clarity, (i) nothing in this **Section 3.7** shall be [*] conducting screening activities, at any time, with respect to Licensed Compounds in order to determine whether Licensed Compounds [*], and (ii) BMS may [*] and [*] with respect to any such submitted [*] Licensed Compound during such review period prior to receiving any such written notice from Exelixis. In the event that Exelixis does not provide written notice to BMS with respect to the [*] submitted [*] Licensed Compound within such [*] period, then BMS shall [*] and [*] such Licensed Compound [*] and [*] in [*]. Notwithstanding the foregoing, Exelixis shall use commercially reasonable efforts to notify BMS as soon as practicable in the event that Exelixis becomes aware in the course of performing its obligations under the Research Plan during the Collaborative Research Period that a Licensed Compound [*].

3.8 Obligations of Parties. Exelixis and BMS shall provide the JRC and its authorized representatives with reasonable access during regular business hours to all records, documents, and Information relating to the performance under the Collaboration, which the JRC may reasonably require in order to perform its obligations hereunder, provided that if such documents are under a bona fide obligation of confidentiality to a Third Party, then Exelixis or BMS, as the case may be, may withhold access thereto to the extent necessary to satisfy such obligation.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

3.9 Collaboration Guidelines. Subject to the terms of this Agreement, the activities and resources of each Party shall be managed by such Party, acting independently and in its individual capacity. The relationship between Exelixis and BMS is that of independent contractors, and shall not constitute a partnership, joint venture or agency, and neither Party shall have the power to bind or obligate the other Party in any manner, other than as is expressly set forth in this Agreement.

3.10 Conduct of Research. The Parties shall use Diligent Efforts to conduct their respective tasks throughout the Collaboration and shall conduct the Collaboration in good scientific manner, and in compliance in all material respects with the requirements of applicable laws, rules and regulations and all applicable good laboratory practices to attempt to achieve their objectives as efficiently and expeditiously as reasonably practicable. Each Party may use its Affiliates or subcontractors, contract manufacturers, services providers or other Third Parties to complete its research responsibilities under the Research Plan, except that Exelixis shall not be permitted to use Third Party contractors to complete the respective tasks of the minimum Exelixis FTEs specifically set forth in the Research Plan without the approval of the JRC.

3.11 Records. Each Party shall maintain complete and accurate records of all work conducted under the Collaboration and all results, data and developments made pursuant to its efforts under the Collaboration. Such records shall be complete and accurate and shall fully and properly reflect all work done and results achieved in the performance of the Collaboration in sufficient detail and in good scientific manner appropriate for patent and regulatory purposes. Each Party shall maintain such records for a period of [*] after such records are created; provided that the following records may be maintained for a longer period, in accordance with each Party's internal policies on record retention, provided that in no case shall such period be shorter than [*] from the date of creation of such records: (a) scientific notebooks; and (b) any other records that the other Party reasonably requests be retained in order to ensure the preservation, prosecution, maintenance or enforcement of intellectual property rights. Either Party shall have the right to review and copy such records of the other Party at reasonable times to the extent necessary or useful for it to conduct its obligations or enforce its rights under this Agreement.

3.12 Reports. During the Collaborative Research Period, each Party shall report to the JRC no less than [*] and shall submit to the other Party and the JRC [*] written progress report summarizing the work performed under the Collaboration. If reasonably necessary for a Party to perform its work under the Collaboration or to exercise its rights under the Agreement, such Party may request that the other Party provide more detailed information and data regarding such results reported by such other Party, and such other Party shall promptly provide the requesting Party with information and data as is reasonably related to such request, including any records created by a Party pursuant to **Section 3.11**. All such reports shall be considered Confidential Information of the Party providing same.

4. TRANSFER OF ROR TECHNOLOGY

4.1 General. For a period beginning on the Effective Date and ending [*] after the end of the Collaborative Research Period, Exelixis shall use Diligent Efforts to transfer to BMS, solely in accordance with **Section 4.2**, all items of Materials or Information that are in Exelixis' possession and Control and that are [*] for BMS to research or clinically develop or manufacture Licensed

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Compounds (such Information and Materials, "**ROR Technology**"); provided that subsequent to such [*] period, Exelixis will use commercially reasonable efforts to transfer Information and Materials that are requested by BMS for purposes of making a regulatory filing or patent application and that are in Exelixis' possession and Control (as of the date of such request). BMS may request such a transfer in writing pursuant to **Section 4.2**. Additionally, BMS may request that Exelixis provide a reasonable amount of on-site advice or support in connection with the foregoing transfer until the date which is [*] subsequent to the [*], and BMS shall reimburse Exelixis for reasonable travel costs incurred

4.2 Transfer of ROR Technology. Exelixis shall transfer to BMS, upon prior written approval by the Parties, reasonable quantities of Information and Materials included in the ROR Technology solely as described below.

(a) Ownership. Except as otherwise provided in the Agreement, all rights, title and interest in and to such Information and Materials that are transferred by Exelixis to BMS shall remain with Exelixis. All such Information and Materials shall be considered the Confidential Information of Exelixis and shall be subject to **Article 10** of the Agreement.

(b) Permitted Use. BMS shall use such Information and Materials solely for performing its obligations under the Research Plan and exercising its right to perform the BMS Independent Program, subject to any additional limitations due to Exelixis' obligations to Third Parties relating to such Information or Materials (with such limitations being set forth in the applicable Transfer Addendum) (the "**Permitted Use**"). BMS shall not transfer, deliver or disclose any of the Materials to any Third Party, other than its Affiliates or bona fide collaborators or third party contract service providers, without Exelixis' prior written consent, except as otherwise stipulated in the Transfer Addendum. The Materials shall not be used in humans, except as otherwise contemplated by the Agreement. Any unused Materials supplied by Exelixis shall be returned to Exelixis or destroyed as agreed upon in writing by the Parties.

(c) Unauthorized Use. The Parties do not intend for BMS to use the Materials other than for the Permitted Use. If BMS or its Affiliates or other transferees use the Information or Materials outside of the Permitted Use, and any inventions, improvements, discoveries or data arise (or result) from such unauthorized use (such inventions, improvements, discoveries and data, and all intellectual property rights related thereto, collectively the "**Unauthorized Inventions**"), then: (i) BMS shall promptly and fully disclose all such Unauthorized Inventions to Exelixis in writing; (ii) BMS shall comply with the terms of any upstream license agreement between Exelixis and a Third Party with respect to such Unauthorized Use of Materials; and (iii) Exelixis may pursue all rights and remedies it may have under this Agreement, or at law or in equity, with respect to any breach of BMS' obligation of Permitted Use (and creation of any Unauthorized Inventions).

(d) Transfer Addendum. Each transfer shall occur through the execution of an agreement substantially in the form of **Exhibit 4.2** (each, a "**Transfer Addendum**"), which is incorporated by reference into the Agreement. After receiving BMS' written request for a particular item of ROR Technology, Exelixis shall prepare and submit a Transfer Addendum listing the Information and Materials to be transferred to BMS. Upon written approval of such Transfer Addendum by the Parties, the Information and Materials shall be transferred to BMS within [*]. For clarity, the intent of the Parties is to provide BMS with the ability to use Materials and

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Information for the Permitted Use and without additional restrictions other than those set forth in any applicable agreements between Exelixis and a Third Party, and as such, (i) no Transfer Addendum shall contain terms that are inconsistent with this Agreement, and (ii) Exelixis shall not unreasonably withhold its signature on a Transfer Addendum to prevent BMS from obtaining access to Materials or Information where such request by BMS is consistent with **Section 4.1** and this **Section 4.2.**

5. RESEARCH, DEVELOPMENT, MANUFACTURING & COMMERCIALIZATION OF PRODUCTS

5.1 Research, Development, & Manufacturing of Products

(a) Scope. After the end of the Collaborative Research Period, BMS shall have sole control and responsibility for the Research (which Research shall solely be conducted pursuant to the BMS Independent Program), Development, Manufacture (including formulation) and Commercialization of all Products. BMS shall bear all costs and expenses associated with such Research, Development, Manufacture (including formulation) and Commercialization of Products.

(b) BMS Independent Program. After the end of the Collaborative Research Period, BMS shall have the right to, at its sole expense, to conduct Research upon Licensed Compounds in accordance with, and solely to the extent permitted by, the license set forth in **Section 7.1(b)** (such Research, the "**BMS Independent Program**"). BMS shall provide Exelixis with a written description of each ROR Antagonist that is optimized under the BMS Independent Program. Each such ROR Antagonist shall be deemed [*] unless it qualifies as [*] on account of satisfying the definition set forth in **Section [*]**.

(c) Diligence. During the BMS Independent Program, BMS shall use Diligent Efforts to conduct Research to advance at least one Licensed Compound to meet the Success Criteria for [*]. BMS shall use Diligent Efforts to Develop at least one Product in each country in the Major Territory, and Commercialize each Product for each indication for which it receives Regulatory Approval; provided, however, that BMS may satisfy its diligence obligations by sublicensing the Development and Commercialization of a Product to a Third Party pursuant to the terms of this Agreement. Exelixis may notify BMS in writing if Exelixis in good faith believes that BMS is not meeting its diligence obligations set forth in this **Section 5.1(c)**, and the Parties shall meet and discuss the matter in good faith. Exelixis may further request review of BMS' records generated and maintained as required under **Section 5.1(d)** below.

(d) Records. BMS shall maintain complete and accurate records of all Research, Development, Manufacturing and Commercialization conducted by it or on its behalf related to each Product, and all Information generated by it or on its behalf in connection with Development under this Agreement with respect to each such Product. BMS shall maintain such records at least until the later of: (i) [*] after such records are created, or (ii) [*] after the Launch of the Product to which such records pertain; *provided* that the following records may be maintained for a longer period, in accordance with each Party's internal policies on record retention: (i) scientific notebooks and (ii) any other records that Exelixis reasonably requests be retained in order to ensure the preservation, prosecution, maintenance or enforcement of intellectual property rights. Such records shall be at a level of detail appropriate for patent and regulatory purposes. Exelixis shall have the

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

right to review and copy such records of BMS at reasonable times to the extent necessary or useful for Exelixis to conduct its obligations or enforce its rights under this Agreement.

(e) Reports. Beginning [*] after the end of the Collaborative Research Period, and every [*] thereafter during the term of the Agreement, BMS shall submit to Exelixis a written progress report summarizing the Research, Development, Manufacturing and Commercialization performed by or on behalf of BMS with respect to Products. If reasonably necessary or useful for Exelixis to exercise its rights under this Agreement, Exelixis may request that BMS provide more detailed Information and data regarding such reports by BMS, and BMS shall promptly provide Exelixis with Information and data as is reasonably related to such request, at Exelixis' expense. All such reports shall be considered Confidential Information of BMS.

5.2 Standards of Conduct. BMS shall perform, or shall ensure that its Affiliates, sublicensees and Third Party contractors perform, all Research, Development, Manufacturing and Commercialization activities in a good scientific and ethical business manner and in compliance with applicable laws, rules and regulations.

6. REGULATORY

6.1 Regulatory Lead Party. BMS shall have sole responsibility for (and bear all costs and expenses associated with) all regulatory activities regarding Products. BMS shall also have sole responsibility for (and bear all costs and expenses associated with) worldwide pharmacovigilance for each Product. BMS and its Affiliates shall have sole responsibility for all pricing and reimbursement approval proceedings relating to any Product in the Territory.

6.2 Ownership of Regulatory Dossier. BMS will own all regulatory filings for such Product in order to facilitate BMS' interactions with Regulatory Authorities. BMS shall prepare and draft all filings (including any supplements or modifications thereto and including the preparation of any electronic submission of a Drug Approval Application) to Regulatory Authorities in each such country for such Product.

6.3 Recalls in the Territory. Any decision to initiate a recall or withdrawal of a Product in the Territory shall be made by BMS. In the event of any recall or withdrawal, BMS shall take any and all necessary action to implement such recall or withdrawal in accordance with applicable law, with assistance from Exelixis as reasonably requested by BMS. The costs of any such recall or withdrawal in the Territory shall be borne solely by BMS.

7. LICENSES; INTELLECTUAL PROPERTY

7.1 Licenses to BMS. Subject to the terms of this Agreement:

(a) Collaborative Research Period (Non-Sublicensable to Non-Affiliates). During the Collaborative Research Period, Exelixis hereby grants to BMS a co-exclusive, worldwide, royalty-free license (with the right to sublicense to its Affiliates, but without the right to sublicense to Third Parties except with prior written consent of Exelixis), under the Exelixis Licensed Know-How and the Exelixis Licensed Patents, solely to perform, or have performed pursuant to **Section 3.10**, the research tasks assigned to BMS pursuant to the Research Plan.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(b) BMS Independent Program (Sublicensable to Non-Affiliates). During the period beginning with the end of the Collaborative Research Period and ending on the expiration or earlier termination of this Agreement, Exelixis hereby grants to BMS, an exclusive, worldwide, royalty-free license (with the right to sublicense to its Affiliates, Third Party contract research providers and manufacturers, and bona fide collaborators), under the Exelixis Licensed Know-How and the Exelixis Licensed Patents, to make, have made, import and use for Research any: (i) Licensed Compounds (subject to **Section 3.7**) that have achieved a [*] by the end of the Collaborative Research Period; (ii) Licensed Compounds (subject to **Section 3.7**) that have achieved a [*] by the end of the Collaborative Research Period; (iii) Licensed Compounds (subject to **Section 3.7**) that have achieved the [*] described in the Research Plan by the end of the Collaborative Research Period; and (iv) [*] the Licensed Compounds [*] in [*], including [*] that is created under [*] for [*].

(c) Clinical Development and Commercialization. Exelixis hereby grants to BMS, effective upon BMS' timely payment of the milestone payment set forth in **Section 8.2(a)(i)(2)**, an exclusive, worldwide, royalty-bearing license (with the right to sublicense), under the Exelixis Licensed Know-How and Exelixis Licensed Patents, to make, have made, use, Develop, import, sell, offer to sell and have sold Products.

(d) Exelixis Retained Rights. Exelixis retains all rights to use the Exelixis Licensed Know-How and Exelixis Licensed Patents except those expressly granted to BMS on an exclusive basis under the terms of this Agreement. In addition, notwithstanding the exclusive licenses granted to BMS pursuant to **Section 7.1**, Exelixis retains the right under the Exelixis Licensed Patents and the Exelixis Licensed Know-How to make, have made, use, and test Licensed Compounds solely for internal research purposes.

(e) BMS Covenants. BMS hereby covenants that BMS shall not (and shall ensure that any of its permitted sublicensees shall not) use any Exelixis Licensed Know-How or Exelixis Licensed Patents for a purpose other than that expressly permitted in **Section 7.1 or 11.5(b)**.

7.2 License to Exelixis for Collaboration Research. Subject to the terms of this Agreement, BMS hereby grants Exelixis a co-exclusive, worldwide, royalty-free license (with the right to sublicense to Affiliates, but without the right to sublicense to Third Parties except with prior written consent of BMS), under the BMS Licensed Know-How and BMS Licensed Patents, solely to perform, or have performed pursuant to **Section 3.10**, the research tasks assigned to Exelixis pursuant to the Research Plan. Exelixis hereby covenants that Exelixis shall not (and shall ensure that any of its permitted sublicensees shall not) use any BMS Licensed Know-How or BMS Licensed Patents for a purpose other than that expressly permitted in this **Section 7.2 or 11.5(a)**.

7.3 No Additional Licenses. Except as expressly provided in **Sections 4.2, 7.1, 7.2**, and **Article 11**, nothing in this Agreement grants either Party any right, title or interest in and to the intellectual property rights of the other Party (either expressly or by implication or estoppel). For clarity, the licenses granted in **Section 7.1** by Exelixis to BMS do not give BMS any right or license (a) to incorporate into any Product (e.g., as a combination product) any compound that is Controlled by Exelixis and that is not a Licensed Compound or (b) to perform any research that is directed to identifying, characterizing, developing or otherwise pursuing any Small Molecule Compound that is

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

not a Licensed Compound. For clarity, the licenses granted in **Section 11.5** by BMS to Exelixis do not give Exelixis any right or license (a) to incorporate into any Product (e.g., as a combination product) any compound that is Controlled by Exelixis and that is not a Reverted Compound or (b) to perform any research that is directed to identifying, characterizing, developing or otherwise pursuing any small molecule compound that is not a Reverted Compound.

7.4 Sublicensing. Each Party shall provide the other Party with the name of each permitted sublicensee of its rights under this **Article 7** and a copy of the applicable sublicense agreement; provided that each Party may redact confidential or proprietary terms from such copy, including financial terms. The sublicensing Party shall remain responsible for each permitted sublicensee's compliance with the applicable terms and conditions of this Agreement. Each sublicense granted by a Party of its rights under this **Article 7** to a party who is an Affiliate of such Party at the time such license is granted shall terminate immediately upon such party ceasing to be an Affiliate of such Party.

7.5 Ownership.

(a) The inventorship of all Sole Inventions and Joint Inventions shall be determined under the U.S. patent laws.

(b) Each Party shall own the entire right, title and interest in and to any and all of its Sole Inventions, and Patents claiming only such Sole Inventions (and no Joint Inventions) (**"Sole Invention Patents"**). BMS and Exelixis shall be joint owners in and to any and all Joint Inventions and Patents claiming such Joint Inventions (**"Joint Invention Patents"**). BMS and Exelixis as joint owners each shall have the right to exploit and to grant licenses under such Joint Inventions, and where exercise of such rights require, under the laws of a country, with the consent of the other Party (such consent not to be unreasonably withheld, delayed or conditioned) unless otherwise specified in this Agreement (including where such rights are exclusively licensed to the other Party hereunder).

(c) All employees, agents and contractors of each Party shall be under written obligation to assign any inventions and related intellectual property to the Party for whom they are employed or are providing services.

(d) The Parties acknowledge and agree that this Agreement shall be deemed to be a **"Joint Research Agreement"** as defined under 35 U.S.C. 103(c).

7.6 Disclosure. Each Party shall submit a written report to the other Party no less frequently than within [*] of the end of each [*] describing any Sole Invention or Joint Invention arising during the prior [*] in the course of the Agreement which it believes may be patentable or at such earlier time as may be necessary to preserve patentability of such invention. Each Party shall provide to the other Party such assistance and execute such documents as are reasonably necessary to permit the filing and prosecution of such patent application to be filed on such Sole Invention or Joint Invention, or the issuance, maintenance or extension of any resulting Patent.

7.7 Patent Prosecution and Maintenance; Abandonment.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(a) Joint Patent Committee.

(i) Establishment & Meetings. Promptly after the Effective Date (as defined in the TGR5 License Agreement), the Parties shall establish a committee (the "**Joint Patent Committee**" or "**JPC**"). The JPC shall be composed of at least one (1) representative from each Party, at least one of which shall be a patent counsel for such Party. Each Party may change its representative(s) by giving the other Party at least [*] prior written notice. The JPC shall meet within [*] after the Effective Date (as defined in the TGR5 License Agreement), and once per [*] thereafter, or as may be requested by either Party as necessary, by teleconference, videoconference or in person (as determined by the JPC).

(1) Duties. Promptly after the Effective Date (as defined in the TGR5 License Agreement), [*] shall oversee (subject to **Sections 7.7(a)(ii), (iv)** and **(v)** below) the preparation, filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of all [*] Patents, [*] Patents Controlled by [*], and [*] Patents that in each case are [*] (the **"[*] Patents"**), provided that, unless otherwise agreed by the Parties, such responsibilities shall be carried out by: (A) [*] by [*] the [*], unless there exists [*] of [*] and [*]; (B) [*] by [*], but only in the case where [*] described in subsection (A) had [*] of [*]; or (C) [*] in conjunction with [*] described in the preceding subsection (A) or (B), as applicable. [*], or [*], shall provide [*] with an update of the filing, prosecution and maintenance status for each of the [*] Patents on a periodic basis, and shall use commercially reasonable efforts to consult with and cooperate with [*] with respect to the filing, prosecution and maintenance of the [*] Patents, including providing [*] with drafts of proposed filings to allow [*] a reasonable opportunity for review and comment before such filings are due. [*], or [*], shall provide to [*] copies of any papers relating to the filing, prosecution and maintenance of the [*] Patents promptly upon their being filed and received.

(2) Decisions. Subsequent to the Effective Date (as defined in the TGR5 License Agreement), in the event of a dispute between the Parties with regard to the preparation, filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of any [*] Patent, the matter shall be promptly referred to the [*] of Exelixis and [*] for BMS. If these two (2) individuals are unable to resolve the dispute promptly, then the matter shall be promptly elevated to the [*] of Exelixis and the [*] of BMS. If these two (2) individuals are unable to resolve the dispute promptly, then, subject to **Sections 7.7(a)(i)(3)**, **7.7(a)(i)(4), 7.7(a)(ii)**, [*], and [*], [*] shall have the final decision, except if such decision: (A) conflicts with the terms of the Agreement; (B) would result in [*] described in [*] or a [*] of the [*]; or (C) materially impacts [*] prosecution of Patents that [*] a [*], in which case of **subsection 7.7(a)(i)(2)(A) - (C)**, [*] shall have the final decision.

(3) Limitation on Subsection 7.7(a)(i)(2)(B). If [*] reasonably believes that filing a new patent application covering a [*] (other than the [*] of a [*]) would result in potential claims [*] for [*], and if [*] disputes with [*] that such patent application should be filed, then such dispute shall be discussed as described in the first two (2) sentences of **Section 7.7(a)(i)(2)**, and, if still unresolved, shall be arbitrated pursuant to **Section [*]**, and [*] shall not have the right to exercise its final-decision making authority pursuant to **Subsection 7.7(a)(i)(2)(B)** unless the dispute is resolved in [*] favor.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(4) Limitation on Subsection 7.7(a)(i)(2)(C). [*] hereby covenants that it shall not, without the prior written consent of [*] (which shall not be unreasonably delayed or conditioned), during the term of this Agreement, [*] the decision-making authority granted to [*] pursuant to **Subsection 7.7(a)(i)(2)(C) [*]** that is [*] as of the Effective Date or [*]. Furthermore, if [*] the decision-making authority granted to [*] pursuant to **Subsection 7.7(a)(i)(2)(C) [*]** by [*], [*] or [*], and such [*] is [*] or [*] a [*] that is [*], then [*] and [*] shall agree, pursuant to **Section** [*], on [*] the decision-making authority granted to [*] pursuant to **Subsection 7.7(a)(i)(2)(C)**.

(ii) Abandonment. In no event shall [*] knowingly permit any of the [*] Patents to be abandoned in any country, or elect not to file a new patent application claiming priority to a patent application within the [*] Patents either before such patent application's issuance or within the time period required for the filing of an international (i.e., Patent Cooperation Treaty), regional (including European Patent Office) or national application, without [*] written consent (such consent not to be unreasonably withheld, delayed or conditioned) or [*] otherwise first being given an opportunity to assume full responsibility (at [*] expense) for the continued prosecution and maintenance of such [*] Patents or the filing of such new patent application. Accordingly, [*], or [*], shall provide [*] with notice of the allowance and expected issuance date of any patent within the [*] Patents, or any of the aforementioned filing deadlines, and [*] shall provide [*] with prompt notice as to whether [*] desires [*] to file such new patent application. In the event that [*] decides either: (A) not to continue the prosecution or maintenance of a patent application or patent within the [*] Patents in any country; or (B) not to file such new patent application requested to be filed by [*], [*] shall provide [*] with notice of this decision at least [*] prior to any pending lapse or abandonment thereof, and [*] shall thereafter have the right to assume responsibility for the filing, prosecution and maintenance of such patent or patent application. In the event that [*] assumes such responsibility for such filing, prosecution and maintenance, [*] shall no longer have the responsibility for such filing, prosecution and maintenance of such patent applications and patents, and [*] shall cooperate as reasonably requested by [*] to facilitate control of such filing, prosecution and maintenance by [*]. In the case where [*] takes over the filing, prosecution or maintenance of any patent or patent application as set forth above, such patent or patent application shall [*] be [*] the [*], and [*] shall [*] such patent or patent application.

(iii) Filing, Prosecution and Maintenance of Sole Invention Patents Controlled by BMS. In accordance with this **Section 7.7(a)(iii)**, BMS shall be responsible for the filing, prosecution (including any interferences, reissues and reexaminations) and maintenance of all Sole Invention Patents Controlled by BMS. BMS shall provide to Exelixis copies of any papers relating to the filing, prosecution and maintenance of the Sole Invention Patents Controlled by BMS promptly upon their being filed and received.

(iv) Patent Term Extension. Exelixis and BMS shall each cooperate with each another and shall use commercially reasonable efforts in obtaining patent term extension (including any pediatric exclusivity extensions as may be available) or supplemental protection certificates or their equivalents in any country with respect to patent rights covering the Products. If elections with respect to obtaining such patent term extensions are to be made, [*] shall have the right to make the election to seek patent term extension or supplemental protection.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(v) Exelixis Right to Separate Claims. To the extent that any Sole Invention Patent of Exelixis contains claims that cover compounds that are not Licensed Compounds (such compounds, **"Separable Compounds"**), Exelixis shall have the right to separate any claims that cover such Separable Compounds (and not Licensed Compounds) and to file such claims in a separate application (e.g., a continuation, continuation-in-part, or divisional application). Exelixis shall notify BMS in writing prior to separating such claims, and such separation shall be at Exelixis' sole expense.

(b) Payment of Prosecution Costs. [*] shall bear the out-of-pocket expenses (including reasonable fees for any outside counsel, [*]) associated with the filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of: (X) Patents covering [*]; and (Y) the [*] Patents other than those [*] Patents that are [*], *provided* that if any [*] or [*] is part of a patent application or patent that is [*] but [*] that are [*], then the Parties shall mutually agree upon an appropriate allocation of the expenses so that [*] does not bear any portion of the out-of-pocket expenses attributable to [*].

(c) Payment of Expenses for Joint Invention Patents. Exelixis and BMS shall mutually agree on the percentage of expenses that each Party shall bear with respect to Joint Invention Patents for which the cost of filing, prosecuting or maintaining such Joint Invention is not the responsibility of a Party under **Section 7.7(b)** hereof (which, in the absence of any other agreement between the Parties, shall be divided evenly).

(d) Non-payment of Expenses.

(i) If a Party elects not to pay its share of any expenses with respect to [*] Patent in a given country under any of **Section [*]**, such Party shall inform the other Party in writing not less than [*] before any relevant deadline (or, in the event of a shorter period in which to respond to a patent office, as soon as reasonably practicable), and, if the other Party assumes the expenses associated with the [*] Patent, then the assuming Party shall thereby become the sole owner of such [*] Patent in such country and the other Party shall assign to the assuming Party its rights, title and interests in such [*] Patent in such country.

(ii) If a Party is the assignee or owner of a Patent (other than [*]) that is licensed to the other Party under any of **Sections 7.1 or 7.2**, and such owning Party elects not to pay its share of expenses pursuant to **Section [*]** in a given country, such owning Party shall inform the other Party in writing not less than [*] before any relevant deadline (or, in the event of a shorter period in which to respond to a patent office, as soon as reasonably practicable). If the other Party assumes the expenses associated with the Patent in such country, then the assuming Party shall thereby [*] such Patent and the owning Party shall [*] such Patent in such country.

(iii) If a Party is the licensee of a Patent (other than [*]) under any of **Sections 7.1** or **7.2**, and such Party elects not to pay its share of expenses pursuant to **Section [*]** in a given country, such Party shall inform the other Party in writing not less than [*] before any relevant deadline (or, in the event of a shorter period in which to respond to a patent office, as soon as reasonably practicable) (such Patent(s) in such countries, as identified in such notice, being a **"Cost-Terminated Patent Right"**), and shall no longer have any rights under such **Sections 7.1** or **7.2**, as applicable, with respect to the relevant Patent in such country, *provided* that all remaining

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

rights and licenses under all other Patent(s) within such licensed Patents would remain in effect. It is also understood that such licensee shall be offered the opportunity to assume its share of the responsibility for the costs of filing, prosecution and maintenance of any Patent(s) claiming priority directly or indirectly from any such Cost-Terminated Patent Right, and that where such expenses are assumed by such licensee, it shall be afforded all the rights and licenses as provided under this Agreement for the licensed Patents (other than the Cost-Terminated Patent Right) with respect to such Patent(s) claiming priority directly or indirectly from any such Cost-Terminated Patent Right.

(e) Each Party shall provide to the other Party, on [*] basis, a patent report that includes the serial number, docket number and status of each Patent for which such Party has the right to direct the filing, prosecution and maintenance and which [*] (in the case of [*] such [*] that are [*]) or [*]. The Parties through their patent counsel shall discuss as appropriate (but not more than [*]) ways in which to allocate such out-of-pocket expenses in an appropriate, cost-effective manner consistent with the purposes of this Agreement [*].

7.8 Enforcement of Patent Rights.

(a) Enforcement of Exelixis Sole Patents.

(i) Enforcement by [*]. In the event that management or in-house counsel for either Party becomes aware of a suspected infringement by a Third Party of a Patent claiming a Sole Invention of Exelixis that claims the composition of matter (including formulation), manufacture or use of one or more Products that is being Developed or Commercialized by BMS or its Affiliate or sublicensee using Diligent Efforts and which is exclusively licensed to BMS under **Section 7.1(c)** (for purposes of this **Section 7.8(a)(i)** only, an "**Exelixis Sole Patent**"), such Party shall notify the other Party promptly, and following such notification, the Parties shall confer. Each Party shall provide the same level of disclosure to the other Party's in-house counsel concerning suspected infringement of an Exelixis Sole Patent as such Party would provide with respect to suspected infringement of its own issued Patent or an exclusively licensed issued Patent claiming a product it is developing or commercializing independent of this Agreement. Where such suspected infringement involves such Third Party's development, manufacture, use or sale of a product directed against ROR, [*] shall have the right, but shall not be obligated, to bring an infringement action against any such Third Party or to defend such proceedings at its own expense, in its own name and entirely under its own direction and control. [*] shall reasonably assist [*] (at [*] expense) in such actions or proceedings if so requested, and shall lend its name to such actions or proceedings if requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions at [*] request. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope, or adversely affects the enforceability, of any such Exelixis Sole Patent may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

(ii) Enforcement by [*]. If [*] elects not to bring any action for infringement or to defend any proceeding described in **Section 7.8(a)(i)** and so notifies [*]s, or where [*] ([*] such Exelixis Sole Patent) otherwise desires to bring an action or to defend any proceeding directly involving an Exelixis Sole Patent, then [*] may bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and

control; *provided* that [*] must confer with [*] with respect to any such action or proceeding and obtain the prior written consent of [*] to commence such action or proceeding, such consent not to be unreasonably withheld, delayed or conditioned; *provided further,* that with respect to any Exelixis Sole Patent that is a Patent [*] the [*] (or foreign equivalent(s) of such Patent or the [*]) by [*] (a **"[*] Patent"**), if [*] fails to consent to any such action or proceeding, the [*] for any [*] such Exelixis Sole Patent shall in no event [*] by any failure to enforce such Exelixis Sole Patent. **[*]** shall reasonably assist [*] (at [*] expense) in any action or proceeding being prosecuted or defended by [*], if so requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope, or adversely affects the enforceability, of a [*] Patent, may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

(b) Enforcement of Joint Invention Patents.

(i) Joint Product Patents.

(1) Enforcement by [*]. In the event that management or in-house counsel for either Party becomes aware of a suspected infringement of a Patent claiming a Joint Invention that pertains to the composition of matter (including formulation), manufacture or use of one or more Products that is being developed or commercialized by BMS or its Affiliate or sublicensee using Diligent Efforts and which is exclusively licensed to BMS under **Section 7.1(c)** (a "**Joint Product Patent**"), such Party shall notify the other Party promptly, and following such notification, the Parties shall confer. Each Party shall provide the same level of disclosure to the other Party's in-house counsel concerning suspected infringement of a Joint Product Patent as such Party would provide with respect to suspected infringement of its own issued Patent or an exclusively licensed issued Patent claiming a product it is developing or commercializing independent of this Agreement. [*] shall have the right, but shall not be obligated, to bring an infringement action or to defend such proceedings at its own expense, in its own name and entirely under its own direction and control. [*] shall reasonably assist [*] (at [*] expense) in such actions or proceedings if so requested, and shall lend its name to such actions or proceedings if requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope or affects the enforceability of a Joint Product Patent may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

(2) Enforcement by [*]. If [*] elects not to bring any action for infringement or to defend any proceeding described in **Section 7.8(b)(i)(1)** and so notifies [*]s, or for any other enforcement by [*] of a Joint Product Patent which is exclusively licensed to BMS under **Section 7.1(c)**, then [*] may bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and control; *provided* that [*] must confer with [*] with respect to any such action or proceeding and obtain the prior written consent of [*] to commence such action or proceeding, such consent not to be unreasonably withheld, delayed or conditioned; *provided further*, that with respect to any Joint Product Patent that is a [*] Patent, if [

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

*] fails to consent to any such action or proceeding, the [*] for any [*] such Joint Product Patent shall in no event [*] by any failure to enforce such Joint Product Patent. **[*]** shall reasonably assist [*] (at [*] expense) in any action or proceeding being prosecuted or defended by [*], if so requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope or affects the enforceability of a Joint Product Patent may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

(ii) Other Joint Patents.

(1) Enforcement by [*]. In the event that management or in-house counsel for either Party becomes aware of a suspected infringement of a Patent that claims a Joint Invention but is not a Joint Product Patent (an "**Other Joint Patent**"), such Party shall notify the other Party promptly, and following such notification, the Parties shall confer. Each Party shall provide the same level of disclosure to the other Party's in-house counsel concerning suspected infringement of an Other Joint Patent as such Party would provide with respect to suspected infringement of its own issued Patent or an exclusively licensed issued Patent claiming a product it is developing or commercializing independent of this Agreement. [*] shall have the right, but shall not be obligated, to prosecute an infringement action or to defend such proceedings at its own expense, in its own name and entirely under its own direction and control. [*] shall reasonably assist [*] (at [*] expense) in such actions or proceedings if so requested, and shall lend its name to such actions or proceedings if requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope or affects the enforceability of an Other Joint Patent may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

(2) Enforcement by [*]. If [*] elects not to bring any action for infringement or to defend any proceeding described in **Section 7.8(b)(ii)(1)** and so notifies [*], then [*] may bring such action or defend such proceeding at its own expense, in its own name and entirely under its own direction and control; *provided* that [*] must confer with [*] with respect to any such action or proceeding and obtain the prior written consent of [*] to commence such action or proceeding, such consent not to be unreasonably withheld, delayed or conditioned; *provided further*, that with respect to any Other Joint Patent that is a [*] Patent, if [*] fails to consent to any such action or proceeding, the [*] for any [*] such Other Joint Patent shall in no event [*] by any failure to enforce such Other Joint Patent. [*] shall reasonably assist [*] (at [*] expense) in any action or proceeding being prosecuted or defended by [*], if so requested by [*] or required by law, and [*] shall hold [*] harmless from any liability incurred by [*] arising out of any such proceedings or actions. [*] shall have the right to participate and be represented in any such suit by its own counsel at its own expense. No settlement of any such action or defense which restricts the scope or affects the enforceability of an Other Joint Patent may be entered into by [*] without the prior consent of [*] (such consent not to be unreasonably withheld, delayed or conditioned).

(c) General Provisions Relating to Enforcement of Patents.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

(i) Withdrawal. If either Party brings such an action or defends such a proceeding under this **Section 7.8** and subsequently ceases to pursue or withdraws from such action or proceeding, it shall promptly notify the other Party and the other Party may substitute itself for the withdrawing Party under the terms of this **Section 7.8** (including such prior written consent as provided for under this **Section 7.8**) at its own expense; provided, however, that [*] right to substitute itself for [*] pursuant to this **Section 7.8(c)(i)** shall be limited, with respect to [*] Patents, to actions and proceedings that [*] initially had the first right to bring or defend pursuant to **Section [*]**.

(ii) Recoveries. In the event either Party exercises the rights conferred in this **Section 7.8** and recovers any damages or other sums in such action, suit or proceeding or in settlement thereof, such damages or other sums recovered shall first be applied to all out-of-pocket costs and expenses incurred by the Parties in connection therewith, including attorneys fees. If such recovery is insufficient to cover all such costs and expenses of both Parties, it shall be shared in proportion to the total such costs and expenses incurred by each Party. If after such reimbursement any funds shall remain from such damages or other sums recovered, such funds shall be [*].

(d) Data Exclusivity and Orange Book Listings. With respect to data exclusivity periods (such as those periods listed in the FDA's Orange Book (including any available pediatric extensions) or periods under national implementations of Article 9.1(a)(iii) of Directive 2001/EC/83, and all international equivalents), BMS shall use commercially reasonable efforts consistent with its obligations under applicable law (including any applicable consent order) to seek, maintain and enforce all such data exclusivity periods available for the Products. With respect to filings in the FDA Orange Book (and foreign equivalents) for issued patents for a Product, upon request by BMS (and at BMS' expense), Exelixis shall provide reasonable cooperation to BMS in filing and maintaining such Orange Book (and foreign equivalent) listings.

(e) No Action in Violation of Law. Neither Party shall be required to take any action pursuant to this **Section 7.8** that such Party reasonably determines in its sole judgment and discretion conflicts with or violates any court or government order or decree applicable to such Party.

(f) Notification of Patent Certification. [*] shall notify and provide [*] with copies of any allegations of alleged patent invalidity, unenforceability or non-infringement of any [*] Patent [*] hereunder pursuant to a Paragraph IV Patent Certification by a Third Party filing an Abbreviated New Drug Application, an application under §505(b)(2) or other similar patent certification by a Third Party, and any foreign equivalent thereof. Such notification and copies shall be provided to [*] by [*] as soon as practicable and at least within [*] after [*] receives such certification, and shall be sent by facsimile and overnight courier to the address set forth below:

[*]

7.9 Defense of Third Party Claims. If a claim is brought by a Third Party that any activity related to work performed by a Party under the Agreement infringes the intellectual property rights of such Third Party, each Party shall give prompt written notice to the other Party of such claim, and following such notification, the Parties shall confer on how to respond.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

8. COMPENSATION

8.1 Upfront Payment. BMS shall pay Exelixis an upfront payment of Five Million Dollars ($5,000,000) on the earlier to occur of the following: (a) [*] after the Effective Date; or (b) [*] after the Effective Date (as defined in the TGR5 License Agreement). Such payment shall be noncreditable and nonrefundable.

8.2 Milestone Payments to Exelixis.

(a) Development and Regulatory Milestones.

(i) BMS shall make the milestone payments set forth below to Exelixis within [*] after the first achievement of each indicated event by BMS or any of its Affiliates or sublicensees and, subject to **Section 8.2(a)(iii)**, with respect to each of the events described in [*] below, after the first achievement of each such event with respect to any Licensed Compound. For clarity, with respect to milestones that are triggered by the [*], such [*] must be [*] that is [*] and [*] the [*] or [*] of the [*]. All such milestone payments made by BMS to Exelixis hereunder shall be noncreditable and nonrefundable.

Event	Milestone Payment
(1) [*]	$[*]
(2) [*]	$[*]
(3) [*]	$[*]
(4) [*]	$[*]
(5) [*]	$[*]
(6) [*]	$[*]
(7) [*]	$[*]
(8) [*]	$[*]
(9) [*]	$[*]
(10) [*]	$[*]
(11) [*]	$[*]
(12) [*]	$[*]
(13) [*]	$[*]
(14) [*]	$[*]

(ii) Milestone Payment Restrictions. Each milestone payment set forth in **Section 8.2(a)(i)** shall be paid [*] with respect to [*], [*] the [*] or [*] the[*] in [*] for [*], or the [*] or [*] for [*].

(iii) Milestone Payments for [*]. If BMS is diligently developing and paying milestones to Exelixis under **Section 8.2(a)(i)** [*], the payments [*] made to Exelixis under **Sections 8.2(a)(i)** for [*] shall be [*] such [*] the [*] in [*], in which case BMS shall pay Exelixis the [*] the [*] in [*] within [*] of the [*] such [*]; provided, however, that if this Agreement terminates before such [*], then BMS shall [*] pay Exelixis the [*]. If [*] the [*] or [*], then BMS shall only pay milestones [*] for the events that [*] the [*] such [*];

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

however, if a [*], then BMS shall pay the milestones [*] a [*] have been paid [*]. For clarity, the Parties agree that [*] shall [*], [*], or [*] of the [*] the [*].

(b) Commercial Milestones. BMS shall make the milestone payments set forth below to Exelixis after first achievement of each indicated event by BMS or any of its Affiliates or sublicensees with respect to each Product. Each milestone payment shall be made by BMS [*], [*] due and payable [*] after the end of the [*] in which such milestone event is met. BMS shall pay [*] to Exelixis [*] if, at the time [*], the [*] the payment obligation (the **"[*]"**) was [*] for the [*]. Otherwise, the [*] shall be [*], provided that [*]. BMS shall pay [*] to Exelixis [*] if, at the time [*], the [*] for the [*]. Otherwise, the [*] shall be [*], provided that [*]. All such milestone payments made by BMS to Exelixis hereunder shall be noncreditable and nonrefundable, and shall be paid only once with respect to each Product, regardless of [*] or [*] for that Product, or [*] or [*] for that Product.

Event	Milestone Payment
[*]	$[*]
[*]	$[*]
[*]	$[*]

8.3 Royalty Payments to Exelixis for Net Sales of Products. For each Product, BMS shall pay to Exelixis royalties on Net Sales of such Product by BMS (or its Affiliates or sublicensees) in the Territory at a royalty rate determined by aggregate Net Sales in the Territory of such Product in a calendar year as follows:

Calendar year Net Sales of Products	Royalty Rate for Products Comprising an Exelixis ROR Compound	Royalty Rate for Products Not Comprising an Exelixis ROR Compound
First $[*]	[*]%	[*]%
Portion above $[*] and up to and including $[*]	[*]%	[*]%
Portion above $[*]	[*]%	[*]%

For clarity, Net Sales shall be [*]. For the purpose of this **Section 8.3**, all Products [*] shall be [*] and the Net Sales of such Products shall be [*] the [*], regardless of whether [*] or [*], or [*] or [*]. All royalty payments made by BMS to Exelixis hereunder shall be noncreditable and nonrefundable, [*] royalties to Exelixis, in which case such [*] shall be [*] (or, in the event that [*], such [*] shall be [*]).

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

8.4 Third Party Royalties

(a) [*] all Third Party royalties owed with respect to a Product in the Territory on intellectual property that is intellectual property that: (A) [*] from a Third Party prior to the Effective Date and [*]; and (B) [*]. Subject to **Section 8.4(b)**, [*] Third Party royalties owed on intellectual property in connection with the development and commercialization of a Product in the Territory; *provided* that each Party shall bear all Third Party royalties arising from any infringing activities by such Party prior to the Effective Date.

(b) BMS may deduct from the royalties it would otherwise owe to Exelixis pursuant to **Section 8.3** for a particular Product, an amount equal to [*] of all royalties payable to a Third Party in consideration for rights necessary or reasonably useful for the manufacture, use or sale of such Product, up to a maximum deduction of [*] of the royalties due Exelixis for such Product.

8.5 [*]. During the applicable Royalty Term for a particular Product, if the Patents claiming the composition of matter of such Product have expired, and if any [*]: (a) [*] in any given country in any year; and (b) such [*] in such country for such year are, [*]:

(i) [*], but [*] of the [*] in such country, then [*]; or

(ii) [*] of the [*] in such country, then [*].

8.6 Limitation on Deductions. Notwithstanding anything to the contrary in this Agreement, the operation of **Sections 8.4** and **8.5** for a given Product, whether singularly or in combination with each other, shall not [*].

8.7 Quarterly Payments and Reports. All royalties due under **Section 8.3** shall be paid quarterly, on a country-by-country basis, within [*] of the end of the relevant quarter for which royalties are due. BMS shall provide to Exelixis within [*] after the end of each quarter a report that summarizes the Net Sales of a Product during such quarter, *provided* that to the extent additional information is reasonably required by Exelixis to comply with its obligations to any of its licensors, the Parties shall work together in good faith to timely compile and produce such additional information. Such reports shall also include detailed information regarding the calculation of royalties due pursuant to **Section 8.3**, including allowable deductions in the calculation of Net Sales of each Product on which royalties are paid, and, to the extent **Section 8.5** is applicable, the calculation of [*] and [*] of [*].

8.8 Term of Royalties. Exelixis' right to receive royalties under **Section 8.3** shall expire on a country-by-country and Product-by-Product basis upon the later of: (a) [*]; or (b) [*] (the "**Royalty Term**"). Upon the expiration of the Royalty Term with respect to a Product in a country, BMS shall have a fully-paid-up perpetual license under **Section 7.1(c)** for the making, using, selling, offering for sale and importing of such Product in such country.

8.9 Payment Method. All payments due under this Agreement to Exelixis shall be made by bank wire transfer in immediately available funds to an account designated by Exelixis. All payments hereunder shall be made in Dollars.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

8.10 Taxes. Exelixis shall pay any and all taxes levied on account of all payments it receives under this Agreement. If laws or regulations require that taxes be withheld, BMS shall: (a) deduct those taxes from the remittable payment; (b) pay the taxes to the proper taxing authority; and (c) send evidence of the obligation together with proof of tax payment to Exelixis within [*] following that tax payment. The Parties shall discuss appropriate mechanisms for minimizing such taxes to the extent possible in compliance with applicable law.

8.11 Blocked Currency. In each country where the local currency is blocked and cannot be removed from the country, royalties accrued in that country shall be paid to Exelixis in Dollars based on the Dollar reported sales for the quarter (translated for such country per Statement of Financial Standards No. 52), unless otherwise mutually agreed.

8.12 Sublicenses. In the event BMS grants any permitted licenses or sublicenses to Third Parties to sell Products that are subject to royalty payments under **Section 8.3**, BMS shall have the responsibility to account for and report sales of any Product by a licensee or a sublicensee on the same basis as if such sales were Net Sales by BMS. BMS shall pay to Exelixis (or cause the licensee or sublicensee to pay to Exelixis, with BMS remaining responsible for any failure of the licensee or sublicensee to pay amounts when due under this Agreement): (a) royalties on such sales as if such sales of the licensee or sublicensee were Net Sales of BMS or any of its Affiliates; and (b) milestones payments pursuant to **Section 8.2** based on the achievement by such licensee or sublicensee of any milestone event contemplated in such Sections as if such milestone event had been achieved by BMS or any of its Affiliates hereunder. Any sales by BMS' Affiliates and sublicensees of BMS or such sublicensee's Affiliates, in each case to Third Parties, shall be aggregated with sales by BMS for the purpose of calculating the aggregate Net Sales in **Sections 8.2(b)** and **8.3**.

8.13 Foreign Exchange. Conversion of sales recorded in local currencies to Dollars shall be performed in a manner consistent with BMS' normal practices used to prepare its audited financial statements for internal and external reporting purposes, which uses a widely accepted source of published exchange rates.

8.14 Records. BMS shall keep (and shall ensure that its Affiliates and sublicensees shall keep) such records as are required to determine, in a manner consistent with GAAP and this Agreement, the sums due under this Agreement, including Net Sales. All such books, records and accounts shall be retained by BMS until the later of (a) [*] after the end of the period to which such books, records and accounts pertain and (b) the [*] (or any extensions thereof), or for such longer period as may be required by applicable law. BMS shall require its sublicensees to provide to it a report detailing the foregoing expenses and calculations incurred or made by such sublicensee, which report shall be made available to Exelixis in connection with any audit conducted by Exelixis pursuant to **Section 8.15**.

8.15 Audits. Exelixis shall have the right to have an independent certified public accountant, reasonably acceptable to BMS, to have access during normal business hours, and upon reasonable prior written notice, to examine only those records of BMS (and its Affiliates and sublicensees) as may be reasonably necessary to determine, with respect to any calendar year ending not more than [*] prior to Exelixis' request, the correctness or completeness of any report or payment made under this Agreement. The foregoing right of review may be exercised [*].

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Results of any such examination shall be: (a) limited to information relating to the Products; (b) made available to both Parties; and (c) subject to **Article 10.** Exelixis shall bear the full cost of the performance of any such audit, unless such audit discloses a variance to the detriment of Exelixis of more than [*] from the amount of the original report, royalty or payment calculation, in which case BMS shall bear the full cost of the performance of such audit. The results of such audit shall be [*].

8.16 Interest. Any payments or portions thereof due hereunder that are not paid on the date such payments are due under this Agreement shall bear interest at a rate equal to the lesser of: (a) [*] Rate as published by Citibank, N.A., New York, New York, or any successor thereto, at 12:01 a.m. on the first day of each quarter in which such payments are overdue; or (b) the maximum rate permitted by law, in each case calculated on the number of days such payment is delinquent, compounded monthly.

8.17 Non-Monetary Consideration. In the event that BMS or its Affiliate or sublicensee receives any non-monetary consideration in connection with the sale of a Product, BMS' payment obligations under this **Article 8** shall be based on the fair market value of such other consideration. In such case, BMS shall disclose the terms of such arrangement to Exelixis and the Parties shall endeavor in good faith to agree on such fair market value.

8.18 Payments to or Reports by Affiliates. Any payment required under any provision of this Agreement to be made to either Party or any report required to be made by any Party shall be made to or by an Affiliate of that Party if designated in writing by that Party as the appropriate recipient or reporting entity.

9. EXCLUSIVITY

9.1 Licensed Compounds. This Agreement will be exclusive with respect to the Development, Manufacture, and Commercialization of [*] that are intended to [*] as described below [*].

(a) Prior to Commercialization. Subject to **Sections 9.2, 9.3** and **9.4**, [*], [*] (directly or indirectly, and either with or without a *bona fide* collaborator) outside the scope of this Agreement any programs: (i) that [*] that [*]; or (ii) where [*].

(b) Subsequent to Commercialization. Subject to **Sections 9.2, 9.3** and **9.4**, [*], [*] (directly or indirectly, and either with or without a *bona fide* collaborator) outside the scope of this Agreement any programs to [*] that [*], and any [*] subject to the following terms and conditions:

(i) Commercial Launch of [*]. [*], any product [*]: (A) that is [*] and [*]; or (B) where the [*] that [*] (any such product, a "[*]"), for a [*] of a [*].

(ii) [*] of a [*]. In the event of any [*] of a [*] that is permitted under Section [*], the Party [*] shall [*] a [*]: [*] of any [*] for a [*] subsequent to [*] of a [*] and [*] the [*] the [*] with respect to such [*] or [*] of this Agreement (in either case, [*]).

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

9.2 [*]. Notwithstanding anything to the contrary set forth in this **Article 9**, if a Party is engaged in [*] a program that is [*] that is [*], and [*] such program [*], such Party shall [*] with such [*] in order to [*] so the [*] the [*] for [*].

9.3 Not Applicable to [*] or [*]. The restrictions and obligations in **Section 9.1** shall not apply with respect to either Party for [*] that are [*] by such Party [*] (either with or without a *bona fide* collaborator) or for any [*].

9.4 [*] Right. [*] may [*] with a [*] that [*] a [*] solely with respect to the [*] of [*] and/or a [*] that [*]: (a) any [*] product that is [*] a [*]; and (b) such [*] a [*], on the condition that [*] to [*] of [*] with respect to [*] as set forth herein (assuming such [*] and/or a [*]).

10. CONFIDENTIALITY

10.1 Nondisclosure of Confidential Information. All Information or Materials disclosed by one Party to the other Party pursuant to this Agreement, and, subject to **Section 10.6**, Information that is generated pursuant to this Agreement with respect to Licensed Compounds or Products (for so long as such Licensed Compound or Product is not removed from the Agreement as a result of a Product specific termination pursuant to **Section 11.3**), shall be "**Confidential Information**" for all purposes hereunder. The Parties agree that, during term of this Agreement and for a period of [*] thereafter, a Party receiving Confidential Information of the other Party shall: (a) use Diligent Efforts to maintain in confidence such Confidential Information (but not less than those efforts as such Party uses to maintain in confidence its own proprietary industrial information of similar kind and value) and not to disclose such Confidential Information to any Third Party without prior written consent of the other Party (such consent not to be unreasonably withheld, delayed or conditioned), except for disclosures made in confidence to any Third Party under terms consistent with this Agreement and made in furtherance of this Agreement or of rights granted to a Party hereunder; and (b) not use such other Party's Confidential Information for any purpose except those permitted by this Agreement (it being understood that this **Section 10.1** shall not create or imply any rights or licenses not expressly granted under **Article 4, 7** or **11** hereof).

10.2 Exceptions. The obligations in **Section 10.1** shall not apply with respect to any portion of the Confidential Information that the receiving Party can show by competent written proof:

(a) Is publicly disclosed by the disclosing Party, either before or after it is disclosed to the receiving Party hereunder; or

(b) Was known to the receiving Party or any of its Affiliates, without obligation to keep it confidential, prior to disclosure by the disclosing Party; or

(c) Is subsequently disclosed to the receiving Party or any of its Affiliates by a Third Party lawfully in possession thereof and without obligation to keep it confidential; or

(d) Is published by a Third Party or otherwise becomes publicly available or enters the public domain, either before or after it is disclosed to the receiving Party, and is not

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

directly or indirectly supplied by the receiving Party in violation of this Agreement; or

(e) Has been independently developed by employees or contractors of the receiving Party or any of its Affiliates without the aid, application or use of the disclosing Party's Confidential Information.

10.3 Authorized Disclosure. A Party may disclose the Confidential Information belonging to the other Party to the extent such disclosure is reasonably necessary in the following instances; *provided* that notice of any such disclosure shall be provided as soon as practicable to the other Party:

(a) Filing or prosecuting Patents relating to Sole Inventions, Joint Inventions or Products, in each case pursuant to activities under this Agreement;

(b) Regulatory filings;

(c) Prosecuting or defending litigation;

(d) Complying with applicable governmental laws and regulations; and

(e) Disclosure, in connection with the performance of this Agreement, or exercise of its rights hereunder, to Affiliates, potential collaborators, partners, and actual and potential licensees (including potential co-marketing and co-promotion contractors, research contractors and manufacturing contractors), research collaborators, potential investment bankers, investors, lenders, and investors, employees, consultants, or agents, each of whom prior to disclosure must be bound by similar obligations of confidentiality and non-use at least equivalent in scope to those set forth in this **Article 10.**

The Parties acknowledge that the terms of this Agreement shall be treated as Confidential Information of both Parties. Such terms may be disclosed by a Party to individuals or entities covered by **Section 10.3(e)** above, each of whom prior to disclosure must be bound by similar obligations of confidentiality and non-use at least equivalent in scope to those set forth in this **Article 10.** In addition, a copy of this Agreement may be filed by either Party with the Securities and Exchange Commission in connection with any public offering of such Party's securities, in connection with such Party's on-going periodic reporting requirements under the federal securities laws, or as otherwise necessary under applicable law or regulations. In connection with any such filing, such Party shall endeavor to obtain confidential treatment of economic, competitively sensitive, and trade secret information.

10.4 Prior Confidentiality Agreement. All Information exchanged between the Parties under the Confidential Disclosure Agreement between Exelixis and BMS executed as of [*], and amended as of [*] and [*] (such confidential disclosure agreement, as amended, the "**Prior CDA**") that relates to ROR, ROR Antagonists, [*] and [*] ROR Antagonists, Licensed Compounds or Products shall be deemed Confidential Information and shall, commencing upon the Effective Date, be subject to the terms of this **Article 10** rather than the Prior CDA. The Prior CDA shall otherwise remain in full force and effect, including with respect to each Party's rights with respect to breaches thereof, if any, that occurred prior to the Effective Date with respect to

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Information described in the first sentence of this **Section 10.4**.

10.5 Publicity. The Parties agree that the public announcement of the execution of this Agreement shall be substantially in the form of the press release attached as **Exhibit 10.5**. Any other publication, news release or other public announcement relating to this Agreement or to the performance hereunder, shall first be reviewed and approved by both Parties; *provided, however*, that any disclosure which is required by law, including disclosures required by the U.S. Securities and Exchange Commission or made pursuant to the requirements of the national securities exchange or other stock market on which such Party's securities are traded, as advised by the disclosing Party's counsel may be made without the prior consent of the other Party, although the other Party shall be given prompt notice of any such legally required disclosure and to the extent practicable shall provide the other Party an opportunity to comment on the proposed disclosure.

10.6 Publications. Subject to **Section 10.3**, each Party agrees to provide the other Party the opportunity to review any proposed disclosure which contains Confidential Information of the other Party and would or may constitute an oral, written or electronic public disclosure if made (including the full content of proposed abstracts, manuscripts or presentations) which relate to any Inventions, at least [*] prior to its intended submission for publication and agrees, upon request, not to submit any such abstract or manuscript for publication until the other Party is given a reasonable period of time to secure patent protection for any material in such publication which it believes to be patentable; *provided, however*, that BMS may publish results of clinical studies relating to Licensed Compounds without the prior review or approval of Exelixis. Both Parties understand that a reasonable commercial strategy may require delay of publication of information or filing of patent applications. The Parties agree to review and consider delay of publication and filing of patent applications under certain circumstances. The Alliance Managers (or the Parties), as appropriate, shall review such requests and recommend subsequent action. Subject to **Section 10.3,** neither Party shall have the right to publish or present Confidential Information of the other Party which is subject to **Section 10.1**. Nothing contained in this **Section 10.6** shall prohibit the inclusion of Confidential Information of the non-filing Party necessary for a patent application, *provided* the non-filing Party is given a reasonable opportunity to review the extent and necessity for its Confidential Information to be included prior to submission of such patent application related to the Agreement. Any disputes between the Parties regarding delaying a publication or presentation to permit the filing of a patent application shall be referred to the Alliance Managers (or the Parties), as appropriate.

11. TERM AND TERMINATION

11.1 Term. This Agreement shall become effective on the Effective Date and shall remain in effect, subject to earlier termination in accordance with **Sections 11.2 or 11.3** or by mutual written agreement, until the expiration of all payment obligations under **Article 8** (the **"Term"**).

11.2 BMS' Right to Terminate. BMS shall have the right to terminate this Agreement, at any time, [*]: (a) [*] prior written notice to Exelixis, in the event that such termination is [*] of the [*]; or (b) [*] prior written notice to Exelixis, in the event that such termination is [*] of the [*].

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

11.3 Termination for Material Breach or Patent Challenge

(a) Notice. If either Party believes that the other is in material breach of this Agreement (including any material breach of a representation or warranty made in this Agreement), then the non-breaching Party may deliver notice of such breach to the other Party. In such notice the non-breaching Party shall identify the actions or conduct that such Party would consider to be an acceptable cure of such breach. For all breaches other than a failure to make a payment set forth in **Article 8**, the allegedly breaching Party shall have [*] to cure such breach. For any breach arising from a failure to make a payment set forth in **Article 8**, the allegedly breaching Party shall have [*] to cure such breach.

(b) Cure Period. Subject to **Section 11.3(c)**, if the Party receiving notice of breach fails to cure such breach within the [*] period or [*] period (as applicable), or the Party providing the notice reasonably determines that the proposed corrective plan or the actions being taken to carry it out is not commercially practicable, the Party originally delivering the notice may terminate this Agreement upon [*] advance written notice, *provided*, that if the breach [*] or [*], the non-breaching Party may [*] the [*] with respect to [*].

(c) [*] Material Breach. If a Party gives notice of termination under **Section 11.3(a)** and the other Party [*], or if a Party determines under **Section 11.3(b)** that the [*] or the [*] is [*] and such [*] such [*], then the [*]: (i) [*]; or (ii) [*] or the [*], shall in any case [*]. If [*] of such [*] it is [*] the [*], then such termination shall [*] if the breaching Party fails [*] to cure such breach in accordance with the [*] within the time period set forth in **Section 11.3(a)** for the applicable breach [*]. If [*] of such [*] it is [*] the [*], then [*] and [*].

(d) Termination for Patent Challenge. Exelixis may terminate this Agreement with respect to a given Product in a given country if BMS or its Affiliates or sublicensees, directly or indirectly, individually or in association with any other person or entity, challenge the validity, enforceability or scope of any Exelixis Licensed Patents that relate to such Product in such country; *provided* that, if BMS, due to a Change of Control transaction, acquires control of a company that is challenging, directly or indirectly, individually or in association with another person or entity, the validity, enforceability or scope of any Exelixis Licensed Patents, BMS shall have [*] from the date of such acquisition to terminate such challenge to such Exelixis Licensed Patents before Exelixis' right to terminate under this **Section 11.3(d)** becomes effective. For clarity, any dispute as to whether a given Patent is within the scope of Exelixis Licensed Patents, such matter shall be subject to dispute resolution as set forth in **Section 14.3**.

11.4 Survival; Effect of Termination.

(a) In the event of expiration or termination of this Agreement, the following provisions of this Agreement shall survive: **Articles [*]**; and **Sections [*]** (with respect to [*] (and [*] for such purposes)); the last sentence of Section [*] with respect to [*] in the event of expiration of this Agreement pursuant to **Section [*]** and with respect to [*] in the event of termination of this Agreement [*]**, [*]**.

(b) Notwithstanding anything to the contrary in this Agreement, in the event of termination of this Agreement pursuant to **Section [*]**, [*] under this Agreement [*] of the [*]

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

shall [*]. In such case, the non-breaching Party shall continue to hold the licenses granted hereunder, subject to the milestone and royalties set forth herein (which relevant provisions shall survive termination).

(c) In any event, expiration or termination of this Agreement shall not relieve the Parties of any liability which accrued hereunder prior to the effective date of such expiration or termination nor preclude either Party from pursuing all rights and remedies it may have hereunder or at law or in equity with respect to any breach of this Agreement nor prejudice either Party's right to obtain performance of any obligation.

11.5 Licenses and Payments on Expiration or Termination.

(a) Research, Development and Commercialization of Reverted Compounds by Exelixis.

(i) Upon termination of this Agreement (other than for Exelixis' uncured material breach pursuant to **Section 11.3**), subject to **Section 11.5(b),** BMS hereby grants Exelixis a worldwide, royalty-bearing (solely to the extent provided in the Reverted Compounds License Agreement) license (with the right to sublicense) to clinically develop, make, have made, use, import, sell, offer to sell and have sold products incorporating any Reverted Compounds that are described in **Section 1.55(a)**, under any Information and Patents Controlled by BMS that (A) cover one (1) or more of such Reverted Compounds, and/or any composition containing any of the foregoing, or the manufacture or use thereof or (B) are [*] to clinically develop, make, have made, use, import, sell, offer to sell and have sold Products incorporating any such Reverted Compound. The license described in this **Section 11.5(a)(i)** shall be [*] for [*] and [*] for [*].

(ii) Upon expiration of this Agreement pursuant to **Section 11.1** or termination of this Agreement, subject to **Section 11.5(b)** and **Section 11.6**, BMS hereby grants Exelixis a worldwide, royalty-free license (with the right to sublicense) to clinically develop, make, have made, use, import, sell, offer to sell and have sold products incorporating any Reverted Compounds that are described in **Section 1.55(b)**, under any Information and Patents Controlled by BMS that (A) cover one (1) or more of such Reverted Compounds, and/or any composition containing any of the foregoing, or the manufacture or use thereof or (B) are [*] to clinically develop, make, have made, use, import, sell, offer to sell and have sold Products incorporating any such Reverted Compound. The license described in this **Section 11.5(a)(ii)** shall be [*] for [*] and [*] for [*].

(iii) Upon termination of this Agreement, subject to **Section 11.5(b)** and **Section 11.6**, BMS hereby grants Exelixis a worldwide, royalty-free license (without the right to sublicense except to Third Party contract research providers and manufacturers) to research, identify, derivatize, pre-clinically develop, make, have made and use Licensed Compounds for research purposes, under any BMS Licensed Know-How and BMS Licensed Patents covering one (1) or more Licensed Compounds, and/or any composition containing any of the foregoing, or the manufacture or use thereof. The license described in this **Section 11.5(a)(iii)** shall be: (A) [*] with respect to [*]; (B) [*] for [*]; and (C) [*] for [*]. Notwithstanding anything to the contrary in this Agreement, the foregoing license grant shall not create (by any means, whether expressly, impliedly or by estoppel) any right or license under any other Patents, Information or other

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

intellectual property right that is Controlled by BMS.

(iv) Upon termination of this Agreement, subject to **Section 11.5(b)** and **Section 11.6**, BMS hereby grants Exelixis a [*], worldwide, royalty-free license (without the right to sublicense except to Third Party contract research providers and manufacturers) to research, identify, derivatize, pre-clinically develop, make, have made and use Licensed Compounds for research purposes, under any Information or Patents Controlled by BMS that are [*] for the research, identification, derivatization, pre-clinical development, making, having made and use of Licensed Compounds in a manner consistent with the activities performed by (A) the Parties under the Research Plan or (B) BMS pursuant to the BMS Independent Program. Notwithstanding anything to the contrary in this Agreement, the foregoing license grant shall not create (by any means, whether expressly, impliedly or by estoppel) any right or license under any other Patents, Information or other intellectual property right that is Controlled by BMS.

(v) Upon termination of this Agreement, BMS shall transfer via assignment, license or sublicense to Exelixis: (A) all Information reasonably necessary for the development and commercialization of Reverted Compounds; (B) [*] in BMS' name; (C) [*] to the extent that [*]; (D) [*] Controlled by BMS; and (E) supplies of Product (including any intermediates, retained samples and reference standards) that in each case ((A) through (E)) are existing and in BMS' Control and that [*] relate to such Reverted Compounds. Any such transfer(s) shall be [*] of [*]. BMS and Exelixis shall promptly meet, over a [*] period, to negotiate in good faith the commercially reasonable terms of a license agreement to such Reverted Compounds (the "**Reverted Compounds License Agreement**"), including: (1) the licenses described in **Sections 11.5(a)(i) – (iv)**; (2) [*] under **Section 11.5(a)(i)**, and [*] of other Reverted Compounds; (3) a provision requiring BMS to use commercially reasonable efforts to maintain ([*]) and not to breach any agreements with Third Parties that provide a grant from such Third Party to BMS of rights that are Controlled by BMS and that are licensed to Exelixis pursuant to the Reverted Compounds License Agreement; and (4) other customary terms and provisions, including terms and provisions relating to diligence, audit rights, and intellectual property maintenance and enforcement, in each case substantially similar to the terms of this Agreement.

(b) BMS Internal Compound Research License. Notwithstanding the licenses granted to Exelixis pursuant to **Section 11(a)**, upon termination or expiration of this Agreement, BMS shall have a non-exclusive, worldwide, royalty-free license (without the right to sublicense except to third party contract research providers and manufacturers), under the Exelixis Licensed Patents and Exelixis Licensed Know-How, to research, identify, derivatize, pre-clinically develop, make, have made and use Licensed Compounds that are BMS ROR Compounds solely for research purposes. Notwithstanding anything to the contrary in this Agreement, the foregoing non-exclusive license grant shall not create (by any means, whether expressly, impliedly or by estoppel) any right or license under any other Patents, Information or other intellectual property right that is Controlled by Exelixis.

11.6 Exception for Termination for [*]. The licenses granted to [*] under **Sections [*]** shall be [*] with respect to any given Product where [*] termination of Development and/or Commercialization of such Product was due to [*]. For purposes of this **Section 11.6**, "[*]" means it is [*] or [*] or [*] that there is [*] for [*]: (i) [*], including [*]; or (ii) the [*] of [*] a Product [*] or [*], such as [*] or [*] a Product. Notwithstanding anything to the contrary,

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

this **Section 11.6** shall not prevent [*] from using its licenses in **Sections [*]** to [*] by [*] that was [*]. [*] shall provide [*] with all [*] for such [*] but shall not [*] to [*] any [*] relating to such [*].

11.7 Interim Supply. In the event of any termination pursuant to **Section 11.2**, or **Section 11.3** (where BMS is the breaching Party), in each case [*], at Exelixis' written request, BMS shall supply, or cause to be supplied, to Exelixis sufficient quantities of Product to satisfy Exelixis' requirements for Product for a period of up to [*] following the effective date of termination, as Exelixis may require until Exelixis can itself assume or transition to a Third Party such manufacturing responsibilities; *provided, however* that Exelixis shall use Diligent Efforts to affect such assumption (or transition) as promptly as practicable. Such supply shall be [*] such Product(s) with respect to development supply, and shall be [*] such Product(s) with respect to commercial supply. Any such supply will be made pursuant to a supply agreement between the Parties with typical provisions relating to quality, forecasting and ordering to forecast, force majeure and product liability and indemnity. In the event that BMS has one or more agreements with Third Party manufacturers with respect to the manufacture of a Product, at Exelixis' request, BMS shall use commercially reasonable efforts to transfer its rights and obligations under such agreement(s) to Exelixis upon any such termination.

12. REPRESENTATIONS AND WARRANTIES AND COVENANTS

12.1 Mutual Authority. Exelixis and BMS each represents and warrants to the other as of the Effective Date that: (a) it has the authority and right to enter into and perform this Agreement, (b) this Agreement is a legal and valid obligation binding upon it and is enforceable in accordance with its terms, subject to applicable limitations on such enforcement based on bankruptcy laws and other debtors' rights, and (c) its execution, delivery and performance of this Agreement shall not conflict in any material fashion with the terms of any other agreement or instrument to which it is or becomes a party or by which it is or becomes bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having authority over it.

12.2 Rights in Technology.

(a) During the term of this Agreement, each Party shall use commercially reasonable efforts to maintain (but without an obligation to renew) and not to breach any agreements with Third Parties that provide a grant of rights from such Third Party to a Party that are Controlled by such Party and are licensed or become subject to a license from such Party to the other Party under **Article 7.** Each Party agrees to provide promptly the other Party with notice of any such alleged breach or obligation to renew. As of the Effective Date, each Party is in compliance in all material respects with any aforementioned agreements with Third Parties.

(b) Each Party represents and warrants that it: (i) has the ability to grant the licenses contained in or required by this Agreement; and (ii) is not currently subject to any agreement with any Third Party or to any outstanding order, judgment or decree of any court or administrative agency that restricts it in any way from granting to the other Party such licenses or the right to exercise its rights hereunder.

(c) Each Party represents and warrants that: (i) it has not granted, and covenants

that it shall not grant after the Effective Date and during the term of this Agreement, any right, license or interest in or to, or an option to acquire any of the foregoing with respect to, the intellectual property rights licensed to the other Party hereunder (including the Exelixis Licensed Patents and the BMS Licensed Patents, as the case may be) that is in conflict with the rights (including the rights set forth in **Article 7**) or licenses granted or to be granted (including any conditional license rights) to the other Party under this Agreement; and (ii) it has not granted any lien, security interest or other encumbrance (excluding any licenses) with respect to any of the intellectual property rights licensed to the other Party hereunder that would prevent it from performing its obligations under this Agreement, or permitted such a lien, security interest or other encumbrance (excluding any permitted licenses) to attach to the intellectual property rights licensed to the other Party hereunder.

12.3 Performance by Affiliates. The Parties recognize that each may perform some or all of its obligations under this Agreement through Affiliates; *provided*, *however*, that each Party shall remain responsible and be guarantor of the performance by its Affiliates and shall cause its Affiliates to comply with the provisions of this Agreement in connection with such performance. In particular, if any Affiliate of a Party participates under this Agreement with respect to Licensed Compounds: (a) the restrictions of this Agreement which apply to the activities of a Party with respect to Licensed Compounds shall apply equally to the activities of such Affiliate; and (b) the Party affiliated with such Affiliate shall assure, and hereby guarantees, that any intellectual property developed by such Affiliate shall be governed by the provisions of this Agreement (and subject to the licenses set forth in **Article 7**) as if such intellectual property had been developed by the Party.

12.4 Third Party Rights. Each Party represents and warrants to the other Party that, to its Knowledge as of the Effective Date, its performance of work as contemplated by this Agreement shall not infringe the valid patent, trade secret or other intellectual property rights of any Third Party. Each Party represents and warrants to the other Party that, to its Knowledge as of the Effective Date, it will not violate a contractual or fiduciary obligation owed to any Third Party (including misappropriation of trade secrets) by performing its work as contemplated by this Agreement.

12.5 Notice of Infringement or Misappropriation. Each Party represents and warrants to the other Party that, as of the Effective Date, it has received no notice of infringement or misappropriation of any alleged rights asserted by any Third Party in relation to any technology that such Party intends, as of the Effective Date, to use in connection with the Agreement.

13. INDEMNIFICATION AND LIMITATION OF LIABILITY

13.1 Mutual Indemnification. Subject to **Section 13.3**, each Party hereby agrees to indemnify, defend and hold harmless the other Party, its Affiliates, and their respective directors, employees and agents from and against any and all Third Party suits, claims, actions, demands, liabilities, expenses and/or losses, including reasonable legal expenses and reasonable attorneys' fees ("**Losses**") to the extent such Losses result from any: (a) breach of warranty by the indemnifying Party contained in the Agreement; (b) breach of the Agreement or applicable law by such indemnifying Party; (c) negligence or willful misconduct of the indemnifying Party, its Affiliates or (sub)licensees, or their respective directors, employees and agents in the performance of the Agreement; and/or (d) breach of a contractual or fiduciary obligation owed by it to a Third

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Party (including misappropriation of trade secrets).

13.2 Indemnification.

(a) Indemnification by BMS. Subject to **Section 13.3**, BMS hereby agrees to indemnify, defend and hold harmless Exelixis and its directors, employees and agents from and against any and all Losses to the extent such Losses result from [*] or [*] by BMS or its Affiliates, agents or sublicensees, except to the extent such Losses result from any: (a) breach of warranty by Exelixis contained in the Agreement; (b) breach of the Agreement or applicable law by Exelixis; (c) negligence or willful misconduct by Exelixis, its Affiliates or (sub)licensees, or their respective directors, employees and agents in the performance of the Agreement; and/or (d) breach of a contractual or fiduciary obligation owed by Exelixis to a Third Party (including misappropriation of trade secrets).

(b) Indemnification by Exelixis. Subject to **Section 13.3**, Exelixis hereby agrees to indemnify, defend and hold harmless BMS and its directors, employees and agents from and against any and all Losses to the extent such Losses result from [*] or [*] by Exelixis or its Affiliates, agents or sublicensees, except to the extent such Losses result from any: (a) breach of warranty by BMS contained in the Agreement; (b) breach of the Agreement or applicable law by BMS; (c) negligence or willful misconduct by BMS, its Affiliates or (sub)licensees, or their respective directors, employees and agents in the performance of the Agreement; and/or (d) breach of a contractual or fiduciary obligation owed by BMS to a Third Party (including misappropriation of trade secrets).

13.3 Conditions to Indemnification. As used herein, "**Indemnitee**" shall mean a party entitled to indemnification under the terms of **Sections 13.1** or **13.2**. A condition precedent to each Indemnitee's right to seek indemnification under such **Sections 13.1** or **13.2** is that such Indemnitee shall:

(a) inform the indemnifying Party under such applicable Section of a Loss as soon as reasonably practicable after it receives notice of the Loss;

(b) if the indemnifying Party acknowledges that such Loss falls within the scope of its indemnification obligations hereunder, permit the indemnifying Party to assume direction and control of the defense, litigation, settlement, appeal or other disposition of the Loss (including the right to settle the claim solely for monetary consideration); *provided*, that the indemnifying Party shall seek the prior written consent (such consent not to be unreasonably withheld, delayed or conditioned) of any such Indemnitee as to any settlement which would materially diminish or materially adversely affect the scope, exclusivity or duration of any Patents licensed under this Agreement, would require any payment by such Indemnitee, would require an admission of legal wrongdoing in any way on the part of an Indemnitee, or would effect an amendment of this Agreement; and

(c) fully cooperate (including providing access to and copies of pertinent records and making available for testimony relevant individuals subject to its control) as reasonably requested by, and at the expense of, the indemnifying Party in the defense of the Loss.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Provided that an Indemnitee has complied with all of the conditions described in **subsections 13.3(a) – (c)**, as applicable, the indemnifying Party shall provide attorneys reasonably acceptable to the Indemnitee to defend against any such Loss. Subject to the foregoing, an Indemnitee may participate in any proceedings involving such Loss using attorneys of the Indemnitee's choice and at the Indemnitee's expense. In no event may an Indemnitee settle or compromise any Loss for which the Indemnitee intends to seek indemnification from the indemnifying Party hereunder without the prior written consent of the indemnifying Party (such consent not to be unreasonably withheld, delayed or conditioned), or the indemnification provided under such **Section 13.1** or **13.2** as to such Loss shall be null and void.

13.4 Limitation of Liability. EXCEPT FOR AMOUNTS PAYABLE TO THIRD PARTIES BY A PARTY FOR WHICH IT SEEKS REIMBURSEMENT OR INDEMNIFICATION PROTECTION FROM THE OTHER PARTY PURSUANT TO **SECTIONS 13.1 AND 13.2**, AND EXCEPT FOR BREACH OF **SECTION 10.1** HEREOF, IN NO EVENT SHALL EITHER PARTY, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR AFFILIATES BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER BASED UPON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE, ARISING OUT OF THE AGREEMENT, UNLESS SUCH DAMAGES ARE DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE LIABLE PARTY (INCLUDING GROSS NEGLIGENCE OR WILLFUL BREACH WITH RESPECT TO A PARTY'S REPRESENTATIONS AND WARRANTIES IN **ARTICLE 12**). FOR CLARITY, THE AMOUNT OF THE UPFRONT PAYMENTS DESCRIBED IN **SECTION 8.1** MAY SERVE AS A MEASURE OF A REMEDY IN THE EVENT OF A BREACH WITH RESPECT TO EXELIXIS' REPRESENTATIONS AND WARRANTIES IN **ARTICLE 12.**

13.5 Agreement Disclaimer. EXCEPT AS PROVIDED IN **ARTICLE 12** ABOVE, BMS EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES WITH RESPECT TO ANY COMPOUNDS, MATERIALS OR INFORMATION (AND ANY PATENT RIGHTS OBTAINED THEREON) IDENTIFIED, MADE OR GENERATED BY BMS AS PART OF THE COLLABORATION OR OTHERWISE MADE AVAILABLE TO EXELIXIS PURSUANT TO THE TERMS OF THE AGREEMENT. EXCEPT AS PROVIDED IN **ARTICLE 12** ABOVE, EXELIXIS EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES WITH RESPECT TO ANY COMPOUNDS, MATERIALS OR INFORMATION (AND ANY PATENT RIGHTS OBTAINED THEREON) IDENTIFIED, MADE OR GENERATED BY EXELIXIS AS PART OF THE COLLABORATION OR OTHERWISE MADE AVAILABLE TO BMS PURSUANT TO THE TERMS OF THE AGREEMENT.

14. MISCELLANEOUS

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

14.1 Dispute Resolution. Unless otherwise set forth in this Agreement and excluding in particular any dispute described in **Section 14.3(a), Section 14.3(b), Section [*]** (which will be handled exclusively in accordance with **Section [*]**), **Section [*]** (which will be handled exclusively in accordance with **Section [*]**)and any dispute handled pursuant to **Sections [*],** in the event of any dispute, controversy or claim arising out of, relating to or in connection with any provision of the Agreement, the Parties shall try to settle their differences amicably between themselves first, by referring the disputed matter to the Party's respective Executive Officers. Either Party may initiate such informal dispute resolution by sending written notice of the dispute to the other Party, and, within [*] after such notice, such Executive Officers shall meet for attempted resolution by good faith negotiations. If such Executive Officers are unable to resolve such dispute within [*] of their first meeting for such negotiations, either Party may seek to have such dispute resolved in any U.S. federal or state court of competent jurisdiction and appropriate venue, *provided*, that if such suit includes a Third Party claimant or defendant, and jurisdiction and venue with respect to such Third Party appropriately resides outside the U.S., then in any other jurisdiction or venue permitted by applicable law.

14.2 Governing Law. Resolution of all disputes, controversies or claims arising out of, relating to or in connection with the Agreement or the performance, enforcement, breach or termination of the Agreement and any remedies relating thereto, shall be governed by and construed under the substantive laws of the State of Delaware, without regard to conflicts of law rules.

14.3 Patents and Trademarks; Equitable Relief.

(a) General Patent and Trademark Disputes. Except as set forth in **Sections 14.3(c)** and **(d)**, any dispute, controversy or claim arising out of, relating to or in connection with: (i) the scope, validity, enforceability or infringement of any Patent rights covering the research, development, manufacture, use or sale of any Product; or (ii) any trademark rights related to any Product, shall in each case be submitted to a court of competent jurisdiction in the territory in which such Patent or trademark rights were granted or arose.

(b) Equitable Relief. Any dispute, controversy or claim arising out of, relating to or in connection with the need to seek preliminary or injunctive measures or other equitable relief (e.g., in the event of a potential or actual breach of the confidentiality and non-use provisions in **Article 10**) need not be resolved through the procedure described in **Section 14.1** but may be immediately brought in a court of competent jurisdiction.

(c) Disputes Related to Subsection [*]. Any dispute that concerns whether [*] a [*] (other than [*] of a [*]) would [*] and that is not resolved by discussion pursuant to **Section [*]** shall be finally resolved through binding arbitration by JAMS (formerly, the Judicial Arbitration and Mediation Service) ("**JAMS**"), in accordance with its Streamlined Arbitration Rules and Procedures in effect at the time the dispute arises, and applying the substantive law specified in **Section 14.2**. Either Party may initiate arbitration under this **Section 14.3(c)** by written notice to the other Party of its intention to arbitrate, and such notice shall specify in reasonable detail the nature of the dispute. Promptly following receipt of such notice, the Parties shall meet and discuss in good faith and agree on an arbitrator to resolve the issue, which arbitrator shall be neutral and independent of both Parties, shall have significant experience and expertise in [*] pharmaceutical products, and shall have some experience in mediating or arbitrating issues relating to such [*]. If

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

the Parties cannot agree on such arbitrator within [*] of request by a Party for arbitration, then such arbitrator shall be appointed by JAMS, which arbitrator must meet the foregoing criteria. For each arbitration: (i) each Party shall submit to the arbitrator its memorandum (the **"Support Memorandum"**) in support of its position in the dispute; and (ii) the arbitrator shall determine which Party's position is correct. If the arbitrator's determination is in [*] favor, then [*] would not [*] under **Section [*]** for such [*]; however, if the arbitrator's determination is in [*] favor, then [*] would [*] under **Section [*]** for such [*]. The decision of the arbitrator shall be final and judgment upon such decision may be entered in any competent court or application may be made to any competent court for judicial acceptance of such decision and order of enforcement. The arbitration proceedings shall be conducted at such location as shall be determined by the arbitrator. The Parties agree that they shall share equally the cost of the arbitration filing and hearing fees, and the cost of the arbitrator. Each Party shall bear its own attorneys' fees and associated costs and expenses.

(d) Disputes Related to Subsection [*]. If [*] and the [*] that [*] pursuant to **Subsection [*]** do not agree upon [*] that reasonably [*] within [*] after the [*] such [*], then either party may, by written notification to the other party, submit the matter to binding "baseball" arbitration to determine the terms of such [*], as follows. Promptly following receipt of such notice, the parties shall meet and discuss in good faith and agree on an arbitrator to resolve the issue, which arbitrator shall be neutral and independent of both parties, shall have significant experience and expertise in [*] pharmaceutical products and in [*] as part of collaboration agreements, and shall have some experience in mediating or arbitrating issues relating to such [*]. If the parties cannot agree on such arbitrator within [*] of request by a party for arbitration, then such arbitrator shall be appointed by JAMS, which arbitrator must meet the foregoing criteria. Within [*] after an arbitrator is selected (or appointed, as the case may be), each party will deliver to both the arbitrator and the other party a detailed written proposal setting forth its proposed terms for the [*] containing the reasonable [*] (the **"Proposed Terms"** of the party) and a Support Memorandum, not exceeding [*] in length. The parties will also provide the arbitrator a copy of this Agreement, as may be amended at such time. Within [*] after receipt of the other party's Proposed Terms and Support Memorandum, each party may submit to the arbitrator (with a copy to the other party) a response to the other party's Support Memorandum, such response not exceeding [*] in length. Neither party may have any other communications (either written or oral) with the arbitrator other than for the sole purpose of engaging the arbitrator or as expressly permitted in this **Section 14.3(d)**; provided that, the arbitrator may convene a hearing if the arbitrator so chooses to ask questions of the parties and hear oral argument and discussion regarding each party's Proposed Terms. Within [*] after the arbitrator's appointment, the arbitrator will select one of the two (2) Proposed Terms (without modification) provided by the parties that he or she believes is most consistent with the intention underlying and agreed principles set forth in this Agreement and most accurately reflects industry norms for a transaction of this type. The decision of the arbitrator shall be final, binding, and unappealable and the parties shall promptly [*] having the terms set forth in the Proposed Terms selected by the arbitrator. For clarity, the arbitrator must select as the only method to determine the [*] one of the two (2) sets of Proposed Terms, and may not combine elements of both Proposed Terms or take any other action. Except as expressly stated in this **Section 14.3(d),** such arbitration shall be conducted in accordance with JAMS' Streamlined Arbitration Rules and Procedures then in effect.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

14.4 Entire Agreement; Amendments. This Agreement, the LXR Collaboration Agreement, the license agreement (for the discovery, development and commercialization of compounds that agonize the target known as TGR5) that is between Exelixis and BMS and that is dated as of the Effective Date (the **"TGR5 License Agreement"**), and the letter agreement that is dated as of the Effective Date and that describes Exelixis' creation of a licensing Affiliate (the "**Letter Agreement**"), set forth the complete, final and exclusive agreement and all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties hereto and supersedes and terminates all prior agreements and understandings between the Parties. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as are set forth in this Agreement, the LXR Collaboration Agreement, the TGR5 License Agreement and the Letter Agreement. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party.

14.5 Export Control. This Agreement is made subject to any restrictions concerning the export of products or technical information from the U.S. or other countries which may be imposed upon or related to Exelixis or BMS from time to time. Each Party agrees that it shall not export, directly or indirectly, any technical information acquired from the other Party under this Agreement or any products using such technical information to a location or in a manner that at the time of export requires an export license or other governmental approval, without first obtaining the written consent to do so from the appropriate agency or other governmental entity.

14.6 Bankruptcy.

(a) All rights and licenses granted under or pursuant to this Agreement, including amendments hereto, by each Party to the other Party are, for all purposes of Section 365(n) of Title 11 of the U.S. Code ("**Title 11**"), licenses of rights to intellectual property as defined in Title 11. Each Party agrees during the term of this Agreement to create and maintain current copies or, if not amenable to copying, detailed descriptions or other appropriate embodiments, to the extent feasible, of all such intellectual property. If a case is commenced by or against either Party (the "**Bankrupt Party**") under Title 11, then, unless and until this Agreement is rejected as provided in Title 11, the Bankrupt Party (in any capacity, including debtor-in-possession) and its successors and assigns (including a Title 11 Trustee) shall, at the election of the Bankrupt Party made within sixty (60) days after the commencement of the case (or, if no such election is made, immediately upon the request of the non-Bankrupt Party) either (i) perform all of the obligations provided in this Agreement to be performed by the Bankrupt Party including, where applicable, providing to the non-Bankrupt Party portions of such intellectual property (including embodiments thereof) held by the Bankrupt Party and such successors and assigns or otherwise available to them or (ii) provide to the non-Bankrupt Party all such intellectual property (including all embodiments thereof) held by the Bankrupt Party and such successors and assigns or otherwise available to them.

(b) If a Title 11 case is commenced by or against the Bankrupt Party and this Agreement is rejected as provided in Title 11 and the non-Bankrupt Party elects to retain its rights hereunder as provided in Title 11, then the Bankrupt Party (in any capacity, including debtor-in-possession) and its successors and assigns (including a Title 11 Trustee) shall provide to the non-Bankrupt Party all such intellectual property (including all embodiments thereof) held by the

Bankrupt Party and such successors and assigns or otherwise available to them immediately upon the non-Bankrupt Party's written request therefor. Whenever the Bankrupt Party or any of its successors or assigns provides to the non-Bankrupt Party any of the intellectual property licensed hereunder (or any embodiment thereof) pursuant to this **Section 14.6**, the non-Bankrupt Party shall have the right to perform the obligations of the Bankrupt Party hereunder with respect to such intellectual property, but neither such provision nor such performance by the non-Bankrupt Party shall release the Bankrupt Party from any such obligation or liability for failing to perform it.

(c) All rights, powers and remedies of the non-Bankrupt Party provided herein are in addition to and not in substitution for any and all other rights, powers and remedies now or hereafter existing at law or in equity (including Title 11) in the event of the commencement of a Title 11 case by or against the Bankrupt Party. The non-Bankrupt Party, in addition to the rights, power and remedies expressly provided herein, shall be entitled to exercise all other such rights and powers and resort to all other such remedies as may now or hereafter exist at law or in equity (including under Title 11) in such event. The Parties agree that they intend the foregoing non-Bankrupt Party rights to extend to the maximum extent permitted by law and any provisions of applicable contracts with Third Parties, including for purposes of Title 11, (i) the right of access to any intellectual property (including all embodiments thereof) of the Bankrupt Party or any Third Party with whom the Bankrupt Party contracts to perform an obligation of the Bankrupt Party under this Agreement, and, in the case of the Third Party, which is necessary for the development, registration and manufacture of Products and (ii) the right to contract directly with any Third Party described in (i) in this sentence to complete the contracted work. Any intellectual property provided pursuant to the provisions of this **Section 14.6** shall be subject to the licenses set forth elsewhere in this Agreement and the payment obligations of this Agreement, which shall be deemed to be royalties for purposes of Title 11.

14.7 Force Majeure. Each Party shall be excused from the performance of its obligations under this Agreement to the extent that such performance is prevented by force majeure (defined below) and the nonperforming Party promptly provides notice of the prevention to the other Party. Such excuse shall be continued so long as the condition constituting force majeure continues and the nonperforming Party takes reasonable efforts to remove the condition. For purposes of this Agreement, "**force majeure**" shall include conditions beyond the control of the Parties, including an act of God, acts of terrorism, voluntary or involuntary compliance with any regulation, law or order of any government, war, civil commotion, labor strike or lock-out, epidemic, failure or default of public utilities or common carriers, destruction of production facilities or materials by fire, earthquake, storm or like catastrophe. The payment of invoices due and owing hereunder shall in no event be delayed by the payer because of a force majeure affecting the payer.

14.8 Notices. Any notices given under this Agreement shall be in writing, addressed to the Parties at the following addresses, and delivered by person, by facsimile (with receipt confirmation), or by FedEx or other reputable courier service. Any such notice shall be deemed to have been given: (a) as of the day of personal delivery; (b) one (1) day after the date sent by facsimile service; or (c) on the day of successful delivery to the other Party confirmed by the courier service. Unless otherwise specified in writing, the mailing addresses of the Parties shall be as described below.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

For Exelixis:	Exelixis, Inc. 170 Harbor Way P.O. Box 511 So. San Francisco, CA 94083-0511 Attention: EVP, General Counsel
With a copy to:	Cooley LLP Five Palo Alto Square 3000 El Camino Real Palo Alto, CA 94306 Attention: Marya A. Postner, Esq.
For BMS:	Bristol-Myers Squibb Company P.O. Box 4000 Route 206 and Province Line Road Princeton, NJ 08543-4000 Attention: Senior Vice President, Strategy, Alliances and Transactions Phone: 609-252-5333 Fax: 609-252-7212
With a copy to:	Bristol-Myers Squibb Company P.O. Box 4000 Route 206 and Province Line Road Princeton, NJ 08543-4000 Attention: Vice President and Senior Counsel, Corporate and Business Development Phone: 609-252-5328 Fax: 609-252-4232

Furthermore, a copy of any notices required or given under **Article 7** of this Agreement shall also be addressed to the [*] of [*] at the address set forth in **Section 7.8(f)**.

14.9 Maintenance of Records Required by Law or Regulation. Each Party shall keep and maintain all records required by law or regulation with respect to Products and shall make copies of such records available to the other Party upon request.

14.10 Assignment. Neither Party may assign or transfer this Agreement or any rights or obligations hereunder without the prior written consent of the other (such consent not to be unreasonably withheld, delayed or conditioned), except a Party may make such an assignment without the other Party's consent to an Affiliate or to a Third Party successor to all or substantially all of the business of such Party to which this Agreement relates, whether in a merger, sale of stock, sale of assets or other transaction; *provided* that any such permitted successor or assignee of rights and/or obligations hereunder is obligated, by reason of operation of law or pursuant to a written agreement with the other Party, to assume performance of this Agreement or such rights and/or obligations; and *provided, further*, that if assigned to an Affiliate, the assigning Party shall remain jointly and severally responsible for the performance of this Agreement by such Affiliate. Any

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

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 14.10** shall be null and void and of no legal effect.

14.11 Electronic Data Interchange. If both Parties elect to facilitate business activities hereunder by electronically sending and receiving data in agreed formats (also referred to as Electronic Data Interchange or "**EDI**") in substitution for conventional paper-based documents, the terms and conditions of this Agreement shall apply to such EDI activities.

14.12 Non-Solicitation of Employees. [*], each Party agrees that neither it nor any of its divisions, operating groups or Affiliates shall recruit, solicit or induce any employee of the other Party directly involved in the activities conducted pursuant to this Agreement to terminate his or her employment with such other Party and become employed by or consult for such Party, whether or not such employee is a full-time employee of such other Party, and whether or not such employment is pursuant to a written agreement or is at-will. For purposes of the foregoing, **"recruit"**, **"solicit"** or **"induce"** shall not be deemed to mean: (a) circumstances where an employee of a Party initiates contact with the other Party or any of its Affiliates with regard to possible employment; or (b) general solicitations of employment not specifically targeted at employees of a Party or any of its Affiliates, including responses to general advertisements.

14.13 Further Actions. Each Party agrees to execute, acknowledge and deliver such further instruments, and to do all such other acts, as may be necessary or appropriate in order to carry out the purposes and intent of this Agreement.

14.14 Severability. If any of the provisions of this Agreement are held to be invalid or unenforceable by any court of competent jurisdiction from which no appeal can be or is taken, the provision shall be considered severed from this Agreement and shall not serve to invalidate any remaining provisions hereof. The Parties shall make a good faith effort to replace any invalid or unenforceable provision with a valid and enforceable one such that the objectives contemplated by the Parties when entering this Agreement may be realized.

14.15 No Waiver. Any delay in enforcing a Party's rights under this Agreement or any waiver as to a particular default or other matter shall not constitute a waiver of such Party's rights to the future enforcement of its rights under this Agreement, excepting only as to an express written and signed waiver as to a particular matter for a particular period of time.

14.16 Construction of this Agreement. Except where the context otherwise requires, wherever used, the use of any gender shall be applicable to all genders, and the word "**or**" are used in the inclusive sense. When used in this Agreement, "**including**" means "**including without limitation**". References to either Party include the successors and permitted assigns of that Party. The headings of this Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement. The Parties have each consulted counsel of their choice regarding this Agreement, and, accordingly, no provisions of this Agreement shall be construed against either Party on the basis that the Party drafted this Agreement or any provision thereof. If the terms of this Agreement conflict with the terms of any Exhibit, then the terms of this Agreement shall govern. The official text of this Agreement and any Exhibits hereto, any notice given or accounts or

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

statements required by this Agreement, and any dispute proceeding related to or arising hereunder, shall be in English. In the event of any dispute concerning the construction or meaning of this Agreement, reference shall be made only to this Agreement as written in English and not to any other translation into any other language.

14.17 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be an original and all of which shall constitute together the same document. Counterparts may be signed and delivered by facsimile, or electronically in PDF format, each of which shall be binding when sent.

Signature page follows.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals by their proper officers. Further, the Parties agree that the signature dates below reflect the actual date of signatures by the Parties and may not be the effective date of this Agreement.

BRISTOL-MYERS SQUIBB COMPANY		**EXELIXIS, INC.**	
By:	/s/ Jeremy Levin	By:	/s/ Michael Morrissey
Title:	Senior Vice President	Title:	CEO
Date:	10/08/2010	Date:	10/08/2010

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 4.2

Form of Transfer Addendum

This Transfer Addendum No. __ (the "**Transfer Addendum**") to the license agreement between Bristol-Myers Squibb Company and Exelixis, Inc., effective as of _____, 2010 (the "**License Agreement**"), is made as of _____ **{Note: Please insert date} (**the **"Addendum Effective Date"),** by and between:

Transferring Party: **Exelixis, Inc.**

And

Receiving Party: **Bristol-Myers Squibb Company**

for the transfer of:

(1) Information:

{Note: Please identify any Information other than the Materials that would be transferred, e.g., assay protocols, or else add "N/A" if not applicable.}

(2) Materials:

(i) the following biological materials:

{Note: Please identify any cell-lines, reagents, genes, vectors and constructs that would be transferred, or else add "N/A" if not applicable.}

(ii) the following {Licensed Compounds} known as:

{Note: Please insert identifier of the applicable compounds, or else add "N/A" if not applicable.}

Terms and Special Terms

The Parties agree that the transfer of the above defined Information and Materials pursuant to this Transfer Addendum shall be covered and submitted to the terms and conditions of the License Agreement. Any special terms and conditions identified on Appendix A, attached hereto and incorporated herein, shall also apply to the transfer of the Materials under this Transfer Addendum.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

IN WITNESS WHEREOF, this Transfer Addendum is entered into as of the Addendum Effective Date, and it is accepted and agreed to by the Parties' authorized representatives. The date that this Transfer Addendum is signed shall not be construed to imply that the document was made effective on that date.

Name: **{Note: insert name of AM}**	Name: **{Note: insert name of AM}**
For Exelixis	For BMS
Title: Alliance Manager	Title: Alliance Manager
Date:	Date:

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Appendix A to Transfer Addendum
Special Terms

The following special terms and conditions apply to the transfer of the Materials under this Transfer Addendum.

{Note: Please identify any special terms and conditions, or else add "N/A" if not applicable.}

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 10.5

Press Release

Contact:
Charles Butler
Vice President
Corporate Communications
& Investor Relations
Exelixis, Inc.
(650) 837-7277
cbutler@exelixis.com

DeDe Sheel
Associate Director,
Investor Relations
Exelixis, Inc.
(650) 837-8231
dsheel@exelixis.com

EXELIXIS LICENSES PROGRAMS TO BRISTOL-MYERS SQUIBB COMPANY

-***Exelixis to receive initial payment of $60 million***-

SOUTH SAN FRANCISCO, Calif., October XX, 2010 — Exelixis, Inc. (NASDAQ: EXEL) announced today that it has entered into two new collaboration agreements with Bristol-Myers Squibb Company (NYSE:BMY). Under the first agreement, Exelixis will grant to Bristol-Myers Squibb an exclusive license to its small-molecule TGR5 agonist program including backups. Under the second agreement, the companies will collaborate to discover, optimize, and characterize small-molecule ROR antagonists. The companies have also made minor amendments to their XL281 and liver X receptor (LXR) agreements. Finally, under the companies' cancer collaboration agreement Exelixis has opted to exercise its right to opt out of further co-development of XL139 and will receive an accelerated milestone payment.

Under the terms of the new agreements, Bristol-Myers Squibb will make a combined initial payment of $60 million to Exelixis. Exelixis will be eligible for potential development and approval milestone payments of up to $250 million on TGR5 and $255 million on the ROR antagonists. Exelixis will also be eligible for combined sales performance milestones, and royalties on net sales of products from each of the TGR5 and ROR programs. Bristol-Myers Squibb will receive an exclusive worldwide license to develop and commercialize small molecule TGR5 agonists and ROR antagonists. Under the TGR5 agreement, Bristol-Myers Squibb will have sole responsibility for research, development, manufacturing, and commercialization. Under the ROR agreement, Bristol-Myers Squibb and Exelixis will collaborate on ROR antagonist programs up to a pre-clinical transition point and then Bristol-Myers Squibb will have sole responsibility for the further research, development, manufacture, and commercialization.

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exelixis is granting rights to the ROR program in exchange for Bristol-Myers Squibb waiving rights to receive a third Investigational New Drug (IND) candidate as agreed to under a collaboration signed in 2006 between the two companies in the area of oncology.

After Exelixis opts-out of further co-development of XL139, Bristol-Myers Squibb will receive an exclusive worldwide license to develop and commercialize, and will have sole responsibility for the further development, manufacture, and commercialization of the compound.

“We continue our strong relationship with Bristol-Myers Squibb and are excited for these collaborations to maximize the potential of these novel programs and bring benefits to patients with serious diseases,” said Michael M. Morrissey, Ph.D., president and chief executive officer of Exelixis. “These transactions leverage our discovery expertise with the development expertise of Bristol-Myers Squibb in inflammation and metabolic diseases, and provide important additional resources for us to continue our focus on our clinical stage development pipeline.”

TGR5 is a G-protein coupled bile acid receptor (GPCR) which is highly expressed in the gall bladder and intestine. Through TGR5, bile acids promote the secretion of glucogen-like peptide-1 (GLP-1), a hormone that affects multiple metabolic parameters including increased insulin secretion from the pancreas and lowering of blood glucose. Stimulating GLP-1 secretion by activation of TGR5 has the potential to be complementary to the use of dipeptidyl peptidase-4 (DPP-IV) inhibitors for the treatment of diabetes.

ROR is a member of the nuclear hormone receptor family that is expressed in multiple cell types including T-cells. ROR plays a prominent role in the development and activity of the TH17 subset of T-cells, which secrete IL-17 and are associated with a variety of inflammatory disorders. Small molecule antagonists of ROR inhibit production of these pro-inflammatory cytokines and have broad potential as novel anti-inflammatory compounds.

The TGR5 license agreement and the amendment to the 2007 cancer collaboration agreement are subject to antitrust clearance under the Hart-Scott-Rodino Antitrust Improvements Act and other customary regulatory approvals.

About Exelixis

Exelixis, Inc. is a development-stage biotechnology company dedicated to the discovery and development of novel small molecule therapeutics for the treatment of cancer and other serious diseases. The company is leveraging its biological expertise and integrated research and development capabilities to generate a pipeline of development compounds with significant therapeutic and commercial potential for the treatment of cancer and potentially other serious diseases. Currently, Exelixis’ broad product pipeline includes investigational compounds in phase 3, phase 2, and phase 1 clinical development. Exelixis has established strategic corporate alliances with major pharmaceutical and biotechnology companies, including Bristol-Myers Squibb Company, sanofi-aventis, GlaxoSmithKline, Genentech (a wholly owned member of the Roche Group), Boehringer Ingelheim, and Daiichi-Sankyo. For more information, please visit the company’s web site at http://www.exelixis.com.

Exelixis and the Exelixis logo are registered U.S. trademarks.

{Insert Forward-Looking Statements}

[*] = Certain confidential information contained in this document, marked by brackets, has been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements on Form S-8 (Nos. 333-157825, 333-159280, 333-124536, 333-113472, 333-102770, 333-82724, 333-82722, 333-57026, 333-54868, 333-52434, 333-35862, 333-133237, 333-147063 and 333-149834, 333-165389), the Registration Statement on Form S-1 and related Prospectus of Exelixis, Inc. (No. 333-152166), and the Registration Statement on Form S-3 and related Prospectus of Exelixis, Inc. (No. 333-158792) of our reports dated February 22, 2011 with respect to the consolidated financial statements of Exelixis, Inc. and the effectiveness of internal control over financial reporting of Exelixis, Inc., included in this Annual Report (Form 10-K) for the year ended December 31, 2010.

/s/ Ernst & Young LLP

Palo Alto, California
February 22, 2011

Exhibit 31.1

CERTIFICATION

I, Michael M. Morrissey, Ph.D., Chief Executive Officer of Exelixis, Inc., certify that:

1. I have reviewed this annual report on Form 10-K of Exelixis, Inc.;

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

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

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

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

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

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

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

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

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

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

/s/ MICHAEL M. MORRISSEY

Michael M. Morrissey, Ph.D.
President and Chief Executive Officer

Date: February 22, 2011

Exhibit 31.2

CERTIFICATION

I, Frank Karbe, Chief Financial Officer of Exelixis, Inc., certify that:

1. I have reviewed this annual report on Form 10-K of Exelixis, Inc.;

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

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

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

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

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

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

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

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

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

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

/s/ FRANK KARBE
Frank Karbe
Chief Financial Officer

Date: February 22, 2011

Exhibit 32.1

CERTIFICATION

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, and Section 1350 of Chapter 63 of Title 18 of the United States Code, Michael M. Morrissey, Ph.D., the Chief Executive Officer of Exelixis, Inc. (the "Company"), and Frank Karbe, the Chief Financial Officer of the Company, each hereby certifies that, to their knowledge:

1. The Company's Annual Report on Form 10-K for the period ended December 31, 2010, to which this Certification is attached as Exhibit 32.1 (the "Annual Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and

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

In Witness Whereof, the undersigned have set their hands hereto as of the 22nd day of February 2011.

/s/ MICHAEL M. MORRISSEY	/s/ FRANK KARBE
Michael M. Morrissey, Ph.D. Chief Executive Officer (Principal Executive Officer)	Frank Karbe Chief Financial Officer (Principal Financial Officer)