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

FORM 10-Q

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

For the quarterly period ended June 30, 2004

or

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

For the transition period from to

Commission File Number: 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 No.)

170 Harbor Way
P.O. Box 511
South San Francisco, CA 94083
(Address of principal executive offices, including zip code)

(650) 837-7000
(Registrant's telephone number, including area code)

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

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes ☒ No o

On July 30, 2004, there were 72,159,254 shares of common stock, par value $.001 per share, of Exelixis, Inc. outstanding.

EXELIXIS, INC.

QUARTERLY REPORT ON FORM 10-Q
FOR THE QUARTERLY PERIOD ENDED JUNE 30, 2004

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ITEM 1. FINANCIAL STATEMENTS

EXELIXIS, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands)

	June 30, 2004 (unaudited)	December 31, 2003 (1)
ASSETS		
Current assets:		
Cash and cash equivalents	$ 38,924	$ 111,828
Short-term investments	123,722	125,264
Other receivables	2,477	3,846
Other current assets	5,116	3,156
Total current assets	170,239	244,094
Restricted cash and investments	7,635	4,838
Property and equipment, net	33,794	33,500
Goodwill	67,364	67,364
Other intangibles, net	3,858	4,136
Other assets	4,304	3,862
Total assets	$ 287,193	$ 357,794
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 1,811	$ 6,151
Other accrued expenses	10,371	10,400
Accrued compensation and benefits	5,049	6,139
Current portion of capital lease obligations	2,679	4,490
Current portion of notes payable and bank obligations	5,405	5,367
Deferred revenue	15,251	21,579
Total current liabilities	40,565	54,126
Capital lease obligations	627	1,790
Notes payable and bank obligations	13,271	14,437
Convertible promissory note and loan	85,000	85,000
Other long-term liabilities	2,515	1,184
Deferred revenue	38,099	39,775
Total liabilities	180,077	196,312
Commitments		
Stockholders' equity:		
Preferred stock	—	—
Common stock	73	71
Additional paid-in-capital	546,569	541,917
Notes receivable from stockholders	—	(53)
Deferred stock compensation, net	—	(33)
Accumulated other comprehensive income	736	1,708
Accumulated deficit	(440,262)	(382,128)
Total stockholders' equity	107,116	161,482

Total liabilities and stockholders' equity	$ 287,193	$ 357,794

(1) The condensed consolidated balance sheet at December 31, 2003 has been derived from the audited financial statement at that date but does not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements.

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

EXELIXIS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data)
(unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2004	2003	2004	2003
Revenues:				
Contracts	$ 9,431	$ 9,877	$ 18,195	$ 19,079
License	3,128	3,128	6,256	6,256
Total revenues	12,559	13,005	24,451	25,335
Operating expenses:				
Research and development	34,416	32,453	68,640	62,756
General and administrative	4,702	4,701	10,278	9,869
Restructuring charge	1,738	—	2,275	—
Acquired in-process research and development	395	—	395	—
Amortization of intangibles	167	167	333	333
Total operating expenses	41,418	37,321	81,921	72,958
Loss from operations	(28,859)	(24,316)	(57,470)	(47,623)
Other income (expense):				
Interest income	782	1,042	1,698	2,268
Interest expense	(1,221)	(914)	(2,454)	(1,832)
Other income (expense), net	7	838	92	874
Total other income (expense)	(432)	966	(664)	1,310
Loss before income taxes	(29,291)	(23,350)	(58,134)	(46,313)
Provision for income taxes	—	92	—	187
Net loss	$ (29,291)	$ (23,442)	$ (58,134)	$ (46,500)
Net loss per share, basic and diluted	$ (0.41)	$ (0.39)	$ (0.81)	$ (0.78)
Shares used in computing basic and diluted net loss per share	72,011	60,141	71,762	59,701

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

EXELIXIS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Six Months Ended June 30,	
	2004	2003
	(unaudited)	
Cash flows from operating activities:		
Net loss	$ (58,134)	$ (46,500)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	8,575	8,003
Stock compensation expense	75	577
Non-cash portion of restructuring charge	(150)	—
Acquired in-process research and development	395	—
Amortization of intangibles	333	333
Other	54	238
Changes in assets and liabilities:		

Other receivables	1,865	(1,543)
Other current assets	(1,764)	(939)
Related-party receivables	102	299
Other assets	(1,123)	32
Accounts payable and other accrued expenses	(4,790)	(747)
Other long-term liabilities	1,100	500
Deferred revenue	(9,695)	(6,268)
Net cash used in operating activities	(63,157)	(46,015)
Cash flows from investing activities:		
Cash from acquisition	860	—
Purchases of property and equipment	(7,074)	(8,145)
Changes in restricted cash and investments	(2,796)	(6,827)
Proceeds from maturities of short-term investments	54,080	103,030
Purchases of short-term investments	(54,156)	(128,713)
Net cash used in investing activities	(9,086)	(40,655)
Cash flows from financing activities:		
Proceeds from issuance of common stock, net	—	66,392
Proceeds from exercise of stock options, net of repurchases	1,989	148
Proceeds from employee stock purchase plan	1,166	991
Repayment of notes from stockholders	53	661
Payments on capital lease obligations	(2,974)	(3,381)
Proceeds from bank obligations	1,909	7,041
Principal payments on notes payable and bank obligations	(2,717)	(1,407)
Net cash provided by (used in) financing activities	(574)	70,445
Effect of foreign exchange rates on cash and cash equivalents	(87)	275
Net decrease in cash and cash equivalents	(72,904)	(15,950)
Cash and cash equivalents, at beginning of period	111,828	84,522
Cash and cash equivalents, at end of period	$ 38,924	$ 68,572

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

EXELIXIS, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
JUNE 30, 2004
(unaudited)

NOTE 1 Organization and Summary of Significant Accounting Policies

Organization

Exelixis, Inc. (“Exelixis” or the “Company”) is a biotechnology company whose primary mission is to leverage its biological expertise and integrated drug discovery capabilities to develop high-quality, differentiated pharmaceutical products in the treatment of cancer and other serious diseases. The Company uses comparative genomics and model system genetics to find new drug targets and compounds that it believes would be difficult or impossible to uncover using other experimental approaches. The Company’s research is designed to identify novel genes and proteins expressed by those genes that, when changed, either decrease or increase the activity in a specific disease pathway in a therapeutically relevant manner. These genes and proteins represent either potential product targets or drugs that may treat disease or prevent disease initiation or progression. The Company’s most advanced pharmaceutical programs focus on drug discovery and development of small molecules in cancer. The Company also believes that its proprietary technologies are valuable to other industries whose products can be enhanced by an understanding of DNA or proteins, including the agrochemical, agricultural and diagnostic industries.

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared by the Company in accordance with accounting principles generally accepted in the United States for interim financial information and pursuant to Form 10-Q and Article 10 of Regulation S-X of the Securities and Exchange Commission (“SEC”). Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of the Company’s management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair statement of the results for the periods presented have been included. Operating results for the three- and six-month periods ended June 30, 2004 are not necessarily indicative of the results that may be expected for the year ending December 31, 2004, or for any future period. These financial statements and notes should be read in conjunction with the consolidated financial statements and notes thereto for the year ended December 31, 2003 included in the Company’s Annual Report on Form 10-K filed with the SEC on February 20, 2004.

Net Loss Per Share

Basic and diluted net loss per share are computed by dividing the net loss for the period by the weighted-average number of shares of common stock outstanding during the period, less shares that are subject to repurchase. The calculation of diluted net loss per share excludes potential common stock because their effect is antidilutive using the treasury method. Potential common stock consists of common stock subject to repurchase, incremental common shares issuable upon the exercise of stock options and warrants and shares issuable upon conversion of convertible debt.

Stock-Based Compensation

The Company recognizes employee stock-based compensation under the intrinsic value method of accounting as prescribed by Accounting Principles Board Opinion 25, "Accounting for Stock Issued to Employees" and related interpretations. Accordingly, no compensation expense is recognized in the Company's financial statements for the stock options granted to employees that had an exercise price equal to the fair value of the underlying common stock on the date of grant. The following table illustrates the effect on net loss and loss per share if the Company had applied the fair value recognition provisions of Statement of Financial Accounting Standards ("SFAS") No. 123, "Accounting for Stock-Based Compensation," as amended by SFAS No. 148, "Accounting for Stock-Based Compensation - Transition and Disclosure - an amendment of FASB Statement No. 123" (in thousands, except per share amounts):

		Three Months Ended June 30,	
		2004	2003
Net loss:			
As reported		$ (29,291)	$ (23,442)
Add:	Stock-based employee compensation expense included in reported net loss	40	131
Deduct:	Total stock-based employee compensation expense determined under fair value method for all awards	(3,638)	(4,969)
Pro forma net loss		$ (32,889)	$ (28,280)
Net loss per share (basic and diluted):			
As reported		$ (0.41)	$ (0.39)
Pro forma		$ (0.46)	$ (0.47)

		Six Months Ended June 30,	
		2004	2003
Net loss:			
As reported		$ (58,134)	$ (46,500)
Add:	Stock-based employee compensation expense included in reported net loss	72	575
Deduct:	Total stock-based employee compensation expense determined under fair value method for all awards	(9,219)	(10,692)
Pro forma net loss		$ (67,281)	$ (56,617)
Net loss per share (basic and diluted):			
As reported		$ (0.81)	$ (0.78)
Pro forma		$ (0.94)	$ (0.95)

Since options vest over several years and additional option grants are expected to be made in future years, the pro forma impact on the results of operations for the three- or six-month periods ended June 30, 2004 and 2003 is not necessarily representative of the pro forma effects on the results of operations for future periods.

New Accounting Pronouncements

In January 2003, the Financial Accounting Standards Board ("FASB") issued Interpretation No. 46, "Consolidation of Variable Interest Entities" ("FIN 46"). FIN 46 requires an investor with a majority of the variable interests in a variable interest entity ("VIE") to consolidate the entity and also requires majority and significant variable interest investors to provide certain disclosures. A VIE is an entity in which the equity investors do not have a controlling interest, or the equity investment at risk is insufficient to finance the entity's activities without receiving additional subordinated financial support from the other parties. The Company adopted the remaining provisions of FIN 46 on January 1, 2004, related to variable interests held prior to January 31, 2003, and the adoption did not have a material impact on its financial condition or results of operations.

NOTE 2 Comprehensive Income (Loss)

Comprehensive income (loss) is comprised of net income (loss) and other comprehensive income (loss). Other comprehensive income (loss) includes unrealized gains and losses on available-for-sale securities, unrealized gains and losses on cash flow hedges and cumulative translation adjustments. Comprehensive income (loss) for the three- and six-month periods ended June 30, 2004 and 2003 are as follows (in thousands):

	Three Months Ended June 30,	
	2004	2003
Net loss	$ (29,291)	$ (23,442)
Decrease in unrealized gains on available-for-sale securities	(870)	(12)
Increase in unrealized gains on cash flow hedges	—	136
Increase in cumulative translation adjustment	17	240
Comprehensive loss	$ (30,144)	$ (23,078)

	Six Months Ended June 30,	
	2004	2003
Net loss	$ (58,134)	$ (46,500)

Decrease in unrealized gains on available-for-sale securities	(695)	(41)
Increase in unrealized gains on cash flow hedges	—	268
Increase (decrease) in cumulative translation adjustment	(48)	345
Reclass of cumulative translation adjustment to income	(228)	—
Comprehensive loss	$ (59,105)	$ (45,928)

NOTE 3 Restructurings

During the second quarter of 2004, the Company implemented a restructuring and consolidation of its research and discovery organizations designed to optimize its ability to generate multiple new, high-quality investigational new drug applications per year and rapidly advance these new drug candidates through clinical development. The restructuring included a reduction in force of 62 employees, the majority of which were research personnel located in South San Francisco, California. The Company recorded a restructuring charge of $1.7 million during the second quarter of 2004 comprised of involuntary termination benefits. As of June 30, 2004, approximately $700,000 of the restructuring charge remained unpaid and is included under the caption, "Other Accrued Expenses," on the balance sheet. The Company does not expect to record any material expenses related to this restructuring in future periods.

During the third quarter of 2003, the Company implemented a worldwide restructuring of its research and development organization designed to reallocate resources and enhance the efficiency of its operations. The restructuring included a reduction in force of 61 research personnel located in South San Francisco, California and Tübingen, Germany, closure of the Company's Tübingen location and relocation of certain research activities and employees from Tübingen to South San Francisco. The restructuring plan was substantially complete as of March 31, 2004.

In connection with the third quarter 2003 restructuring plan, the Company has recorded a cumulative charge of approximately $1.5 million to date in accordance with Statement of Financial Accounting Standards No. 146, "Accounting for Costs Associated with Exit or Disposal Activities" ("SFAS 146"), of which approximately none and $537,000 was recorded during the three- and six-month periods ended June 30, 2004, respectively. This charge primarily consists of severance payments, retention bonuses, relocation costs, lease buyout costs and legal and outplacement services fees. The restructuring charge also includes non-cash activity including an impairment of assets of approximately $78,000 and a gain on closure of the Company's Tübingen facility of approximately $228,000 related to the removal from equity of the cumulative currency translation adjustment attributable to the Tübingen location. The current balance of the remaining restructuring liability is included under the caption, "Other Accrued Expenses," on the balance sheet and is summarized in the following table (in thousands):

	Restructuring Liability at December 31, 2003	Restructuring Expenses Incurred During the Period (1)	Cash Payments	Exchange Rate Impact on Liability	Restructuring Liability at June 30, 2004
Severance and benefits	$ 389	$ 81	$ (437)	$ —	$ 33
Legal and other fees	18	128	(93)	(1)	52
Lease buyout costs	—	307	(101)	—	206
Relocation	6	171	(124)	—	53
	$ 413	$ 687	$ (755)	$ (1)	$ 344

(1) Excludes a net gain of $150,000 relating to non-cash items.

The Company does not expect to record any additional expenses, in future periods, related to the third quarter 2003 restructuring plan.

NOTE 4 Agrinomics LLC

In July 1999, Exelixis Plant Sciences (formerly Agritope, Inc.) and Bayer CropScience (formerly Aventis CropScience USA LP) formed Agrinomics LLC to conduct a research, development and commercialization program in the field of agricultural functional genomics. As a result of the Company's acquisition of Exelixis Plant Sciences, the Company owned a 50% interest in Agrinomics, while Bayer CropScience owned the remaining 50% interest. In May 2004, Exelixis purchased from Bayer its 50% interest in Agrinomics, in exchange for Exelixis' release of all future obligations of Bayer to Agrinomics under the joint venture agreement. As there is no readily determinable fair market value for Bayer's 50% interest in Agrinomics or Bayer's future obligations under the Agrinomics joint venture agreement, the Company recorded this acquisition as a non-monetary transaction. Accordingly, for accounting purposes, the purchase price was deemed to be zero.

Exelixis recorded the assets acquired and the liabilities assumed based on their estimated fair values at the date of acquisition, as determined by management based on valuation techniques in accordance with generally accepted accounting principles. As a result of this transaction, Exelixis recorded net tangible liabilities of $450,000, intangible assets of $55,000 and expense associated with the purchase of in-process research and development of $395,000, representing the fair value of two primary research projects that had not yet reached technological feasibility and that have no alternative future use. This transaction is not expected to have a material impact on the Company's financial condition or results of operations.

NOTE 5 Subsequent Event - Commitments

In July 2004, the Company entered into an agreement to lease approximately 68,000 square feet of office and laboratory facilities in South San Francisco, California. Pursuant to the terms of the lease, in lieu of a security deposit, the Company was required to issue a letter of credit with a bank in the amount of $1.6 million. As collateral for the letter of credit, the Company is required to maintain a securities account at the bank equal to 100% of the letter of credit, which will be recorded in the balance sheet as restricted cash and investments. The lease term is from August 2004 through July 2018 and the future minimum payments under this operating lease are as follows (in thousands):

Year Ending December 31,	
2004	$ —
2005	407

2006	1,223
2007	1,587
2008	1,627
Thereafter	17,989
	$ 22,833

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

The following discussion and analysis contains 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 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," "will," "may," "should," "estimate," "predict," "potential," "continue" 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 under the caption "Risk Factors" below, as well as those discussed elsewhere in this quarterly report on Form 10-Q.

This discussion and analysis should be read in conjunction with our financial statements and accompanying notes included in this report and the 2003 audited financial statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2003, filed with the Securities and Exchange Commission on February 20, 2004. Operating results are not necessarily indicative of results that may occur in future periods. We undertake no obligation to update any forward-looking statement to reflect events after the date of this report.

Overview

Our primary mission is to develop proprietary human therapeutics by leveraging our integrated discovery platform to increase the speed, efficiency and quality of pharmaceutical product discovery and development. We have generated a substantial development pipeline of small molecule cancer compounds that we believe are therapeutically differentiated and commercially valuable. The pipeline is led by XL119, our Phase 3 cancer compound, and includes XL784, XL647, XL999, XL844, XL820, XL880 and additional novel anticancer compounds arising from our gene-to-drug platform.

We have incurred net losses since inception and expect to incur substantial losses for at least the next several years as we continue our research and development activities, including manufacturing and development expenses for compounds in preclinical and clinical studies. As of June 30, 2004, we had approximately $170.3 million in cash, cash equivalents, short-term investments and restricted cash and investments. We anticipate that our current cash, cash equivalents, short-term investments and funding to be received from current collaborators will enable us to maintain our currently planned operations for at least the next 18 months. Changes to our current operating plan may require us to consume available capital resources significantly sooner than we expect.

We have collaborations with several leading pharmaceutical, biotechnology and agrochemical companies based on the strength of our technologies and biological expertise in order to support the development of our proprietary product candidates. Through these collaborations, we obtain license fees and research funding, together with the opportunity to receive milestone payments and royalties from research results and subsequent product development. In addition, many of our collaborations have been structured strategically to provide us access to technology to more rapidly advance our internal programs. Our collaborations include: Bayer CropScience LP (formerly Aventis USA LP), Bayer Corporation, Bristol-Myers Squibb Company (two collaborations), Cytokinetics, Inc., Dow AgroSciences LLC, Elan Pharmaceuticals, Inc., Merck & Co., Inc. (two collaborations), Renessen LLC, Scios Inc., Schering-Plough Research Institute, Inc. and SmithKlineBeecham Corporation (which does business as GlaxoSmithKline).

As our Company has matured and our development efforts have intensified, we have restructured the organization as needed to reallocate resources and enhance the efficiency of our operations. We believe that these efforts have strengthened us by enabling us to achieve an appropriate functional balance within the organization. We expect to continue to use corporate partnering as a strategic tool to cultivate our assets, fund our operations and expand the therapeutic and commercial potential of our pipeline.

Recent Developments

Clinical update

Our clinical pipeline continues to advance. The following summarizes the status of our clinical and preclinical development pipeline and serves as an update to the disclosures we made in the business section of our Annual Report on Form 10-K for the year ended December 31, 2003. Several compounds in our pipeline, such as XL647, XL999 and others, are Spectrum Selective Kinase Inhibitors™ that target proteins involved in both tumor proliferation and angiogenesis. Each compound has a different inhibition spectrum of receptor tyrosine kinases ("RTKs"), and each has the potential to maximize efficacy through simultaneous inhibition of multiple RTKs.

- XL119 – We initiated a Phase 3 clinical trial in the second quarter of 2004. The National Cancer Institute ("NCI") is also conducting Phase 2 clinical trials to explore the potential utility of XL119 in additional tumor types and in combination studies. Drug substance to be used in company-sponsored clinical trials has been manufactured in bulk supply by third-party suppliers. We expect that the available supply of the compound will be sufficient to support our clinical needs as well as any trials conducted by the NCI. In March 2004, the Food and Drug Administration, or FDA, granted orphan drug designation to XL119.

- XL784 – Data from a Phase 1 clinical trial of orally administered XL784 in 70 healthy volunteers showed single doses of the compound to be free of side effects and to have an attractive pharmacokinetic profile. In 2004, we are pursuing a development path in renal disease and are conducting additional toxicology and pharmacology experiments designed to support this strategy. We plan to develop a new formulation suitable for chronic administration in patients with renal failure with the intention of moving the compound through development.

- XL647 – We filed an IND for XL647 in February 2004, and we initiated the Phase 1 clinical trial in the second quarter of 2004.

- XL999 – We filed an IND application for XL999 in June 2004.

- XL844 – We anticipate filing an IND application for XL844 in the first half of 2005.

- XL820 – We advanced XL820 into preclinical development during the first quarter of 2004, with the goal of filing an IND application for the compound in the first half of 2005. XL820 is a selective inhibitor of RTKs, demonstrating potent inhibitory activity in biochemical and cellular assays against KIT, FLT3, PDGFR and KDR. It has also demonstrated potent inhibitory activity in cellular autophosphorylation assays against mutationally activated forms of human KIT and FLT3 that have been implicated in some human cancers. XL820 has displayed favorable pharmaceutical properties and oral bioavailability in preclinical models and has shown sustained inhibition of target RTKs *in vivo* following a single oral dose. At doses consistent with those required for target modulation *in vivo*, XL820 exhibits dose-dependent growth inhibition in tumor models for breast carcinomas, gliomas and leukemia and has been shown to cause tumor regression. Consistent with its spectrum of activity, analysis of tumors from XL820-treated animals shows significant increase in tumor cell death and decreases in both tumor vascularity and tumor cell proliferation.

- XL880 – We advanced XL880 into preclinical development during the first quarter of 2004, with the goal of filing an IND application for the compound in the first half of 2005. XL880 is an inhibitor of MET and VEGFR. The compound has demonstrated favorable pharmaceutical properties and oral bioavailability in preclinical models and showed sustained inhibition of target RTKs *in vivo* following a single oral dose. The compound has demonstrated dose-dependent growth inhibition of tumor models for breast, colon and small cell lung cancer and glioblastoma and has been shown in tumor models to cause tumor regression. Consistent with its spectrum of activity, analysis of tumors from XL880-treated animals shows significant increase in tumor cell hypoxia and death and decreases in both tumor vascularity and tumor cell proliferation.

Results of Operations

Revenues

Total revenues and dollar and percentage changes as compared to the prior year period are as follows (dollar amounts are presented in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2004	**2003**	**2004**	**2003**
Total revenues	$ 12.6	$ 13.0	$ 24.5	$ 25.3
Dollar decrease	$ (0.4)		$ (0.8)	
Percentage decrease	(3)%		(3)%	

The decrease in revenues for the quarter ended June 30, 2004, as compared to the comparable prior year period, was primarily a result of the successful conclusion of our collaboration with Protein Design Labs in May 2003, partially offset by milestone revenue earned under our Bristol-Myers Squibb collaboration. During the second quarter of 2004, Bristol-Myers Squibb selected novel cancer targets under the collaboration arrangement, resulting in a milestone payment to the Company. The decrease in revenues for the six months ended June 30, 2004, as compared to the comparable prior year period, was primarily a result of the successful conclusion of our collaboration with Protein Design Labs in May 2003, partially offset by an increase in revenues from compound deliveries under our combinatorial chemistry collaborations and a milestone payment earned under our Bristol-Myers Squibb collaboration.

Research and Development Expenses

Total research and development expenses and dollar and percentage changes, as compared to the prior year period, are as follows (dollar amounts are presented in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2004	**2003**	**2004**	**2003**
Total R&D expense	$ 34.4	$ 32.5	$ 68.6	$ 62.8
Dollar increase	$ 1.9		$ 5.8	
Percentage increase	6%		9%	

Research and development expenses consist primarily of salaries and other personnel-related expenses, laboratory supplies, consulting and facilities costs. The increase for the three months ended June 30, 2004, as compared to the equivalent period in 2003, resulted primarily from an increase in consulting and professional expenses associated with advancing the Company's clinical and pre-clinical development programs. Consulting and professional expenses increased 41% to $5.1 million and included costs associated with commencing a Phase 3 trial for XL119, commencing a Phase 1 trial for XL647, filing an IND application for XL999 and moving XL844, XL820 and XL880 through pre-clinical testing in anticipation of filing IND applications in 2005.

The increase for the six months ended June 30, 2004, as compared to the equivalent period in 2003, resulted primarily from the following costs:

- Consulting and professional – Consulting and professional costs increased 18% to $8.2 million, due primarily to an increase in activities associated with advancing the company's clinical and pre-clinical development programs. These activities include commencing a Phase 3 trial for XL119, commencing a Phase 1 trial for XL647, filing an IND application for XL999 and moving XL844, XL820 and XL880 through pre-clinical testing in anticipation of filing IND applications in 2005.

- Lab Supplies – Lab supplies expense increased 8% to $12.4 million, due primarily to an increase in drug discovery activities such as lead optimization, high throughput screening and compound synthesis.

- Facilities – As a result of our expanding drug discovery and development operations, facilities expense increased 17% to $8.9 million, due primarily to our March 2003 expansion into an additional building in South San Francisco, California.

The table below summarizes the status of our current drug candidates:

Program	Clinical Status
XL119	Phase 3 clinical trial underway
XL784	Completed a Phase 1 clinical trial
XL647	Phase 1 clinical trial underway
XL999	IND application filed in June 2004
XL844	Expect to file an IND application in the first half of 2005
XL820	Expect to file an IND application in the first half of 2005
XL880	Expect to file an IND application in the first half of 2005

We currently 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 generally varies substantially according to factors relating to the trial, such as the type and intended use of the product candidate, the trial design and ability to enroll suitable patients.

We expect that research and development expenses will continue to increase in the future as we advance our compounds through development. We currently do not have estimates of total costs to reach the market by a particular drug candidate or in total. Our potential therapeutic products are 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 products. 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 and dollar and percentage changes as compared to the prior year period are as follows (dollar amounts are presented in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2004	2003	2004	2003
Total G&A expense	$ 4.7	$ 4.7	$ 10.3	$ 9.9
Dollar increase	$ 0.0		$ 0.4	
Percentage increase	0%		4%	

General and administrative expenses consist primarily of staffing costs to support our research activities, facilities costs and depreciation expense.

Amortization of Intangibles

Intangibles result from our acquisitions of Genomica, Artemis and Agritope (renamed Exelixis Plant Sciences). Total amortization expense related to these intangibles is expected to be $666,000 for the year ending December 31, 2004.

Restructuring Charges

During the second quarter of 2004, we implemented a restructuring and consolidation of our research and discovery organizations designed to optimize our ability to generate multiple new, high-quality investigational new drug applications per year and rapidly advance these new drug candidates through clinical development. The restructuring included a reduction in force of 62 employees, the majority of which were research personnel located in South San Francisco, California. We recorded a restructuring charge of $1.7 million during the second quarter of 2004 comprised of involuntary termination benefits. We do not expect to record any material expenses related to this restructuring in future periods.

In the third quarter of 2003, we implemented a restructuring of our research and development organization designed to reallocate resources and enhance the efficiency of our operations. The restructuring included a reduction in force of 61 research personnel located in South San Francisco, California and Tübingen, Germany, closure of our Tübingen facility and relocation of certain research activities and employees from Tübingen to South San Francisco. The restructuring plan was substantially complete as of March 31, 2004. In connection with this restructuring plan, we recorded a cumulative charge of approximately $1.5 million to date in accordance with Statement of Financial Accounting Standards No. 146, “Accounting for Costs Associated with Exit or Disposal Activities” (“SFAS 146”), of which approximately none and $537,000 was recorded during the three- and six-month periods ended June 30, 2004, respectively. This charge consists primarily of severance, retention bonuses, relocation, lease buyout costs and legal and outplacement services fees. The restructuring charge also includes non-cash activity, including an impairment of assets of approximately $78,000 and a gain on closure of our Tübingen facility of approximately $228,000 related to the removal from equity of the cumulative currency translation adjustment attributable to the Tübingen location. We do not expect to record any additional expenses associated with this restructuring, as the restructuring plan is substantially complete.

Acquired In-Process Research and Development

In May 2004, we purchased from Bayer CropScience its 50% interest in Agrinomics LLC, our joint venture with Bayer CropScience, in exchange for our release of all future obligations of Bayer to Agrinomics under the joint venture agreement. We recorded the assets acquired and the liabilities assumed based on their estimated fair values at the date of acquisition, as determined by management based on valuation techniques in accordance with generally accepted accounting principles. As a result, we recorded net tangible liabilities of $450,000, intangible assets of $55,000 and expense associated with the purchase of in-process research and development of $395,000, representing the fair value of two primary research projects that had not yet reached technological

feasibility and that have no alternative future use. This transaction is not expected to have a material impact on our financial condition or results of operations.

Other Income (Expense), Net

Total other income (expense), net and dollar and percentage changes as compared to the prior year period are as follows (dollar amounts are presented in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2004	2003	2004	2003
Other income (expense), net	$ (0.4)	$ 1.0	$ 0.7	$ 1.3
Dollar decrease	$ (1.4)		$ (0.6)	
Percentage decrease	(140)%		(46)%	

Other income, net consists primarily of interest income earned on cash, cash equivalents and short-term investments, offset by interest expense incurred on notes payable, bank obligations and capital lease obligations. The decrease in 2004 from 2003 was the result of a decrease in interest income due to an overall decline in interest rates coupled with an increase in interest expense related to an increase in our long-term debt.

Income Taxes

We have incurred net losses since inception and, consequently, have not recorded any U.S. federal or state income taxes. We recorded a tax provision of approximately $92,000 and $187,000 during the three- and six-month periods ended June 30, 2003 related to income earned in our foreign operations. Due to the activities under our 2003 restructuring plan, we did not have taxable income from foreign operations for the full year ended December 31, 2003. As a result, we reversed the tax provision in the fourth quarter of 2003.

Liquidity and Capital Resources

Cash Requirements

To date, we have financed our operations primarily through the sale of equity, payments and loans from collaborators, equipment financing facilities and interest income. In addition, we acquired Genomica in December 2001, including $109.6 million in cash and investments. As of June 30, 2004, we had approximately $170.3 million in cash, cash equivalents, short-term investments and restricted cash and investments.

We have incurred net losses since inception, including a net loss of approximately $58.1 million for the six months ended June 30, 2004, and expect to incur substantial losses for at least the next several years as we continue our research and development activities, including manufacturing and development expenses for compounds in preclinical and clinical studies. We anticipate that our current cash, cash equivalents, short-term investments and funding to be received from current collaborators will enable us to maintain our currently planned operations for at least the next 18 months. It is possible that we will seek additional financing within this timeframe through public or private financing, collaborative relationships or other arrangements. Changes to our current operating plan may require us to consume available capital resources significantly sooner than we expect.

Our future capital requirements will be substantial and will depend on many factors, including:

- payments received under collaborative agreements, licensing agreements and other arrangements;
- the progress and scope of our collaborative and independent clinical trials and other research and development projects;
- future clinical trial results;
- our need to expand our product and clinical development efforts;
- the cost and timing of regulatory approvals;
- the cost of establishing clinical and research supplies of our product candidates;
- the effect of competing technological and market developments;
- the filing, prosecution, defense and enforcement of patent claims and other intellectual property rights;
- the cost of any acquisitions of or investments in businesses, products and technologies, although we currently have no commitments relating to any such transactions; and
- the cost and timing of establishing or contracting for sales, marketing and distribution capabilities.

If our capital resources are insufficient to meet future capital requirements, we will have to raise additional funds. 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.

Sources and Uses of Cash

Our operating activities used cash of approximately $63.2 million and $46.0 million for the six months ended June 31, 2004 and 2003, respectively. Cash used in operating activities relates primarily to funding net losses, changes in deferred revenue from collaborators and changes in accounts payable and other accrued expenses, partially offset by non-cash charges related to depreciation and amortization. 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, including manufacturing and development expenses for compounds in preclinical and clinical studies.

Our investing activities used cash of approximately $9.1 million and $40.7 million for the six months ended June 30, 2004 and 2003, respectively. Changes in cash from investing activities are primarily due to purchases and maturities of short-term investments and purchases of property and equipment. We expect to continue to make significant investments in research and development and our administrative infrastructure, including the purchase of property and equipment to support our expanding drug discovery and development operations.

Our financing activities used cash of approximately $600,000 and provided cash of approximately $70.4 million for the six months ended June 30, 2004 and 2003, respectively. Changes in cash from financing activities are primarily due to payments and proceeds associated with equipment financing facilities and bank obligations. In addition, during the six months ended June 30, 2003, we received net proceeds of $66.4 million from the issuance of 10 million shares of common stock in a follow-on public offering. We finance property and equipment purchases through equipment financing facilities, such as capital leases, notes and bank obligations. Over the next several years, we are required to make certain payments on capital leases, notes, bank obligations and loans from collaborators. Under our collaboration agreement with GlaxoSmithKline, we have the option to sell additional shares of common

stock to GlaxoSmithKline and draw up to another $30.0 million under a loan facility for use in our efforts under the collaboration. GlaxoSmithKline may elect to expand the collaboration, upon which the loan facility, as well as development funding and milestone payments, would be significantly expanded.

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 or on behalf of us. The risks and uncertainties described below are not the only ones facing Exelixis. Additional risks and uncertainties not presently known to us or that we currently deem immaterial also may impair our business operations. If any of the following risks or such other risks actually occur, our business could be harmed.

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

We will need additional capital in the future and, if additional capital is not available to us, we would be forced to delay, reduce or eliminate our product development programs or commercialization efforts.

We will need to raise additional capital to:

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

We anticipate that our current cash and cash equivalents, short-term investments and funding to be received from current collaborators will enable us to maintain our currently planned operations for at least the next 18 months. Our future capital requirements will be substantial and will depend on many factors, including:

- payments received under collaborative agreements, licensing agreements and other arrangements;
- the progress and scope of our collaborative and independent clinical trials and other research and development projects;
- future clinical trial results;
- our need to expand our product and clinical development efforts;
- the cost and timing of regulatory approvals;
- the cost of establishing clinical and research supplies of our product candidates;
- the effect of competing technological and market developments;
- the filing, prosecution, defense and enforcement of patent claims and other intellectual property rights;
- the cost of any acquisitions of or investments in businesses, products and technologies, although we currently have no commitments relating to any such transactions; and
- the cost and timing of establishing or contracting for sales, marketing and distribution capabilities.

One or more of these factors or changes to our current operating plan may require us to consume available capital resources significantly sooner than we expect. If our capital resources are insufficient to meet future capital requirements, we will have to raise additional funds. 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 existing 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 to obtain funds by entering into financing, supply or collaboration agreements on unattractive terms. If we raise additional funds through collaboration arrangements with third parties, it will be necessary to relinquish some rights to our technologies or our product candidates, or we may be required to grant licenses on terms that are not favorable to us.

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 each year since our inception, including a net loss of approximately $58.1 million for the six months ended June 30, 2004. As of that date, we had an accumulated deficit of approximately $440.3 million. We expect these losses to continue and anticipate negative operating cash flow for the foreseeable future. We have not yet completed the development, including obtaining regulatory approval, of any of our product candidates and, consequently, have not generated revenues from the sale of products. Our only revenues to date are license revenues and revenues under contracts with our partners. The size 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 research and development in order to enhance our core technologies and undertake product development. In 2001, we acquired XL119, a rebeccamycin analogue that was in Phase 2 clinical development. We have initiated a Phase 3 clinical trial for XL119 as a potential treatment for bile duct tumors. We have also conducted a Phase 1 clinical trial for XL784, a potent inhibitor of the ADAM-10 metalloprotease enzyme, and plan to pursue a development path in renal and cardiovascular disease. During the first quarter of 2004, we filed an IND application for XL647, a potent inhibitor of RTKs that are implicated in driving tumor proliferation and vascularization, and initiated a Phase 1 clinical trial for XL 647 in cancer patients in the second quarter of 2004. In addition, during the second quarter of 2004, we filed an IND application for XL999, a potent inhibitor of RTKs that are implicated in driving tumor proliferation and vascularization, and plan to initiate a Phase 1 clinical trial for XL999 in cancer patients following discussions with the FDA. In the last year, we have added multiple potential anticancer compounds to our development pipeline, and we anticipate filing IND applications for product candidates during the next twelve months. As a result, we expect that our operating expenses will increase significantly in the near term, and, consequently, we will need to generate significant additional revenues to achieve profitability. Because of the numerous risks and uncertainties associated with developing small molecule drugs, we are unable to predict the extent of any future losses or when we will become profitable, if at all. Even if we do increase our revenues and achieve profitability, we may not be able to maintain or increase profitability.

Risks Related to Development of Product Candidates

Clinical testing of our product candidates is a lengthy, costly and uncertain process and may fail to demonstrate safety and efficacy, which could prevent or significantly delay regulatory approval.

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 of the product candidate. The results of preliminary studies do not necessarily predict clinical or commercial success, and larger later-stage clinical trials may fail to confirm the results observed in the preliminary studies. With respect to our own proprietary compounds in development, we have established timelines for manufacturing and clinical development based on existing knowledge of the compound and industry metrics. However, we cannot provide assurance that any specified timelines with respect to the initiation or completion of clinical studies will be achieved.

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

- our product candidates may not prove to be efficacious or may cause harmful side effects;
- negative or inconclusive clinical trial results may require us to conduct further testing or to abandon projects that we expect to be promising;
- 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 may not authorize, 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 these events were to occur and, as a result, we were to have significant delays in or termination of our clinical testing, our expenses could increase and our ability to generate revenue could be impaired, which would 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 our compounds or meet current or future requirements identified based on our discussions with the FDA. We do not know whether our planned clinical trials will begin on time, will be completed on schedule, or at all, will be sufficient for registration of these compounds or will result in approvable products.

In the second quarter of 2004, we initiated a Phase 3 clinical trial for XL119. We have also completed Phase 1 clinical trials for XL784. In addition, in the second quarter of 2004, we initiated a Phase 1 clinical trial for XL647 and filed an IND application for XL999. We will have to conduct additional clinical testing in order to meet FDA requirements for regulatory approval of these and other product candidates. The results from the Phase 2 clinical trials for XL119 may not be predictive of results obtained from the Phase 3 clinical trials, and the results from the Phase 1 clinical trials for XL784 may not be predictive of results obtained from the Phase 2 clinical trials.

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 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 trial, including, among others, the following:

- the number of patients that ultimately participate in the trial;
- the duration of patient follow-up that seems 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.

In addition, our research and clinical testing regarding our product candidates may be delayed or abandoned as a result of other compounds subsequently discovered by us, or our competitors, that we believe show significantly improved safety or efficacy in comparison to our product candidates, which could limit our ability to generate revenues, cause us to incur additional expense and materially and adversely affect the market price of our common stock.

Risks Related to Our Dependence on Third Parties

We are dependent on our collaborations with major companies. If we are unable to achieve milestones, develop products or renew or enter into new collaborations, our revenues may decrease and our activities may fail to lead to commercialized products.

Substantially all of our revenues to date have been derived from collaborative research and development agreements. Revenues from research and development collaborations depend upon continuation of the collaborations, the achievement of milestones and royalties derived from any future products developed from our research. If 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. In addition, some of our collaborations are exclusive and preclude us from entering into additional collaborative arrangements with other parties in the area or field of exclusivity. Future collaborations may require us to relinquish some important rights, such as marketing and distribution rights.

We currently have collaborative research agreements with, among others, Bayer Corporation, Bristol-Myers Squibb (two agreements), SmithKlineBeecham (which does business as GlaxoSmithKline), Dow AgroSciences and Renessen.

Our current collaboration with Bayer Corporation, which is conducted through Genoptera LLC, a jointly owned limited liability company, is scheduled to expire in 2008, after which it will automatically be extended for one-year terms unless terminated by either party upon 12 months written notice. Our collaboration agreement with Bayer permits Bayer to terminate our collaborative activities prior to 2008 upon the occurrence of specified conditions, such as the failure to agree on key strategic issues after a period of years or the acquisition of us by certain specified third parties. Our agreement with Bayer is subject to termination at an earlier date if two or more of our Chief Executive Officer, Chief Scientific Officer, Agricultural Biotechnology Program Leader and Chief Informatics Officer cease to have a relationship with us within nine months of each other. Our former Chief Scientific Officer, Geoffrey Duyk, M.D., Ph.D., left the Company at the end of 2003.

In May 2004, we terminated our collaboration with Bayer CropScience, which was conducted through Agrinomics LLC, a jointly owned limited liability company. The termination of the collaboration was in connection with our purchase of Bayer CropScience's 50% ownership interest in Agrinomics. As a result, we now wholly own Agrinomics. In addition, we entered into a combinatorial chemistry agreement with Bayer CropScience, and Bayer CropScience and its affiliates entered into a number of license and technology agreements with Agrinomics. The agreements are directed to the use of the assets developed or used under the collaborative research agreement. Agrinomics retained the collaborative agreement with Renessen, which expires in December 2005, but has an early termination option, effective October 2004.

Our mechanism of action collaborative agreement with Bristol-Myers Squibb expires in September 2004. The parties may agree to extend the terms by one-year intervals. Collaborative research under our cancer collaborative agreement with Bristol-Myers Squibb expires in July 2009, though Bristol-Myers Squibb has the option to extend this collaborative research until July 2010. The development program of our alliance with SmithKlineBeecham is scheduled to expire in October 2008, but the alliance is subject to earlier termination at the discretion of SmithKlineBeecham starting in 2005. Research funding under our agreement with Protein Design Labs expired in May 2003. Funding under our arrangement with Dow AgroSciences expired in July 2004. We also have additional agreements providing lower amounts of committed funding with the following chemistry collaborators: Cytokinetics, Inc., Scios Inc., Schering-Plough Research Corporation, Merck & Co., Inc. and Elan Pharmaceuticals.

If these existing agreements are not renewed, or terminated early or if we are unable to enter into new collaborative agreements on commercially acceptable terms, our revenues and product development efforts may be adversely affected. For example, our agreement with Pharmacia Corporation terminated by mutual agreement in February 2002, which eliminated the opportunity for us to earn approximately $9.0 million in research revenue in 2002 and 2003. Although we have entered into other collaborations that offset this loss of revenue, we may not be able to enter into new collaborative agreements on similar or superior financial terms than those under our existing arrangements, and the timing of new collaborative agreements may have a material adverse effect on our ability to continue to successfully meet our corporate goals and milestones.

Conflicts with our collaborators could jeopardize the outcome of our collaborative agreements and our ability to commercialize products.

We are conducting proprietary research programs in specific disease, therapeutic modality and agricultural product areas that are not covered by our collaborative agreements. Our pursuit of opportunities in pharmaceutical and agricultural markets could, however, result in conflicts with our collaborators in the event that any of our collaborators take the position that our internal activities overlap with those areas that are exclusive to our collaborative agreements, and we should be precluded from such internal activities. Moreover, disagreements with our collaborators could develop over rights to our intellectual property. In addition, our collaborative agreements may have provisions that give rise to disputes regarding the rights and obligations of the parties, including the rights of collaborators with respect to our internal programs and disease area research. Any conflict with or among our collaborators could lead to the termination of our collaborative agreements, delay collaborative activities, impair our ability to renew agreements or obtain future collaboration agreements or result in litigation or arbitration and would negatively impact our relationship with existing collaborators. Further, if our collaborators fail to develop or commercialize any of our compounds or product candidates, we may not receive any future royalties or milestone payments for such compounds or product candidates.

We have limited or no control over the resources that our collaborators may choose to devote to our joint efforts. Our collaborators may breach or terminate their agreements with us or fail to perform their obligations thereunder. Further, our collaborators may elect not to develop products arising out of our collaborative arrangements, may experience financial difficulties, may undertake business combinations or significant changes in business strategy that adversely affect their willingness or ability to complete their obligations under any arrangement with us or may fail to devote sufficient resources to the development, manufacture, marketing or sale of such products. Certain of our collaborators could also become competitors in the future. If our collaborators develop competing products, preclude us from entering into collaborations with their competitors, fail to obtain necessary regulatory approvals, terminate their agreements with us prematurely or fail to devote sufficient resources to the development and commercialization of our products, our product development efforts could be delayed and may fail to lead to commercialized products.

We lack the capability to manufacture compounds for clinical trials and rely on third parties to manufacture our product candidates, 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 currently do not have manufacturing capabilities or experience necessary to produce materials for clinical trials, including XL119, XL784, XL647 and XL999. We rely on collaborators and third-party contractors to produce materials necessary for preclinical and clinical testing. We rely on selected manufacturers to deliver materials on a timely basis and to comply with applicable regulatory requirements, including the FDA's current Good Manufacturing Practices, or GMP. These outsourcing efforts with respect to manufacturing clinical supplies result in a dependence on our suppliers to timely manufacture and deliver sufficient quantities of materials produced under GMP conditions to enable us to conduct planned clinical trials and, if possible, to bring products to market in a timely manner.

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 candidates 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 level 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 planned clinical trials may be delayed. Delays in preclinical or clinical testing could delay the filing of our IND applications and 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 any related product candidates. 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 our product candidates, 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 significantly and adversely affect our business.

If third parties on whom we rely do not perform as contractually required or expected, we may not be able to obtain regulatory approval for or commercialize our product candidates.

We do not have the ability to independently conduct clinical trials for our product candidates, and we must rely on third parties, 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 our product candidates.

Materials necessary to manufacture some of our compounds currently under development may not be available on commercially reasonable terms, or at all, which may delay our development and commercialization of these drugs.

Some of the materials necessary for the manufacture of our compounds under development 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 these compounds. 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 for the conduct of our clinical trials, product testing and potential regulatory approval could be delayed, adversely impacting our ability to develop the product candidates. Similarly, if we are unable to obtain critical materials after regulatory approval has been obtained for a product candidate, the commercial launch of that product could be delayed or there would be a shortage in supply, which could materially affect our ability to generate revenues from that product. If suppliers increase the price of these materials, the price for one or more of our products may increase, which may make our product 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 in the facilities used to produce these materials, due to technical, regulatory or other problems, it could harm our ability to manufacture our products. Our inability to obtain critical materials for any reason could substantially impair our development activities or the production, marketing and distribution of any products that we may develop.

Risks Related to Regulatory Approval of Our Product Candidates

Our product candidates are 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 products.

Our product candidates, as well as the activities associated with their research, development and commercialization, 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 a product candidate would prevent us from commercializing that product candidate. We have not received regulatory approval to market any of our product candidates 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, 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 a new drug application can be filed with the FDA, the product candidate must undergo extensive clinical trials, which can take many years and may require substantial expenditures. Any clinical trial may fail to produce results satisfactory to the FDA. 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, which could delay, limit or prevent regulatory approval. 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 our product candidates may cause delays in the approval or rejection of an application. Even if the FDA or a comparable authority in another country approves a product candidate, the approval may impose significant restrictions on the indicated uses, conditions for use, labeling, advertising, promotion, marketing and/or production of such product 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 Products

The commercial success of any products that we may develop will depend upon the degree of market acceptance of our products among physicians, patients, health care payors, private health insurers and the medical community.

Our ability to commercialize any products that we may develop will be highly dependent upon the extent to which these products gain 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 these products do not achieve an adequate level of acceptance, we may not generate material product revenues, and we may not become profitable. The degree of market acceptance of our product candidates, if approved for commercial sale, will depend on a number of factors, including:

- the effectiveness, or perceived effectiveness, of our products in comparison to competing products;

- the existence of any significant side effects, as well as their severity in comparison to any competing products;
- potential advantages over alternative treatments;
- the ability to offer our products 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 our product candidates, 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 currently have a sales and marketing organization. Developing a sales and marketing force would be expensive and time-consuming and could delay any product launch, and we could not be certain that we could develop this capacity. However, to the extent that we enter into arrangements with third parties to perform sales, marketing and distribution services, our product revenues are likely to be lower than if we market and sell any products that we develop 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 and may not become profitable.

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

Our ability to commercialize any products that we may develop will be highly dependent on the extent to which coverage and reimbursement for our products 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 for some or all of the products that we may develop themselves and will rely on third-party payors to pay for their medical needs. If third-party payors do not provide coverage or reimbursement for any products that we may develop, our revenues and prospects for profitability will suffer. In addition, even if third-party payors provide some coverage or reimbursement for our products, 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.

A primary trend in the United States health care industry is toward cost containment. In December 2003, the President signed into law legislation creating a prescription drug benefit program for Medicare recipients. The prescription drug program established by the legislation may have the effect of reducing the prices that we are able to charge for products we develop and sell through these plans. This prescription drug legislation may also cause third-party payors other than the federal government, including the States under the Medicaid program, to discontinue coverage for products we develop or to lower the amount that they will pay.

Another development that may affect the pricing of drugs is the proposed Congressional action regarding drug reimportation into the United States. The Medicare Prescription Drug Plan legislation gives additional discretion to the Secretary of Health and Human Services to allow drug reimportation from foreign countries into the United States under some circumstances, 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 directly allow reimportation under certain circumstances. If legislation or regulations were passed allowing the reimportation of drugs, they could decrease the price we receive for any products that we may develop, negatively affecting our revenues and prospects for profitability.

In addition, in some foreign countries, particularly the countries of the European Union, the pricing of prescription pharmaceuticals is subject to governmental control. In these countries, pricing negotiations with governmental authorities can take six to 12 months or longer after the receipt of regulatory marketing approval for a product. To obtain reimbursement or pricing approval in some countries, we may be required to conduct a clinical trial that compares the cost effectiveness of our product candidates or products to other available therapies. The conduct of such a clinical trial could be expensive and result in delays in the commercialization of our product candidates. 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 any products that we may develop. Cost-control initiatives could decrease the price we might establish for products that we may develop, which would result in lower product revenues to us.

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

The biotechnology industry is highly fragmented and is characterized by rapid technological change. In particular, the area of gene research is a rapidly evolving field. We face, and will continue to face, intense competition from large 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 our product candidates could allow our competitors to bring products to market before us, which would impair our ability to commercialize our product candidates. Our future success will depend on 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 staffs 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. In addition, there may be product candidates of which we are not aware at an earlier stage of development that may compete with our product candidates.

We may not be able to manufacture our product candidates in commercial quantities, which would prevent us from commercializing our product candidates.

To date, our product candidates have been manufactured in small quantities for preclinical and clinical trials. If any of these product candidates are approved by the FDA or other regulatory agencies for commercial sale, we will need to manufacture them 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 any of our product candidates 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 a product candidate, the regulatory approval or commercial launch of that product candidate may be delayed or there may be a shortage in supply. Our product candidates require precise, high quality manufacturing. Our 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 on 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 currently 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 on our ability to avoid infringing patents and proprietary rights of third parties and not breaching 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 rely on 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 it does not infringe these patents, which may not be possible 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 these 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 or our employees have wrongfully used or disclosed alleged trade secrets of their former employers.

Many of our employees were previously employed at universities or other biotechnology or pharmaceutical companies, including our competitors or potential competitors. We may be subject to claims that these employees 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 be a distraction to management. 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 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, Growth and Location

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

We are highly dependent on 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. However, we do not currently have sufficient executive management and technical personnel to fully execute our business plan. Recruiting and retaining qualified scientific and clinical 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. Although we believe we will be successful in attracting and retaining qualified management, competition is intense for experienced technical personnel, and we may be unable to retain or recruit scientists 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 scientists and advisors are not our employees and may have other commitments that limit their availability to us. Although our 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 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.

Difficulties we may encounter managing our growth may divert resources and limit our ability to successfully expand our operations.

We have experienced a period of rapid and substantial growth that has placed, and our anticipated growth in the future will continue to place, a strain on our research, administrative and operational infrastructure. As our operations expand, we will need to continue to manage multiple locations and additional relationships with various collaborative partners, suppliers and other third parties. Our

ability to manage our operations and growth effectively requires us to continue to improve our reporting systems and procedures as well as our operational, financial and management controls. In addition, recent SEC rules and regulations have increased the internal control and regulatory requirements under which we operate. We may not be able to successfully implement improvements to our management information and control systems in an efficient or timely manner and may discover deficiencies in existing systems and controls.

Our headquarters facilities are located near known earthquake fault zones, and the occurrence of an earthquake or other catastrophic disaster could cause damage to our facilities and equipment, which could require us to cease or curtail operations.

Given our headquarters location in South San Francisco, California, our facilities are vulnerable to damage from earthquakes. We currently do not carry earthquake insurance. We are also vulnerable worldwide to damage from other types of disasters, including fire, floods, power loss, communications failures, terrorism and similar events. If any disaster were to occur, our ability to operate our business at our facilities would 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. The insurance we maintain may not be adequate to cover our losses resulting from disasters or other business interruptions. Accordingly, an earthquake or other disaster could materially and adversely harm our ability to conduct business.

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 be sued for any injury or contamination that results from our use or the use by third parties of these materials, and our 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 our collaborators or we 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, insurance coverage is becoming increasingly expensive, and 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 any of our product candidates in development, 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 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 would decrease our cash reserves and could cause our stock price to fall.

Risks Related to Genetic Engineering of Products

Social issues may limit the public acceptance of genetically engineered products, which could reduce demand for our products.

Although our technology is not dependent on genetic engineering, genetic engineering plays a prominent role in our approach to product development. For example, research efforts focusing on plant traits may involve either selective breeding or modification of existing genes in the plant under study. Public attitudes may be influenced by claims that genetically engineered products are unsafe for consumption or pose a danger to the environment. Such claims may prevent our genetically engineered products from gaining

public acceptance. The commercial success of our future products will depend, in part, on public acceptance of the use of genetically engineered products, including drugs and plant and animal products.

The subject of genetically modified organisms has received negative publicity, which has aroused public debate. For example, certain countries in Europe are considering regulations that ban products or require express labeling of products that contain genetic modifications or are “genetically modified.” In addition, the European Union has implemented rules that regulate the placing on the market of food and feed products containing or consisting of genetically modified organisms. These rules also provide for the labeling of such products to the final consumer. Adverse publicity has resulted in greater regulation internationally and trade restrictions on imports of genetically altered products. If similar action is taken in the United States, genetic research and genetically engineered products could be subject to greater domestic regulation, including stricter labeling requirements. To date, our business has not been hampered by these activities. However, such publicity in the future may prevent any products resulting from our research from gaining market acceptance and reduce demand for our products.

Laws and regulations may reduce our ability to sell genetically engineered products that we or our collaborators develop in the future.

We or our collaborators may develop genetically engineered agricultural and animal products. The field-testing, production and marketing of genetically engineered products are subject to regulation by federal, state, local and foreign governments. Regulatory agencies administering existing or future regulations or legislation may prevent us from producing and marketing genetically engineered products in a timely manner or under technically or commercially feasible conditions. In addition, regulatory action or private litigation could result in expenses, delays or other impediments to our product development programs and the commercialization of products. The FDA has released a policy statement stating that it will apply the same regulatory standards to foods developed through genetic engineering as it applies to foods developed through traditional plant breeding. Genetically engineered food products will be subject to premarket review, however, if these products raise safety questions or are deemed to be food additives. Our product candidates may be subject to lengthy FDA reviews and unfavorable FDA determinations if they raise questions regarding safety or our products are deemed to be food additives.

To date, the FDA has not required genetically engineered agricultural products to be labeled as such, provided that these products are as safe and have the same nutritional characteristics as conventionally developed products. The FDA may reconsider or change its policies, and local or state authorities may enact labeling requirements, either of which could have a material adverse effect on our ability or the ability of our collaborators to develop and market products resulting from our efforts.

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 and stock price to volatility, including:

- recognition of upfront licensing or other fees;
- payments of non-refundable upfront or licensing fees to third parties;
- acceptance of our technologies and platforms;
- the success rate of our discovery efforts leading to milestone payments and royalties;
- the introduction of new technologies or products by our competitors;
- the timing and willingness of collaborators to commercialize our products;
- 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 of our products;
- the impairment of acquired goodwill and other assets; 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. In addition, we expect operating expenses to increase significantly during the next year as we move more compounds into clinical development. Accordingly, if our revenues decline or do not grow as anticipated due to the expiration of existing contracts or our failure to obtain new contracts, our inability to meet milestones or 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 stock market analysts and investors, which could result in a decline in the price of our 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:

- adverse results or delays in clinical trials;
- announcement of FDA approval or non-approval, or delays in the FDA review process, of our 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 announcement of new products by us or our competitors;
- quarterly variations in our or our competitors' results of operations;
- litigation, including intellectual property infringement lawsuits, involving us;
- failure to achieve operating results projected by securities analysts;
- changes in earnings estimates or recommendations by securities analysts;
- developments in the biotechnology 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;
- developments concerning current or future collaborations;
- FDA or international regulatory actions;
- third-party reimbursement policies;
- acquisitions of other companies or technologies; and
- general market conditions and other factors, including factors unrelated to our operating performance or the operating performance of our competitors.

These factors and fluctuations, as well as general economic, political and market conditions, may materially adversely affect the market price of our common stock.

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.

We are exposed to risks associated with acquisitions.

We have made, and may in the future make, acquisitions of, or significant investments in, businesses with complementary products, services and/or technologies. Acquisitions involve numerous risks, including, but not limited to:

- difficulties and increased costs in connection with integration of the personnel, operations, technologies and products of acquired companies;
- diversion of management's attention from other operational matters;
- the potential loss of key employees;
- the potential loss of key collaborators;
- lack of synergy, or the inability to realize expected synergies, resulting from the acquisition; and
- acquired intangible assets becoming impaired as a result of technological advancements or worse-than-expected performance of the acquired company.

Mergers and acquisitions are inherently risky, and the inability to effectively manage these risks could materially and adversely affect our business, financial condition and results of operations.

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) 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 deemed appropriate. For example, following an acquisition, a significant number of shares of our common stock held by new stockholders may become freely tradable or holders of registration

rights could cause us to register their shares for resale. Sales of these shares of common stock held by existing stockholders could cause the market price of our common stock to decline.

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 you would not approve of.

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 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 us, 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 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; and
- limitations on the removal of directors.

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. Finally, these provisions establish advance notice requirements for nominations for election to our Board of Directors or for proposing matters that can be acted upon at stockholder meetings. These provisions would apply even if the offer may be considered beneficial by some stockholders.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of disclosure controls and procedures. Based on the evaluation of our disclosure controls and procedures (as defined in Securities Exchange Act of 1934 Rules 13a-15(e) and 15d-15(e)) required by Securities Exchange Act Rules 13a-15(b) or 15d-15(b), 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.

Changes in internal controls. 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.

PART II. OTHER INFORMATION

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

At Exelixis' 2004 annual meeting of stockholders held on April 8, 2004, the stockholders were asked to vote on four items as follows:

1. The election of three Class II directors who will hold office for a three-year term, through 2007. The nominees for election to these positions were Dr. Jason Fisherman, Dr. Jean-Francois Formela, and Dr. Vincent Marchesi. Note that no other nominations were received in accordance with the Company's Bylaws.

2. The ratification of the selection of Ernst & Young LLP to serve as the independent auditors of the Company for the fiscal year ending December 31, 2004.

3. The approval of an amendment to the Company's Restated Certificate of Incorporation to increase the authorized number of shares of common stock from 100,000,000 to 200,000,000.

4. The approval of an amendment to the Company's 2000 Non-Employee Directors' Stock Option Plan to increase the annual option grant to each director from an option to purchase 5,000 shares to an option to purchase 10,000 shares.

The results of the matters presented at the annual meeting, based on the presence in person or by proxy of holders of 61,455,295 shares of the 71,455,710 shares of Exelixis' common stock of record entitled to vote, were as follows:

1. The election of Drs. Fisherman, Formela, and Marchesi were approved as directors of the Company until the 2007 annual meeting of stockholders and until their successors are elected was approved as follows:

	For	Withheld
Dr. Jason Fisherman	59,233,659	2,221,636
Dr. Jean-Francois Formela	51,088,961	10,366,334
Dr. Vincent Marchesi	51,176,300	10,278,995

Exelixis' Class III directors, Stelios Papadopoulos, Ph.D., George A. Scangos, Ph.D., Lance Willsey, M.D. and Frank McCormick, Ph.D., FRS will each continue to serve on the Board of Directors until the 2005 annual meeting of stockholders and until his successor is elected and has qualified, or until his earlier death, resignation or removal. Exelixis' Class I directors, Charles Cohen, Ph.D. and Jack Wyszomierski will each continue to serve on the Board of Directors until the 2006 annual meeting of stockholders and until his successor is elected and has qualified, or until his earlier death, resignation or removal.

2. The ratification of Ernst & Young LLP as independent auditors of the Company for its fiscal year ending December 31, 2004 was approved as follows:

For	Against	Abstain	Broker Non-Vote
60,979,309	459,735	16,251	0

3. The amendment to the Company's Restated Certificate of Incorporation to increase the authorized number of shares of common stock from 100,000,000 to 200,000,000 was approved as follows:

For	Against	Abstain	Broker Non-Vote
50,573,718	10,816,865	64,712	0

4. The amendment to the Company's 2000 Non-Employee Directors' Stock Option Plan to increase the annual option grant to each director from an option to purchase 5,000 shares to an option to purchase 10,000 shares was approved as follows:

For	Against	Abstain	Broker Non-Vote
31,000,333	15,404,331	18,346	15,032,285

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits

The exhibits listed on the accompanying index to exhibits are filed or incorporated by reference (as stated therein) as part of this Quarterly Report on Form 10-Q.

(b) Reports on Form 8-K

On May 4, 2004, we furnished a current report on Form 8-K under Item 12, describing and furnishing the press release announcing certain financial results and information for the quarter ended March 31, 2004.

On June 30, 2004, we furnished a current report on Form 8-K under Item 9, describing and furnishing the press release announcing that the Company has implemented a restructuring and consolidation of its research and discovery organizations.

SIGNATURES

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

EXELIXIS, INC.

Date: August 5, 2004

/s/ Frank Karbe
Frank Karbe
Senior Vice President, Chief Financial Officer
(Principal Financial and Accounting Officer)

EXHIBIT INDEX

Number	Exhibit Description
3.1*	Amended and Restated Certificate of Incorporation of Exelixis, Inc.
3.3	Certificate of Amendment of Amended and Restated Certificate of Incorporation of Exelixis, Inc.
10.42**	Employment Agreement, dated June 18, 2001, between Jeffrey R. Latts, M.D. and Exelixis, Inc.
10.43**	Employment Agreement, dated February 3, 2000, between Michael Morrissey, Ph.D. and Exelixis, Inc.
10.44**	Employment Agreement, dated July 21, 2000, between Gregory Plowman, M.D., Ph.D. and Exelixis, Inc.
10.45**	Amendment to Employment Agreement, dated July 6, 2004, between Gregory Plowman, M.D., Ph.D. and Exelixis, Inc.
10.46**	Employment Agreement, dated November 20, 2003, between Frank Karbe and Exelixis, Inc.
10.47	Sublease Agreement, dated July 21, 2004, between Sugen, Inc. and Exelixis, Inc.
10.48	Lease Agreement, dated May 24, 2001, between Britannia Pointe Grand Limited Partnership and Exelixis, Inc.
10.49	Second Amendment to Lease, dated July 20, 2004, between Britannia Pointe Grand Limited Partnership and Exelixis, Inc.
31.1	Certification required by Rule 13a-14(a) or Rule 15d-14(a).
31.2	Certification required by Rule 13a-14(a) or Rule 15d-14(a).

32.1***	Certification by the Chief Executive Officer and the Chief Financial Officer of Exelixis, Inc., as required by Rule 13a-14(b) or Rule 15d-14(b) and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350).

* Filed as an Exhibit to Exelixis, Inc.'s Amendment No. 2 to Registration Statement on Form S-1 (File No. 333-96335), as filed with the Securities and Exchange Commission on March 17, 2000, and incorporated herein by reference.

** Management contract or compensatory plan.

*** This certification accompanies this Quarterly Report on Form 10-Q, 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 Quarterly Report on Form 10-Q), irrespective of any general incorporation language contained in such filing.

EXHIBIT 3.3

CERTIFICATE OF AMENDMENT
OF
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
EXELIXIS, INC.

GEORGE A. SCANGOS hereby certifies that:

1. The original name of this corporation is Exelixis Pharmaceuticals, Inc. and the date of filing the original Certificate of Incorporation of this corporation with the Secretary of State of the State of Delaware is November 15, 1994.

2. He is the duly elected and acting President and Chief Executive Officer of Exelixis, Inc., a Delaware corporation (the "Corporation").

3. The Board of Directors of the Corporation, acting in accordance with the provisions of Sections 141 and 242 of the General Corporation Law of the State of Delaware, adopted resolutions amending Article IV of its Amended and Restated Certificate of Incorporation as follows:

Article IV shall be amended and restated to read in its entirety as follows:

"**IV.**

Classes of Stock. This Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the corporation is authorized to issue is two hundred and ten million (210,000,000) shares. Two hundred million (200,000,000) shares shall be Common Stock, each having a par value of one-tenth of one cent ($0.001). Ten million (10,000,000) shares shall be Preferred Stock, each having a par value of one-tenth of one cent ($0.001).

Preferred Stock. The Preferred Stock may be issued from time to time in one or more series. The Board of Directors is hereby authorized, by filing a certificate (a "Preferred Stock Designation") pursuant to the Delaware General Corporation Law ("DGCL"), to fix or alter from time to time the designation, powers, preferences, and rights of the shares of each such series and the qualifications, limitations or restrictions of any wholly unissued series of Preferred Stock, and to establish from time to time the number of shares constituting any such series or any of them; and to increase or decrease the number of shares of any series subsequent to the issuance of shares of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be decreased in accordance with the foregoing sentence, the shares constituting such decrease shall resume the status that they had prior to adoption of the resolution originally fixing the number of shares of such series."

4. Thereafter, pursuant to a resolution of the Board of Directors, this Certificate of Amendment was submitted to the stockholders of the Corporation for their approval, and was

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duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, Exelixis, Inc. has caused this Certificate of Amendment to be signed by its President and Chief Executive Officer this 20 day of April, 2004.

EXELIXIS, INC.

By: /s/ George A. Scangos
George A. Scangos, President and Chief Executive Officer

EXHIBIT 10.42

June 18, 2001

Dear Jeff:

We are proud to invite you to join our team.

Our offer of employment is to join Exelixis, Inc. as Senior Vice President, Chief Medical Officer reporting to Geoffrey Duyk, M.D., Ph.D., Executive Vice President and Chief Scientific Officer.

Other terms of employment include:

Compensation: Your initial bi-monthly salary will be twelve thousand five hundred dollars ($12,500.00).

Loan: We will make available a loan to you in an amount up to one hundred twenty five thousand ($125,000.00) dollars. The loan will have a term of four (4) years and bear interest at the lowest rate available for a loan of this term in effect as of the date of the loan published under the rules and regulations of the U.S. Treasury (for example, the rate as of the date of this letter was 5.02%). Interest will accrue and be payable annually within five (5) days of each anniversary date. The principal on the loan will be subject to forgiveness as follows: (a) sixty two thousand five hundred dollars ($62,500) upon your third anniversary of full-time employment; and (b) sixty two thousand five hundred dollars ($62,500) upon your fourth anniversary of full-time employment, provided that the loan has not otherwise been repaid or required to be repaid. All unpaid and unforgiven portions of the principal will be subject to repayment prior to maturity upon termination of your employment prior to your fourth anniversary date. Additionally, the loan will be subject to complete forgiveness prior to the time of maturity or forgiveness as otherwise specified above in the event that either: (a) your position is no longer part of the senior management organization (currently the Senior Staff group) at Exelixis, or (b) Exelixis eliminates its clinical development group. All forgiven amounts will be subject to withholding in addition to reported on your Form W-2 in the year of forgiveness.

Performance Review: Your performance will be formally reviewed no less than annually you will be eligible to receive an incentive bonus of up to thirty (30%) percent of your annual salary based on achievement of key milestones.

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

Review: Your performance will be formally reviewed no less than annually.

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.

Start Date: To be determined.

Options for Equity: You will also be eligible to receive a stock option grant for one hundred twenty five thousand (125,000) shares of Exelixis stock pursuant to our 2000 Equity Incentive Plan pursuant to the standard form of stock option agreement at the closing price on your start date, subject to approval by the Board of Directors. Shares subject to options vest at the rate of $1/4^{th}$ after one year of employment and $1/48^{th}$ every month thereafter over a total of four years.

Termination: In the event of termination of your employment by the Company without cause, the Company will continue to pay you your base salary for a period after the date of such termination equal to the lesser of (1) six months and (2) the period until you obtain alternative employment. In addition, you will be entitled to receive the amount of any declared but unpaid bonus as at the date of such termination and the Company shall continue to make available to you such fringe benefits as are required by law.

Other: This offer expires on Friday, June 22, 2001, unless accepted prior to this date. 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 me.

Jeff, we look forward to your coming on board!

Sincerely,

/s/ Lisa Stemmerich

Lisa Stemmerich
Director, Human Resources

ACCEPTED BY:

/s/ Jeffrey R. Latts	21 June 2001
Jeffrey R. Latts	Date

Enclosures:

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

EXHIBIT 10.43

February 3, 2000

Dear Michael:

We are proud to invite you to join our team.

Our offer of employment is to join Exelixis Pharmaceuticals, Inc. as Vice President, Discovery Research reporting to Geoff Duyk, Chief Scientific Officer.

Other terms of employment include:

Compensation: Your initial starting annual salary will be two-hundred twenty-five thousand($225,000) dollars, paid twice a month. You will receive a sign-on bonus of thirty-thousand ($30,000) dollars net 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. This re-payment of the sign-on bonus shall occur within thirty (30) days of termination

Review: Your performance will be formally reviewed no less than annually and you will be eligible to receive an incentive bonus of up to twenty-five percent of your annual salary based on achievement of key milestones.

Loan: We will make available a loan in an amount up to three-hundred thousand ($300,000) dollars. The loan will have a term of four (4) years and is subject to twenty-five (25) percent forgiveness of principal on each anniversary of the loan if you have been a full-time employee during the preceding twelve (12) months. Forgiven amounts will be subject to annual withholding and reporting on your Form W-2. The interest will accrue annually and the rate will be the prime rate at the time of the loan plus one (1) percent.

Outstanding principal and interest on the loan will be subject to full repayment prior to maturity on the earlier of: (a) termination of your employment prior to maturity, or (b) the first business day prior to an anniversary date of the loan if the value of your vested stock options exceeds one million five hundred thousand ($1,500,000) dollars on that date.

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

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.

Options for Equity: You will also be eligible to receive a stock option for one-hundred ten thousand(110,000) shares of Exelixis stock pursuant to our standard Stock Plan and subject to approval by the Board of Directors. Options vest over 4 years, at the rate of 25% per year of employment.

Termination: In the event of termination of your employment by the Company without Cause, the Company will continue to pay you your base salary for a period after the date of such termination equal to the lesser of (1) six months and (2) the period until you obtain alternative employment. In addition, you will be entitled to receive the amount of any declared but unpaid bonus as at the date of such termination and the Company shall continue to make available to you such fringe benefits as are required by law.

You will be eligible to participate in the Company's Early Exercise/Stock Purchase Plan which will provide you with the opportunity to receive a subsidized loan from Exelixis allowing you to complete an early purchase of your stock options granted to you upon commencing employment with the Company. This loan will be subject to minimal interest as required by IRS regulations and accrue on an annual basis. The loan will become payable upon the earlier of four years from issuance or upon the sale of vested shares.

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.

Vacation: You will be accrue vacation days at a rate of fifteen (15) days per year.

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 me.

Mike, we look forward to your coming on board!

Sincerely,

/s/ Mary Jansen

Mary Jansen
Senior Manager, Human Resources

ACCEPTED BY:

/s/ Michael Morrissey — 2-3-2000

Michael Morrissey — Date

Enclosures: Benefit Summary

EXHIBIT 10.44

July 21, 2000

Dear Greg:

We are proud to invite you to join our team.

Our offer of employment is to join Exelixis, Inc. as a Vice President, Research reporting to Geoffrey Duyk, Chief Scientific Officer. Other terms of employment include:

Compensation: You will receive nine thousand three hundred seventy five dollars ($9,375.00) per pay period. There two pay periods per month. Additionally, you will receive a sign-on bonus of twenty five thousand dollars ($25,000) payable 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. This re-payment of the sign-on bonus shall occur within thirty (30) days of termination.

Options for Equity: You will also be eligible to receive a stock option for one hundred thousand (100,000) shares of Exelixis stock pursuant to our standard Stock Plan and subject to approval by the Board of Directors. Options vest over 4 years, and are 25% vested on the first anniversary of employment and then continue to vest 1/48th of the total grant on the monthly anniversary date each month thereafter over the next 3 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: Your performance will be formally reviewed no less than annually you will be eligible to receive an incentive bonus of up to twenty percent of your annual salary based on achievement of key milestones.

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 Confidentiality Agreement.

Termination: In the event of termination of your employment by the Company without Cause, the Company will continue to pay you your base salary for a period after the date of such termination equal to the lesser of (1) six months and (2) the period until you obtain alternative employment. In addition, you will be entitled to receive the amount of any declared but unpaid bonus as at the date of such termination and the Company shall continue to make available to you such fringe benefits as are required by law.

Loan: Within 30 days of your start date we will make available to you a loan in an amount of seventy five thousand ($75,000) dollars. The loan will have a term of four (4) years and is subject to one hundred percent (100%) forgiveness of principal upon your fourth employment anniversary date if you have been a full-time employee during the preceding forty eight (48) months. Forgiven amounts will be subject to annual withholding and reported on your Form W-2 during year of forgiveness. In the event of your voluntary termination of employment, you will be obligated to repay loan as follows: 25% of the total principal for each year remaining under the loan (e.g., if you terminate in year 1, then 100% would be repayable; 75% in year 2, etc.). In the event that your termination is by the Company without cause prior to your fourth anniversary date of employment, the loan will be subject to one hundred percent (100%) forgiveness of principal. Interest on the loan will accrue annually and the rate will be the lowest rate available for a loan of this term in effect as of the date of the loan under the rules and regulations of the U.S. Treasury. The accrued interest will be payable within thirty (30) days of each December 31st during the term of the loan.

Start Date: To be determined.

Other: This offer expires on August 2 , 2000, unless accepted by you prior to this date. 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. 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 returning to my attention at Exelixis, Inc one copy along with the completed employment documents that have been included in this offer packet.

Greg, we look forward to your coming on board!

Sincerely,

/s/ Lisa Benthein
Lisa Benthein
Director, Human Resources

ACCEPTED BY:

/s Gregory Plowman — 7/23/00
Gregory Plowman — Date

Enclosures:
Benefit Summary
Confidentiality Agreement

DE-4 (optional)
Direct Deposit Form (optional)
Employee Information Form
I-9 document verification list
Insider Trading Policy
Lock-up Agreement
W-4

EXHIBIT 10.45

July 6, 2004

Dear Greg:

This letter is to confirm that, in consideration for your continued employment with Exelixis, Inc. (the "Company"), the Company offers you the following termination benefits:

In the event, within the twelve (12) month period commencing on the date hereof, your employment with the Company is terminated without cause, then you will receive a lump-sum payment equal to eighteen (18) month's base salary. In addition, you will be entitled to receive the amount of any declared but unpaid bonus as of the date of such termination and the Company shall continue to make available to you such fringe benefits as required by law.

Sincerely,

/s/ George Scangos

George Scangos
President and Chief Executive Officer

ACCEPTED BY:

/s/ Gregory Plowman	July 6, 2004
Gregory Plowman	Date

EXHIBIT 10.46

November 20, 2003

Dear Frank:

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 Senior Vice President and Chief Financial Officer, working at the Company's headquarters located in South San Francisco, California and reporting to George Scangos, President & Chief Executive Officer in our Executive Administration department. Other terms of employment include:

Compensation: Your initial base salary will be three hundred thousand dollars ($300,000) annually, less standard deductions and withholdings, paid semi-monthly. In addition you will be eligible for a target bonus of forty-five percent (45%) of base salary, at the discretion of the Board of Directors, based on annualized objectives to be established by the Chief Executive Officer and Board of Directors for your position. As with all executives, receipt of this year-end bonus will be subject to the achievement of our annual financial plan and individual management objectives. You will receive a sign-on bonus of eighty-five thousand dollars ($85,000) payable 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. This re-payment of the sign-on bonus shall occur within thirty (30) days of termination.

Options for Equity: You will be eligible to receive a stock option grant for two hundred thousand (200,000) 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 $1/4^{th}$ after one year of employment and $1/48^{th}$ every month thereafter over a total of four years. From time to time, the Board may grant you additional stock options at its discretion. Your stock options will be subject to automatic accelerated vesting of any unvested portion upon a sale of the Company or sale of greater than 50% of the assets or equity securities of the Company.

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

Non-Immigrant Visa and Permanent Residence Assistance: Exelixis will sponsor your application for a non-immigrant visa to obtain US work authorization. Please sign and return the enclosed "Exelixis Employee Non-Immigrant Visa Processing Reimbursement Agreement" form to the Human Resources department with your offer letter. If you wish to pursue permanent residence under Exelixis' Immigration Assistance Policy, Exelixis will begin the process as soon as practicable.

Employment Policies: The Company will reimburse you for reasonable business documented expenses pursuant to Company policy. You will be expected to abide by all the Company's policies and procedures.

Review: Your performance will be formally reviewed no less than annually.

Start Date: To be determined.

Expiration Date: This offer expires Wednesday, December 31, 2003, unless accepted by you prior to this date.

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. As further condition of your employment, you agree to refrain from any unauthorized use of disclosure of the Company's proprietary or confidential information or materials. By accepting this offer, you are also representing that you are not a party to any agreement with any third party or prior employer that would conflict with or inhibit your performance of your duties with the Company.

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. If you are terminated without cause you will be entitled to receive salary and benefits for a period of six (6) months from the date of termination. This at-will employment relationship cannot be changed except in writing, signed by a Company officer.

This letter, together with the Proprietary Information and Inventions Agreement, constitutes the complete, final and exclusive embodiment of your employment. In entering into this agreement, neither party is relying upon any promise or representation, written or oral, other than those expressly contained herein, and this agreement supersedes any other such promises, representations or agreements. It may not be amended or modified except in a written agreement signed by you and a duly authorized Company officer. The laws of the State of California shall govern this letter. Also, by signing this letter, you are indicating that you are legally authorized to work in the U.S.

To ensure rapid and economical resolution of any disputes that may arise under this agreement, you and the Company agree that any and all disputes or controversies of any nature whatsoever, regarding the interpretation, performance, enforcement or breach of this Agreement will be resolved by confidential, final and binding arbitration (rather than trial by jury or court or resolved in some other forum) under the then-existing rules of Judicial Arbitration and Mediation Services (JAMS).

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 George Scangos, President and Chief Executive Officer.

Frank, we look forward to your coming on board!

Sincerely,

/s/ George Scangos

George Scangos
President and Chief Executive Officer

ACCEPTED BY:

/s/ Frank Karbe	1/11/2004
Frank Karbe	Date

SUBLEASE

THIS SUBLEASE ("Sublease"), dated for reference purposes only July 21, 2004, is entered into by and between Sugen, Inc. a Delaware corporation ("Sublandlord"), and Exelixis, Inc., a Delaware corporation ("Subtenant").

RECITALS

A. Sublandlord leases certain property located in the Britannia Pointe Grand Business Park ("Center") commonly known as 210-230 East Grand Avenue, South San Francisco, California (the "Master Premises").

B. The Master Premises is comprised of three (3), fully-developed office and research and development buildings consisting of an approximate 222,539 combined rentable square feet, more particularly described as follows:

(1) 210 East Grand Avenue – a three-story building, containing approximately 67,672 rentable square feet ("The Sublease Premises");

(2) 220 East Grand Avenue – a two-story building, containing approximately 48,391 rentable square feet ("Phase IIA 220 East Grand Avenue Building"); and

(3) 230 East Grand Avenue – a two-story building, containing approximately 106,368 rentable square feet ("Initial Building/230 East Grand Avenue").

C. Sublandlord leases the Sublease Premises and the Phase IIA 220 East Grand Avenue Building pursuant to that certain Build-To-Suit Lease between Sublandlord and Britannia Pointe Grand Limited Partnership, a Delaware limited partnership ("Master Landlord"), dated as of April 7, 1999, as amended by First Amendment to Lease ("First Amendment") dated as of February 20, 2002 (as amended, the "Master Lease"). A true and complete copy of the Master Lease is attached as Exhibit A to this Sublease and incorporated by this reference. The Sublease Premises are depicted on Exhibits B-1 and B-2 to the First Amendment as "Sugen Phase III". The Sublease Premises are described in the Master Lease as the "Phase IIB Building" and in the First Amendment as the "Phase III Building."

D. Sublandlord leases the Initial Building/230 East Grand Avenue pursuant to that certain Build-To-Suit Lease between Sublandlord and Master Landlord dated as of June 11, 1997, as amended by First Amendment to Lease dated as of March 18, 1998, Second Amendment to Lease dated as of May 28, 1998, Third Amendment to Lease dated as of April 7, 1999, and Fourth Amendment to Lease dated as of February 20, 2002 (as amended, the "Phase I Master Lease").

E. Sublandlord desires to sublease the Sublease Premises to Subtenant, and Subtenant desires to sublease the Sublease Premises from Sublandlord, upon the terms and conditions provided for herein.

F. Capitalized terms used but not otherwise defined herein shall have the meaning given such terms in the Master Lease.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, Sublandlord and Subtenant covenant and agree as follows:

AGREEMENT

1. **Sublease Premises; Phase IIA 220 East Grand Avenue Building License.**

(a) **Demise of Sublease Premises; License of Lobby Area**. Sublandlord hereby subleases the Sublease Premises to Subtenant, and Subtenant hereby takes and hires the Sublease Premises from Sublandlord, on and subject to the terms, covenants and conditions set forth in this Sublease. It is expressly understood and agreed that the Subtenant shall also have a non-exclusive license to use in common with Sublandlord and the occupant(s) of the Phase IIA 220 East Grand Avenue Building, the common area lobby ("Lobby Area") located between the Sublease Premises and the Phase IIA 220 East Grand Avenue Building as more particularly described on the site map attached hereto as Exhibit B ("Site Map"). Subtenant shall, at its cost, maintain the Lobby Area pursuant to reasonable standards agreed to by Master Landlord, Sublandlord, and Subtenant and Subtenant shall pay to Sublandlord, or at Sublandlord's written direction, an occupant of the Phase IIA East Grand Avenue Building, the reasonable (based on square footage) costs incurred to operate the Lobby Area (including but not limited to a reasonable portion of the utility costs and other costs incurred to operate, maintain, repair, and replace the Phase IIA 220 East Grand Avenue Building HVAC system). Subtenant may, after obtaining consent from Sublandlord (which shall not be unreasonably withheld) and from Master Landlord, enter into an agreement with the occupants of the Phase IIA 220 East Grand Avenue Building with respect to sharing the costs of maintaining the Lobby Area. Sublandlord acknowledges that Subtenant intends to construct a reception area in the Lobby Area. Such construction shall be subject to all of the terms of this Sublease, including but not limited to Article 11 of the Master Lease, which is incorporated herein by reference. Upon the written request of an occupant of the Phase IIA 220 East Grand Avenue Building, and the agreement of such occupant(s) to share in the cost of providing such receptionist, the Lobby Area receptionist shall perform services for the Phase IIA 220 East Grand Avenue Building, as well as for the Sublease Premises, including but not limited to providing access to the Phase IIA 220 East Grand Avenue Building. If an occupant of the Phase IIA 220 East Grand Avenue Building desires to construct a reception desk in the Lobby Area, then it shall have the right to do so, and in such instance, Sublessee shall, within 30 days after receipt of notice from Sublandlord, move its Lobby Area wall signage to the wall which abuts the Sublease Premises and its reception desk to the area near the Sublease Premises. In such case, then Subtenant shall concurrently, and at its sole cost, repaint the back wall of the Lobby to a neutral color.

(b) **Shipping and Receiving License**. Sublandlord also grants to Subtenant a temporary non-exclusive license ("S&R License") for (i) use of the shipping and receiving area and loading dock located on the Phase IIA 220 East Grand Avenue Building (collectively, "S&R Area") solely for the unloading of goods and equipment, and (ii) limited ingress and egress to and through a portion of the first floor of the Phase IIA 220 East Grand Avenue Building from the S&R Area to the Sublease Premises ("Access Pathway"). The S&R Area and Access Pathway are more particularly identified on the Site Map and are collectively referred to in this Sublease as the "S&R License Area." The term of the S&R License shall commence on the

Commencement Date and terminate on the earlier of: (i) the date that is three (3) months following the Sublandlord's delivery of a notice to Subtenant that Sublandlord has received an offer from a prospective Subtenant (that Sublandlord intends to accept) to sublease all or a portion of the Phase IIA 220 East Grand Avenue Building, (ii) the date Subtenant completes construction of an approved loading dock on the Sublease Premises, and (iii) the one (1) year anniversary of the Commencement Date ("S&R License Term"). The construction of the loading dock shall be subject to all of the provisions of this Sublease, including but not limited to Article 11 of the Master Lease, which is herein incorporated. Sublandlord makes no representations or warranties to Subtenant regarding the likelihood of securing necessary approvals, including but not limited to from the Master Landlord, to construct the loading dock. Subtenant shall not enter the S&R License Area without: (a) providing prior notification to Sublandlord and (b) being accompanied by Sublandlord's personnel or agent. Subtenant's use of the S&R License Area is limited to the receipt of goods and equipment required for Subtenant's business operations conducted on the Sublease Premises, and shall be subject to other reasonable access and security restrictions imposed by Sublandlord. The S&R License Area may not be used for storage or for the disposal of any materials. Except as explicitly set forth herein, Subtenant shall not have any right to use any portion of the Phase IIA 220 East Grand Avenue Building or any property or improvements adjacent to or in the vicinity of the Phase IIA 220 East Grand Avenue Building. Without limitation of the foregoing, Subtenant shall not have any right to use the storage lockers or waste bins near the Phase IIA 220 East Grand Avenue Building.

(c) **Insurance and Indemnity re: S & R License; No Radioactive Materials**. During the S&R License Term, Subtenant shall include the S&R License Area under its commercial general liability insurance and workers' compensation policies, which policies shall comply with all of the provisions of this Sublease, and Subtenant's obligations to indemnify, hold harmless, and defend Sublandlord and Master Landlord under this Sublease (by way of incorporation of Section 14.6 (a) of the Master Lease) shall apply with equal force to Subtenant's use of the S&R License Area. Subtenant's use of the S&R License Area shall be subject to the conditions, prohibitions, restrictions, and other provisions of this Sublease; provided, however, that notwithstanding anything to the contrary contained in this Sublease, Subtenant may not bring any radioactive materials or radiation into, on, under, or around the S&R License Area. Subtenant shall not have any right whatsoever to make any alterations, additions, or improvements to the S&R License Area.

(d) **Insurance and Indemnity re: Lobby Area; No Radioactive Materials**. During the Term of the Sublease, Subtenant shall include the Lobby Area under its commercial general liability and workers' compensation policies, which policies shall comply with all of the provisions of this Sublease, and Subtenant's obligations to indemnify, hold harmless, and defend Sublandlord and Master Landlord under this Sublease (by way of incorporation of Section 14.6 (a) of the Master Lease) shall apply with equal force to Subtenant's use of the Lobby Area. Subtenant's use of the Lobby Area shall be subject to all of the conditions, prohibitions, restrictions and other provisions of this Sublease; provided, however, that notwithstanding any thing to the contrary contained in the Sublease, Subtenant may not bring any radioactive materials or radiation into, on, under, or around the Lobby Area. Subtenant shall not have any right whatsoever to make any alterations, additions, or improvements to the Lobby Area, except pursuant to the terms of this Sublease, including but not limited to the provisions of Article 11 of the Master Lease, which are incorporated herein by reference.

2. **Term**.

(a) **Sublease Term**. The term of this Sublease (the "Sublease Term") shall commence on the later of (i) the date Sublandlord delivers possession of the Sublease Premises to Subtenant, or (ii) the date Master Landlord delivers its written consent to this Sublease to Subtenant (the "Commencement Date"). The parties anticipate that the Commencement Date will occur on or before July 15, 2004 (the "Scheduled Commencement Date"). The term of this Sublease shall expire, unless sooner terminated pursuant to the provisions set forth herein, on July 31, 2018 (the "Expiration Date").

(b) **Delay in Possession: Termination Right**. If for any reason Sublandlord cannot deliver possession of the Sublease Premises to Subtenant by the Scheduled Commencement Date, Sublandlord shall not be subject to any liability therefor, nor shall such failure affect the validity of this Sublease or the obligations of Subtenant hereunder (except as hereinafter provided) or extend the Base Rent Abatement Period or the Sublease Term, but in such case Subtenant shall not be obligated to pay Rent until possession of the Sublease Premises is tendered to Subtenant. Notwithstanding the foregoing, if, for any reason, other than as the result of any delay on the part of Subtenant, Sublandlord is unable to deliver possession of the Sublease Premises on or before the date which is sixty (60) days after mutual execution of this Sublease by Sublandlord and Subtenant, then Subtenant shall have the right to terminate this Sublease by delivering written notice thereof to Sublandlord. If Subtenant so terminates this Sublease, Sublandlord shall refund to Subtenant the prepaid Base Rent and return the Letter of Credit (defined in Section 10 below) and the parties thereupon shall be released from all further liability under this Sublease. Unless exercised prior thereto, Subtenant's right of termination hereunder shall expire upon the later of delivery of the Sublease Premises to Subtenant or the delivery to Subtenant of Master Landlord's written consent to this Sublease.

(c) **End of Sublease Term** The Sublease Term shall end on the Expiration Date; provided, however, the Sublease Term shall terminate earlier as set forth in this Sublease.

(d) **Commencement Date Memorandum**. Promptly following the Commencement Date, Sublandlord and Subtenant shall execute a written acknowledgement of the Commencement Date and the Expiration Date in form mutually acceptable to the parties, which acknowledgement shall be deemed to be incorporated herein by this reference. Notwithstanding the foregoing requirement, the failure of either party to execute such a written acknowledgement shall not affect the determination of the Commencement Date or the Expiration Date in accordance with the provisions of this Sublease.

3. **Rent**.

(a) **Triple Net**. Rent payable by Subtenant for the Sublease Premises shall be on a "triple net" basis and shall consist of base rent ("Base Rent") plus certain additional rental ("Additional Rent"), as provided below in Sections 3(b), 3(c), 3(d) and 3(e). Base Rent, Additional Rent, and any other charges due under this Sublease are hereinafter referred to collectively as "Rent." All Rent shall be paid to Sublandlord at the address specified for Sublandlord below, or to such other person or to such other place as Sublandlord may from time to time designate in writing.

(b) **Base Rent Schedule**. Subtenant shall pay to Sublandlord in advance, without prior notice, demand, deduction or offset, monthly Base Rent in accordance with the following table:

Month(s)	Base Rent (NNN) per month
Months 1 – 12	Base Rent is Abated
Months 13 – 24	$ 81,336.00
Months 25 – 36	$ 130,815.40
Months 37 – 48	$ 134,204.40
Months 49 – 60	$ 137,593.40
Months 61 – 72	$ 140,982.40
Months 73 – 84	$ 144,371.40
Months 85 – 96	$ 147,760.40
Months 97 – 108	$ 151,149.40
Months 109 – 120	$ 154,538.40
Months 121 – 132	$ 157,927.40
Months 133 – 144	$ 161,316.40
Months 145 – 156	$ 164,705.40
Months 156 – 7/31/18	$ 168,094.40

Month 1 of the Sublease Term shall begin on the Commencement Date and end on the day prior to the one month anniversary of the Commencement Date. For example, if the Commencement Date is July 15, 2004, then Month 1 shall commence on July 15, 2004 and shall end on August 14, 2004. Each subsequent month of the Sublease Term shall be calculated in like manner. For example, if Month 2 commences on August 15, 2004, then it shall end on September 14, 2004. If the final month of the Sublease Term is not a full month, then Base Rent for such month shall be prorated (based on a thirty (30) day month).

(c) **Payment of First Month's Rent Upon Execution**. Concurrently with its execution of this Sublease, Subtenant shall pay to Sublandlord the Base Rent for Month 25.

(d) **Operating Expenses**. The Master Lease requires Sublandlord to pay to Master Landlord amounts representing "Tenant's Operating Cost Share" of the Operating Expenses. The Master Lease also requires Sublandlord to pay to Landlord all real property taxes and assessments taxed or assessed to Master Landlord with respect to the Subleased Premises, which taxes and assessments are deemed to constitute Operating Expenses and, to the extent any real property taxes and assessments on the Sublease Premises are assessed directly to Sublandlord, Sublandlord is responsible for the payment of such taxes and assessments directly to the taxing authority. Subtenant shall pay all personal property taxes on its furniture, fixtures and equipment and reimburse Sublandlord, as provided below, for any personal property taxes assessed to Sublandlord with respect to the Personal Property. Subtenant shall pay to Sublandlord, as Additional Rent, the portion of Tenant's Operating Cost Share of Operating Expenses allocated to the Sublease Premises by Master Landlord, or if, in the future, Master Landlord ceases allocating a portion of the Tenant's Operating Expense Share of Operating

Expenses to the Sublease Premises, then the portion of Tenant's Operating Expenses Share of Operating Expenses to be paid by Subtenant shall be reasonably determined by Sublandlord taking into account, among other reasonable factors, the rentable square footage of the Sublease Premises in comparison to the rentable square footage of the Premises. All such payments are due, at the same time and in the same manner as the Tenant's Operating Cost Share of Operating Expenses becomes due under the Master Lease. In addition, Subtenant shall reimburse Sublandlord for all real and personal property taxes or assessments assessed directly to and paid by Sublandlord, within thirty (30) days following Subtenant's receipt of Sublandlord's written demand, which demand shall be accompanied by supporting tax bills. Neither Tenant's Operating Cost Share of Operating Expenses allocable to the Sublease Premises, nor any other Additional Rent, including but not limited to utility charges, shall be abated during the Base Rent Abatement Period and all such amounts shall be fully payable by Subtenant commencing on the Commencement Date.

(e) **Additional Charges**. Subtenant also shall pay to Sublandlord, as Additional Rent, (i) all charges as may be imposed by Master Landlord after the Commencement Date for parking, access cards, or other utilities or services to the Sublease Premises not paid by Subtenant directly to Master Landlord, regardless of whether such service is separately metered or estimated by Master Landlord, and (ii) such other charges as may be imposed by Master Landlord upon Sublandlord under the Master Lease, with respect to the Sublease Premises.

(f) **Sublandlord's Obligations to Pay Underlying Rent**. So long as Subtenant is not in default under this Sublease (beyond any notice and cure period), Sublandlord shall pay the amounts required to be paid under the Master Lease (collectively, "Underlying Rent") on or before such amounts become due and payable thereunder. If Sublandlord fails to make any payment of Underlying Rent as and when required under the Master Lease, Subtenant shall have the right, but not the obligation, to make such payments on behalf of Sublandlord, in which event Subtenant shall have the right to offset any amounts so paid against Rent thereafter payable under this Sublease. Neither Sublandlord nor Subtenant shall be liable to the other under or in connection with this Sublease for consequential damages, including but not limited to business interruption or lost profits.

(g) **Conditional Abatement Following Casualty or Condemnation**. In the event of any casualty or condemnation affecting the Sublease Premises, Base Rent shall be proportionately abated, to the extent that Subtenant's use of or access to the Sublease Premises is materially impaired, but only to the extent that Underlying Rent payable under the Master Lease is abated. Subtenant shall have the right to terminate this Sublease, in connection with any casualty or condemnation upon the same terms Sublandlord has to terminate the Master Lease under the terms thereof.

(h) **Interest on Past Due Rent**. All Rent which is not paid when due shall bear interest at the interest rate set forth in Section 3.2 of the Master Lease from the date due until the date of payment.

(i) **Late Charges**. In addition to the payment of interest as set forth in the preceding subparagraph, Subtenant shall be responsible for the payment of late charges pursuant to the provisions of Section 3.2 of the Master Lease to the extent incurred as a result of Subtenant's failure to pay Rent when due.

(j) **Hold-Over**. The parties hereby acknowledge that the expiration date of the Master Lease is July 31, 2018 and that it is therefore critical that Subtenant surrender the Sublease Premises to Sublandlord not later than the Expiration Date in accordance with terms hereof. If Subtenant holds possession of the Sublease Premises or any portion thereof after the Sublease Term with Sublandlord's written consent, then except as otherwise specified in such consent, Subtenant shall become a subtenant from month to month at one hundred ten percent (110%) of Base Rent and Additional Rent and otherwise upon the terms herein specified for the period immediately prior to such holding over and shall continue in such status until such tenancy is terminated by either party upon not less than thirty (30) days prior written notice. If Subtenant holds possession of the Sublease Premises or any portion thereof after the Sublease Term without Sublandlord's written consent, the Sublandlord at its sole discretion may elect (by written notice to Subtenant) to have Subtenant become a subtenant either from month to month or at will, at one hundred fifty percent (150%) of Base Rent and Additional Rent (prorated on a daily basis for an at-will tenancy, if applicable) and otherwise upon all the terms herein specified for the period immediately prior to such holding over, or any elect to pursue any and all legal remedies available to Sublandlord under applicable law with respect to an unconsented to holding over by Subtenant. Subtenant shall indemnify, and hold Sublandlord harmless from any loss, damage, claim, liability, cost or expense (including reasonable attorney's fees) resulting from any delay by Subtenant in surrendering the Sublease Premises (except to the extent such delay is with Sublandlord's prior written consent), including, but not limited to, any claims made by a succeeding subtenant by reason of such delay. Acceptance of Rent by Sublandlord following expiration or termination of this Sublease shall not constitute a renewal of this Sublease. If Subtenant uses radioactive materials in the Sublease Premises, then it shall be deemed a holdover tenant, without Sublandlord's consent, until it has delivered to Sublandlord and Master Landlord a satisfactory letter, executed by all applicable governmental agencies, which letter terminates the radioactive materials license and releases the Sublease Premises for unrestricted use. Nothing in the preceding sentence shall abrogate any of the provisions of this Sublease with respect to the use of radioactive materials in the Sublease Premises.

(k) **Definition of Rent**. All amounts required to be paid by Subtenant to Sublandlord or to any other person or entity, including, but not limited to parking fees, access card fees, overtime or excess supply of HVAC, and all other amounts paid to Master Landlord, pursuant to this Sublease, other than Base Rent, shall be deemed to be Additional Rent. All Base Rent and Additional Rent shall be collectively referred to as "Rent".

4. **Personal Property**. Sublandlord hereby agrees to sell to Subtenant that portion of the furniture, fixtures and equipment (collectively, the "Sold Personal Property") located in the Sublease Premises which is described on Schedule 1 pursuant to the Bill of Sale attached hereto as Exhibit C-1, effective as of the Commencement Date. The purchase price for the Sold Personal Property shall be one dollar ($1.00), payable by Subtenant prior to the Commencement Date. The Sold Personal Property is being sold in its present "as-is" condition. The Sold Personal Property shall not include the specialized utilities equipment located in the "Specialized Utilities Closet" (as hereinafter defined) or the back-up generator and related equipment located in the "Back-Up Generator Pad" (as hereinafter defined) (collectively, personal property located in the Specialized Utilities Closet and Back-Up Generator Pad shall be hereinafter referred to as the "Licensed Personal Property"), which Licensed Personal Property is described on Exhibit C-2 attached hereto. The Licensed Personal Property shall be licensed to Subtenant during the term of this Sublease; provided, however, that the license of the Licensed Personal

Property shall terminate concurrently with the termination of the "Utilities Closet/Generator Pad License" (as hereinafter defined); further provided however, that if the Utilities Closet/Generator Pad License is terminated with respect to the Specialized Utilities Closet but not the Back-Up Generator Pad, then the license of the portion of the Licensed Personal Property contained within the Back-Up Generator Pad shall stay in effect and the license of the portion of the Licensed Personal Property contained in the Specialized Utilities Closet shall terminate. Conversely, if the Utilities Closet/Generator Pad License is terminated with respect to the Back-Up Generator Pad but not the Specialized Utilities Closet, then the license of the portion of the Licensed Personal Property contained within the Specialized Utilities Closet shall stay in effect, and the license of the portion of the Licensed Personal Property contained in the Back-Up Generator Pad shall terminate. Subtenant shall not have any right to remove the Licensed Personal Property from its current location in either the Specialized Utilities Closet or the Back-up Generator Pad. Unless Sublandlord terminates the license provided herein to Subtenant for the Licensed Personal Property, then during the Sublease Term, Subtenant shall be fully responsible, at no expense to Sublandlord, for operating, maintaining and repairing the Licensed Personal Property in compliance with all "Requirements" (as defined in the Master Lease). In no event shall Sublandlord have any obligation to replace any Licensed Personal Property. Sublandlord makes no representation whatsoever regarding the condition, quality, functionality, or operational ability of any of the sold Personal Property or the Licensed Personal Property.

5. **As-Is**. Sublandlord subleases the Sublease Premises to Subtenant and licenses the S&R License Area, the Lobby Area, the Specialized Utilities Closet and the Back-up Generator Pad strictly in their present "**as-is**", "**where-is**" and "**with all faults**" condition, and Subtenant by acceptance of possession of the Sublease Premises, acknowledges the same to be in good order and repair and in a tenantable condition. Tenant acknowledges that Sublandlord, Master Landlord and brokers have not made, and Tenant has not relied upon, any representations, warranties or other assurances concerning the condition of the Sublease Premises, the Phase IIA 220 East Grand Avenue Building or the Center.

6. **Master Lease.** This Sublease is and shall at all times remain subject and subordinate to all of the terms, covenants and conditions of the Master Lease, and Master Landlord shall have all rights in respect of the Master Lease and the Sublease Premises as set forth therein. Except for payments of Underlying Rent and except as otherwise provided in Section 7 hereof, Subtenant hereby assumes and agrees to perform for Sublandlord's benefit, during the term of this Sublease, all of Sublandlord's obligations under the Master Lease (collectively, the "Assumed Obligations"), which accrue during the Sublease Term.

7. **Incorporation of Master Lease**.

(a) **Definitions of Terms and Incorporation of Master Lease**. Sublandlord and Subtenant acknowledge and agree that the Master Lease pertains to both the Sublease Premises and the Phase IIA 220 East Grand Avenue Building. Except as specifically set forth in this Sublease or where the context otherwise requires for a fair and equitable interpretation of this Sublease, the rights and obligations of Sublandlord or Subtenant under the incorporated provisions of the Master Lease shall apply only to the Sublease Premises. Subject to the preceding sentence and the exclusions, limitations and modifications set forth in this Sublease, the terms, covenants and conditions of the Master Lease are incorporated in this Sublease by reference so that, except to the extent that they are excluded, limited or otherwise modified by the provisions of this Sublease, each and every term, covenant and condition of the Master Lease

binding on or inuring to the benefit of the Master Landlord thereunder shall, in respect of this Sublease, bind or inure to the benefit of Sublandlord, and each and every term, covenant and condition of the Master Lease binding or inuring to the benefit of the Tenant thereunder shall, in respect of this Sublease, bind or inure to the benefit of Subtenant, with the same force and effect as if such terms, covenants and conditions were completely set forth in this Sublease, and as if the words "Landlord" and "Tenant," or words of similar import, wherever the same appear in the Master Lease, were construed to mean, respectively, "Sublandlord" and "Subtenant" in this Sublease, and as if the word "Lease," or words of similar import, wherever the same appear in the Master Lease, were construed to mean this "Sublease." Subtenant represents that it has examined, read and is thoroughly familiar with the terms, covenants and conditions of the Master Lease, and Subtenant accepts those terms, covenants and conditions and obligations thereof which have been incorporated herein.

(b) **Excluded Provisions of Master Lease**. The following sections of the Master Lease are not incorporated as a part of this Sublease and are expressly excluded herefrom (except insofar as the same may be referenced elsewhere in this Sublease for purposes of identification or definition of certain matters): 1.1 (Lease of Property), 2.1 (Term), 2.2 (Early Possession), 2.3 (Delay in Possession), 2.4 (Acknowledgement of Rent Commencement), 2.5 (Holdover), 2.6 (Option to Extend Term), 3.1 (Minimum Rent), 4 (Stock Warrants), 5 (Construction), 18.1(i) (Tenant Cross-Default); 18.4 (Landlord Cross-Default), 19.2 (Sale of Landlord's Interest), 20 (Security Deposit), 21.1 (Notices), Exhibit C (Work Letter), Exhibit D (Estimated Construction Schedule), Exhibit E (Acknowledgement of Rent Commencement Date); and Sections 2 (Term), 3 (Construction of Phase III Building), 4 (Minimum Rental), 8 (Security Deposit) and 10 (Subordination, Nondisturbance and Attornment) of the First Amendment, together with Exhibits C-1 and D of the First Amendment.

(c) **Limitations on Incorporated Provisions of Master Lease**. The following limitations shall apply to the interpretation and enforcement of the incorporated terms, covenants and conditions of the Master Lease:

(i) **Time Limits Shortened**. The time limits contained in the Master Lease for the giving of notices, making of demands or performing of any act, condition or covenant on the part of the tenant thereunder, or for the exercise by the tenant thereunder of any right, remedy or option, are changed for the purposes of incorporation herein by reference by shortening the same in each instance by three (3) days or three (3) Business Days, as applicable, so that in each instance Subtenant shall have three (3) days or three (3) business days, as applicable, less time to observe or perform hereunder than Sublandlord has as the tenant under the Master Lease, except for differing time frames set forth in this Sublease.

(ii) **Indemnity and Related Provisions for Benefit of Both Master Landlord and Sublandlord; Additional Insureds**. Any non-liability, release, indemnity or hold harmless provision, and any provisions pertaining to waiver of subrogation rights and/or the naming of a party under an insurance policy, in the Master Lease for the benefit of Master Landlord which is incorporated herein by reference, shall be deemed to inure to the benefit of Sublandlord and Master Landlord, for the purpose of incorporation by reference in this Sublease. Both Sublandlord and Master Landlord, as well as other parties required under the Master Lease shall be named as additional insureds on all Subtenant insurance policies other than workers' compensation insurance.

(iii) **Access, Inspection and Work Rights**. Any right of the Master Landlord for access or inspection and any right of the Master Landlord under the Master Lease to do work in the Sublease Premises, the Common Areas, or elsewhere in the Center and any right of the Master Landlord in respect of rules and regulations, shall be deemed to inure to the benefit of Sublandlord and Master Landlord, for the purpose of incorporation by reference in this Sublease; provided, however, that solely in the case of an inspection of the Sublease Premises not arising out of an emergency (in which no notice shall be required and entry may be made at any time) Sublandlord shall provide Subtenant with not less than ten (10) business days prior notice of entry. Notwithstanding the foregoing, if Subtenant reasonably believes that a proposed inspection of the Sublease Premises by Sublandlord will provide Sublandlord with access to Subtenant's trade secrets, then Subtenant may provide Sublandlord with written notice objecting to the proposed inspection (the "Objection Notice"). Upon timely receipt of the Objection Notice (i.e., such notice is received by Sublandlord at least five (5) business days prior to the scheduled inspection), Sublandlord shall arrange for a third party consultant (the "Consultant") to inspect the Sublease Premises in lieu of an inspection by Sublandlord. The Consultant shall concurrently provide a copy of its inspection report to both Sublandlord and Subtenant and the Consultant shall agree in its contract with Sublandlord that it shall keep Subtenant's trade secrets confidential except to the extent that: (a) the Consultant is required to disclose such trade secrets as a matter of law or (b) it is necessary to disclose such trade secrets to Sublandlord and Master Landlord in connection with the existence of a condition on the Sublease Premises which may violate the terms of the Sublease.

(iv) **Conflicts Between this Sublease and Incorporated Provisions**. If any of the express provisions of this Sublease shall conflict with any of the provisions incorporated by reference, then as between Sublandlord and Subtenant, such conflict shall be resolved in every instance in favor of the express provisions of this Sublease; provided, however, that to the extent Master Landlord, a lender holding a deed of trust on the Sublease Premises or any successor to either of them succeeds to Sublandlord's position under this Sublease, then the express provisions of any subordination, non-disturbance and attornment agreement and/or consent agreement relating to this Sublease which has been executed by Sublandlord and Subtenant shall be controlling over the preceding provisions of this sentence.

(v) If any incorporated provision of the Master Lease cross-references a provision of the Master Lease which is not incorporated in this Sublease, such cross-referenced Master Lease provision shall be disregarded except to the extent required for a fair and equitable interpretation of the incorporated Master Lease provision.

(vi) **Master Landlord's Obligations Under Master Lease**. Any obligation of Sublandlord which is contained in this Sublease by the incorporation by reference of the provisions of the Master Lease shall be observed or performed by Sublandlord by using its reasonable good faith efforts to cause Master Landlord under the Master Lease to observe and/or perform the same, and Sublandlord shall have a reasonable time do so after written notice from Subtenant specifying with reasonable particularity the deficiency in Master Landlord's performance under the Master Lease. Sublandlord shall not be required to furnish, supply, install, maintain or repair anything, including but not limited to, utilities or services under any provision of the Master Lease. Subtenant shall not in any event have any rights in respect of the Sublease Premises greater than Sublandlord's rights under the Master Lease, and notwithstanding any provision to the contrary, as to obligations that pertain to the Sublease

Premises, Phase IIA 220 East Grand Avenue Building, Initial Building/230 East Grand Avenue, Common Areas, and the Center and are part of this Sublease by the incorporation by reference of provisions of the Master Lease, Sublandlord shall not be required to make any payment or to perform any obligation except as expressly set forth in this Sublease, and Sublandlord shall have no liability to Subtenant for any matter whatsoever, except for Sublandlord's obligation to pay the Underlying Rent and to use its reasonable good faith efforts, upon request of Subtenant, to cause Master Landlord to observe and/or perform Master Landlord's obligations under the Master Lease. If, after Sublandlord has used commercially reasonable efforts to induce Master Landlord to perform its obligations through written and verbal communication, Master Landlord continues to fail to perform, past all applicable notice and cure periods set forth in the Master Lease, Subtenant may by written notice to Sublandlord, request Sublandlord to retain counsel (chosen by Sublandlord) and to file a suit against Master Landlord to enforce Sublandlord's rights under the Master Lease, and within thirty (30) days of the date of such notice, Sublandlord shall do so. The costs of such suit, and the obligation to pay Master Landlord's attorney's fees pursuant to the Master Lease in the event that Sublandlord is not the prevailing party in such suit, shall be borne solely by Subtenant. In addition, any damages payable by Sublandlord in connection with any such suit shall be borne solely by Subtenant. Subtenant shall indemnify, and hold harmless Sublandlord from and against any and all losses, liabilities, damages, judgments, penalties, costs and expenses incurred in connection with or arising out of any suit prosecuted by Sublandlord pursuant to this subparagraph.

(vii) **Interruption in Utilities/Services**. Sublandlord shall not be responsible for any failure or interruption, for any reason whatsoever other than Sublandlord's willful misconduct, of the services or facilities that may be appurtenant to or supplied at the Sublease Premises, the Phase IIA 220 East Grand Avenue Building or the Center by Master Landlord, Sublandlord, or any other entity. Subtenant hereby expressly waives the provisions of any statute, ordinance or judicial decision, now or hereafter in effect, which would give Subtenant the right to make repairs at the expense of Sublandlord, or to claim any actual or constructive eviction by virtue of interruption in access or services to, or failure to make repairs in or to, the Sublease Premises, the Phase IIA 220 East Grand Avenue Building or the Center.

(viii) **Consents Required From Master Landlord and Sublandlord**. With respect to any approval or consent required to be obtained from Master Landlord under the Master Lease, such approval or consent must be obtained from both Master Landlord and Sublandlord. Any approval or consent required of Sublandlord conclusively shall be deemed reasonably withheld if Master Landlord withholds Master Landlord's approval or consent.

(d) **Assumption and Indemnity by Subtenant**. Subtenant shall fully perform all of the Assumed Obligations and shall indemnify, defend, protect, and hold harmless Sublandlord from any and all liability, damages, liabilities, claims proceedings, actions, demands and costs (including but not limited to reasonable attorneys' fees) resulting, directly or indirectly, from Subtenant's failure to perform the Assumed Obligations.

(e) **Amendments to Incorporated Provisions of Master Lease**. Without limiting the generality of the foregoing, for purposes of incorporating the terms, covenants and conditions of the Master Lease into this Sublease, the following provisions of the Master Lease are amended as follows:

(i) **Rentable Area has Been Agreed Upon**. The rentable area of the Sublease Premises in the Master Lease and as specified in Recital B above is only an approximation and no variation between the amount so stated and the actual rentable area of the Sublease Premises shall alter the obligations of Sublandlord and Subtenant under this Sublease, it being expressly understood and agreed that the parties have accepted such approximate measurement for the purpose of determining the amount of Rent due, and no re-measurement, other than as a result of a physical change in the size of the Sublease Premises made pursuant to an amendment to this Sublease, shall change the amount of Base Rent or Additional Rent due hereunder.

(ii) **Audit Rights; Section 9.4(b) of Master Lease**. Under Section 9.4(b) of the Master Lease, the period during which Subtenant may examine Sublandlord's books and records or request an independent audit shall be sixty (60) days following Subtenant's receipt of the annual statement of Operating Expenses from Sublandlord, and Sublandlord hereby covenants, upon receipt of Subtenant's written request, to exercise Sublandlord's rights under Section 9.4 of the Master Lease and to provide all the information resulting from such exercise promptly to Subtenant.

(iii) **Utilities; Section 10 of Master Lease**. Section 10 of the Master Lease relating to utilities is modified as set forth in Section 19 of this Sublease.

(iv) **Release of Liability; Section 10.2 of Master Lease**. Under Section 10.2 of the Master Lease, the release of "Landlord" from liability shall inure to the benefit of both Sublandlord and Master Landlord.

(v) **Consent to Alterations; Section 11.1 and 11.2 of Master Lease**. Under Sections 11.1 and 11.2 of the Master Lease, when consent is required for any Subtenant alteration, addition or improvement to the Sublease Premises, such consent shall be obtained from both Sublandlord and Master Landlord. Sublandlord shall respond to any written request for consent by Subtenant within thirty (30) calendar days after receipt of the request. If Sublandlord does not respond within such time period, then Sublandlord shall be deemed to have consented to any item for which Subtenant requested consent. Additionally, either Sublandlord or Master Landlord, or both, may require the removal of such alterations, additions or improvements pursuant to the provisions of the Master Lease.

(vi) **Signage; Section 11.5 of Master Lease**. Section 11.5 of the Master Lease relating to signage is modified as set forth in Section 18 of this Sublease.

(vii) **Subtenant's Limited Right to Enforce Master Landlord's Obligation to Repair; Section 12.1 of Master Lease**. Under Section 12.1 of the Master Lease, Sublandlord shall be required, after written request by Subtenant, to use its reasonable good faith efforts to cause Master Landlord to perform any repairs, maintenance or restoration called for thereunder, as more specifically set forth in Section 7(c)(v) above. If, after Sublandlord has used commercially reasonable efforts to induce Master Landlord to perform its obligations through written and verbal communication, Master Landlord continues to fail to perform, past all applicable notice and cure periods set forth in the Master Lease, Subtenant may by written notice to Sublandlord, request Sublandlord to retain counsel (chosen by Sublandlord) and to file a suit against Master Landlord to enforce Sublandlord's rights under the Master Lease, and within thirty (30) days of the date of such notice, Sublandlord shall do so. The costs of such suit, and

the obligation to pay Master Landlord's attorney's fees pursuant to the Master Lease in the event that Sublandlord is not the prevailing party in such suit, shall be borne solely by Subtenant. In addition, any damages payable by Sublandlord in connection with any such suit shall be borne solely by Subtenant. Subtenant shall indemnify, and hold harmless Sublandlord from and against any and all losses, liabilities, damages, judgments, penalties, costs and expenses incurred in connection with or arising out of any suit prosecuted by Sublandlord pursuant to this subparagraph.

(viii) **Environmental Matters; Section 13.6 of Master Lease**. Section 13.6 of the Master Lease relating to environmental matters is modified as set forth in Section 13 of this Sublease.

(ix) **Insurance; Section 14.1(b) of Master Lease; Subtenant's Limited Right to Enforce Master Landlord's Obligation to Insure**. Only the Master Landlord, and not the Sublandlord, shall carry the insurance described in Section 14.1(b) of the Master Lease. Sublandlord shall be required, after written request by Subtenant, to use its reasonable good faith efforts to cause Master Landlord to maintain the insurance described in Section 14.1(b) of the Master Lease. If, after Sublandlord has used commercially reasonable efforts to induce Master Landlord to perform its obligations through written and verbal communication, Master Landlord continues to fail to perform, past all applicable notice and cure periods set forth in the Master Lease, Subtenant may by written notice to Sublandlord, request Sublandlord to retain counsel (chosen by Sublandlord) and to file a suit against Master Landlord to enforce Sublandlord's rights under the Master Lease, and within thirty (30) days of the date of such notice, Sublandlord shall do so. The costs of such suit, and the obligation to pay Master Landlord's attorney's fees pursuant to the Master Lease in the event that Sublandlord is not the prevailing party in such suit, shall be borne solely by Subtenant. In addition, any damages payable by Sublandlord in connection with any such suit shall be borne solely by Subtenant. Subtenant shall indemnify, and hold harmless Sublandlord from and against any and all losses, liabilities, damages, judgments, penalties, costs and expenses incurred in connection with or arising out of any suit prosecuted by Sublandlord pursuant to this subparagraph.

(x) **Excess Consideration; Sections 15.2(b) and 15.2(c) of Master Lease**. Notwithstanding Sections 15(b) and 15(c) of the Master Lease, Sublandlord shall be entitled to 100% of any excess consideration in lieu of 50% of any excess consideration.

(xi) **SNDA**. This Sublease is subject to Master Landlord's execution of a Subordination, Nondisturbance and Attornment Agreement, substantially in the form attached hereto as Exhibit D within sixty (60) days after mutual execution of this Sublease by Sublandlord and Subtenant. Except as set forth in the preceding sentence, and notwithstanding Section 19.1 of the Master Lease, neither Sublandlord nor Master Landlord shall be under any obligation to obtain a non-disturbance agreement from Master Landlord's current or future ground lessor, mortgagee, trustee, beneficiary or leaseback lessor and Subtenant's obligations under this Sublease shall not be conditioned upon receipt of a "Non-Disturbance Agreement" as described in Section 10.1 of the Master Lease.

(xii) **CCRs**. Subtenant hereby acknowledges and agrees that it has received and reviewed the Declaration of Covenants, Conditions and Restrictions Pointe Grand Business Park, recorded February 25, 1992, as Instrument No. 9202 5214 in the Official Records of San Mateo County (the "CC&Rs"). Subtenant hereby acknowledges the subordination of the

Master Lease and this Sublease to the CC&Rs and agrees to abide by all applicable covenants, conditions and restrictions contained in the CC&Rs.

(xiii) **Attorney's Fees; Section 21.5 of Master Lease**. In addition to the provisions of Section 21.5 of the Master Lease, in the event that Sublandlord consults an attorney in connection with any breach or default of Subtenant under this Sublease, whether or not suit is commenced or judgment is entered, Subtenant shall reimburse Sublandlord promptly upon demand for attorneys' fees and costs incurred by Sublandlord in connection therewith.

(xiv) **Reimbursement of Costs; Section 21.12 of Master Lease**. Under Section 21.12 of the Master Lease relating to reimbursement of costs, Subtenant shall be required to pay the reasonable costs incurred by either, or both, Sublandlord and Master Landlord in connection with Subtenant's request for any consent or approval under this Sublease, which costs may include, without limitation, those of Sublandlord's or Master Landlord's attorneys, architects, engineers and other third-party consultants.

(xv) **Brokers; Section 21.5 of Master Lease; Section 9 of First Amendment**. The names of the brokers set forth in Section 21.15 of the Master Lease and Section 9 of the First Amendment shall be removed and replaced as follows: Aaron Wright and Craig McGahey of The Staubach Company represent Sublandlord and Randy Scott of Cornish & Carey represents Subtenant. Commission payable to the brokers in connection with this Sublease transaction shall be paid as per separate agreements.

(xvi) **Inducement Recapture**. With respect to the remedies available to Sublandlord upon a default under this Sublease by Subtenant, any agreement by Sublandlord for free or abated Rent, the Right of First Refusal, or any other cash or in kind bonus, inducement or consideration to Subtenant entering into this Sublease ("Inducement Provisions") shall be conditioned upon Subtenant's full and faithful performance of all of the terms of this Sublease. Upon the occurrence of a default (beyond any notice and cure period) by Subtenant under this Sublease, all Inducement Provisions shall be deemed automatically deleted from this Sublease, and of no further force and effect and one-half (1/2) of any Rent abatement, or other bonus, inducement or consideration theretofore abated or given or paid by Sublandlord to Subtenant shall become immediately due and payable to Sublandlord as Additional Rent due under this Sublease. The imputed monthly Base Rent for the full abatement period to be in effect for the first (1st) twelve (12) months of the Sublease Term and the partial abatement period to be in effect for months thirteen (13) though twenty-four (24) of the Sublease Term (which imputed monthly Base Rent shall be used to compute any amount owed pursuant to the preceding sentence) shall be equal to One Hundred Thirty Thousand Eight Hundred Fifteen Dollars and Forty Cents ($130,815.40).

(f) **Indemnification by Subtenant**. Subtenant shall indemnify, hold harmless, protect and defend Sublandlord from and against any loss, damage or injury, including, without limitation, reasonable attorneys' fees, and/or any amounts assessed against Sublandlord by Master Landlord under the Master Lease on account of any action or omission by Subtenant that shall give rise to a default or potential default under the Master Lease, which Sublandlord may suffer or incur under the Master Lease as the result of any breach by Subtenant of its obligations under this Sublease, including, without limitation, any provisions of the Master Lease that are incorporated herein. Subtenant's obligations hereunder shall survive the termination of this Sublease. Notwithstanding any other provisions of this Sublease to the contrary, in the event

of a breach of this Sublease that may cause an event of default to occur under the Master Lease, Sublandlord may, in addition to all other remedies granted to Sublandlord hereunder, at Subtenant's expense and after notice to Subtenant, take such action as may reasonably be required to prevent such matter from maturing into an event of default under the Master Lease, and Subtenant shall pay such expenses to Sublandlord, together with expenses of collection, within five (5) days after demand by Sublandlord.

(g) **Sublandlord's Limited Obligations**. Except as expressly otherwise provided in this Sublease, Sublandlord shall have no obligations to Subtenant with respect to the Sublease Premises or the performance by Master Landlord of any obligations of Master Landlord under the Master Lease.

8. **Early Termination of Master Lease.** Subtenant acknowledges that Sublandlord has early termination rights under Section 2(b) of the First Amendment and agrees that Sublandlord shall have the right to freely exercise the early termination option set forth therein. Sublandlord shall have no liability to Subtenant on account of the early termination of the Master Lease arising from Sublandlord's exercise of its early termination option, any other termination agreement entered into by Master Landlord and Sublandlord, any termination of the Master Lease arising out of Sublandlord's default under the Master Lease, or any other termination of the Master Lease. Where the Master Lease grants Sublandlord any discretionary right to terminate the Master Lease, whether due to casualty, condemnation, or otherwise, Sublandlord shall be entitled to exercise or not exercise such right in its sole and absolute discretion without the necessity of obtaining any consent or approval from Subtenant.

9. **Consents Under Master Lease.** If Subtenant desires to take any action which requires the consent of Master Landlord pursuant to the terms of the Master Lease, including, without limitation, the making of any alterations, then, notwithstanding anything to the contrary herein, (a) Sublandlord, independently, shall have the same rights of approval or disapproval as Master Landlord has under the Master Lease, (b) Subtenant shall not take any such action until it obtains the consent of both Sublandlord (whose consent shall not be unreasonably withheld) and Master Landlord, and (c) Subtenant shall request that Sublandlord obtain Master Landlord's consent on Subtenant's behalf and Sublandlord shall use commercially reasonable efforts to obtain such consent, unless Sublandlord and Master Landlord agree in writing that Subtenant may contact Master Landlord directly with respect to the specific action for which Master Landlord's consent is required. Any approval or consent required of Sublandlord conclusively shall be deemed reasonably withheld if Master Landlord withholds Master Landlord's approval or consent. Subtenant shall reimburse Sublandlord for all costs incurred by Sublandlord in processing any request by Subtenant for Master Landlord's or Sublandlord's consent. Sublandlord shall respond to any written request for consent by Subtenant within thirty (30) calendar days after receipt of the request. If Sublandlord does not respond within such time period, then Sublandlord shall be deemed to have consented to any item for which Subtenant requested consent.

10. **Letter of Credit**.

(a) **Subtenant's Obligation to Provide Letter of Credit; Proceeds**. Subtenant shall deliver to Sublandlord an unconditional, irrevocable, transferable letter of credit (the "Letter of Credit"), in an amount equal to the Required Amount (defined in Section 10(e) below) and satisfying the requirements set forth in Section 10(b) below. The

Letter of Credit shall secure Subtenant's obligations under this Sublease. Accordingly, upon the occurrence or existence of any Draw Event (defined in Section 10(c) below), Sublandlord may draw upon the Letter of Credit and use the proceeds of such draw (the "Draw Proceeds") for the payment of Rent, for the repair of damage to the Sublease Premises, for the payment of any other amount which Sublandlord may spend or become obliged to spend by reason of Subtenant's default, and/or to compensate Sublandlord for any other loss or damage (including, without limitation, damages under California Civil Code Section 1951.2 or any successor or similar statute) which Sublandlord may suffer by reason of Subtenant's Default, to the fullest extent permitted by law. Subtenant acknowledges and agrees that the Letter of Credit represents the contractual commitment of the issuer of the Letter of Credit (the "Issuer") to answer for Subtenant's failure to timely and fully discharge or otherwise satisfy Subtenant's liabilities and obligations under this Sublease, and that the Draw Proceeds represent funds of Issuer paid to Sublandlord in accordance with such contractual commitment. Accordingly, Sublandlord and Subtenant agree that neither the Letter of Credit nor the Draw Proceeds shall be treated as a security deposit within the meaning of California Civil Code Section 1950.7 (or any successor or similar statute), and Subtenant hereby waives all rights and benefits under California Civil Code Section 1950.7 (or any successor or similar statute), or under any judicial or administration decision, which would limit Sublandlord's right to use, retain and apply the Letter of Credit and the Draw Proceeds in accordance with this Section 10. Subtenant shall not have any right to mortgage, assign or encumber any interest in the Letter of Credit without the prior written consent of Sublandlord, which may be withheld in Sublandlord's sole and absolute discretion. Sublandlord shall have the right to transfer or mortgage its interest in this Sublease to any party and in such event, it shall have the right to concurrently transfer or assign its interest in the Letter of Credit.

(b) **Issuer; Terms of Letter of Credit**. The Issuer of the Letter of Credit shall be a federally chartered banking institution reasonably acceptable to Sublandlord with an office in New York, New York (or will accept facsimile draw requests), allowing the Letter of Credit to be presented to and paid by such office pursuant to procedures reasonably acceptable to Sublandlord. Sublandlord approves Wells Fargo Bank as Issuer, based on the current financial status and strength of such bank. Such approval may be withdrawn at any time by Sublandlord based on adverse change in the credit rating or financial status of such bank. The Letter of Credit shall (i) be a stand-by, at-sight, irrevocable letter of credit; (ii) be payable to Sublandlord or Sublandlord's assignees (any of the foregoing, the "Beneficiary"); (iii) require that any draw on the Letter of Credit shall be made upon receipt by the Issuer of only a letter signed by an authorized representative of the Beneficiary certifying that the Beneficiary is entitled to draw on the Letter of Credit and specifying the Draw Event; (iv) allow partial draws; (v) be issued for a term of no less than one (1) year with an automatic renewal for at least an additional four (4) years unless the Issuer gives the Beneficiary written notice of non-renewal at least thirty (30) days prior to the expiry date of the Letter of Credit; (vi) provide that the Letter of Credit is governed by the Uniform Customs and Practice for Documentary Credits as in effect as of the date of the Letter of Credit; and (vii) be in the form of Exhibit E hereto. Subtenant shall, at its expense, keep the Letter of Credit in full force and effect until the thirtieth (30th) day after the Expiration Date or other termination date of this Sublease, except that if this Sublease is terminated due to an Event of Default by Subtenant, then Subtenant shall keep the Letter of Credit in effect until sixty (60) days after a final, non-appealable judgment is entered which establishes Subtenant's liability to Sublandlord for breach of this Sublease.

(c) **Draw Event**. At any time after a Draw Event occurs, the Beneficiary may present its written demand to Issuer for payment of a portion of the amount of the Letter of Credit as is required to compensate Sublandlord for damages incurred, with subsequent demands at the Beneficiary's

sole election as Sublandlord incurs further damages and the Draw Proceeds so obtained may be applied to the extent required to compensate Sublandlord for damages incurred, or to reimburse Sublandlord as provided herein, in connection with any such default or other Draw Event, and any remaining Draw Proceeds shall be retained by the Beneficiary to secure the performance of Subtenant's obligations under this Sublease. A "Draw Event" shall mean any of the following: (i) an Event of Default by Subtenant (after the expiration of any notice and cure period) under this Sublease; (ii) Subtenant is the subject of an Insolvency Proceeding (as defined below); (iii) this Sublease is terminated by Sublandlord due to an Event of Default by Subtenant; (iv) the Letter of Credit is not replaced with another Letter of Credit meeting the requirements of this Section 10 from an Issuer approved by Sublandlord at least thirty (30) days prior to the expiry date of the Letter of Credit then held by Sublandlord. As used herein, an "Insolvency Proceeding" shall mean the occurrence of any of the following events: Subtenant (a) makes an assignment for the benefit of creditors; (b) is adjudicated as insolvent; (c) files a petition (or files an answer admitting the material allegations of a petition) under any state or federal bankruptcy or other laws affecting creditors' rights; (d) fails, within ninety (90) days after the commencement of proceedings for relief under any state or federal bankruptcy or other laws affecting creditors' rights, to have such proceedings dismissed; (e) has all or substantially all of its assets subject to judicial seizure or attachment and such seizure or attachment is not released within ninety (90) days; (f) consents to or acquiesces in the appointment of a trustee, receiver or liquidator of all or any substantial part of its assets; or (g) fails within ninety (90) days after the appointment of such a trustee, receiver or liquidator to have such appointment vacated.

(d) **Replenishment Following Draw**. If Sublandlord or the Beneficiary uses any Draw Proceeds to cure any default by Subtenant hereunder and/or for any other reason permitted or contemplated by this Section 10, Subtenant shall provide a replacement Letter of Credit in the Required Amount, and otherwise meeting the requirements of this Section 10, within fifteen (15) days of notice from Sublandlord or the Beneficiary, and Subtenant's failure to do so shall be an Event of Default hereunder. Upon providing the replacement Letter of Credit in the Required Amount and otherwise meeting the requirements of this Section 10, Sublandlord shall concurrently surrender the original or then current Letter of Credit to Subtenant, and provided there is no other Event of Default by Subtenant, any unused Draw Proceeds.

(e) **Required Amount**. The terms "Required Amount" shall mean One Million Five Hundred Sixty-Nine Thousand Seven Hundred Eighty-Five and no/100ths Dollars ($1,569,785), subject to adjustment provided below. If Subtenant is not then in default under this Sublease and has not previously been in default beyond any applicable notice and cure periods on two (2) or more occasions during the Term, the amount of the Letter of Credit may be reduced to Five Hundred Four Thousand Two Hundred Eighty-Three and no/100ths Dollars ($504,283) concurrently with the third (3rd) anniversary of the Commencement Date. Upon providing a replacement Letter of Credit in the reduced Required Amount and otherwise meeting the requirements of this Section 10, Sublandlord shall concurrently surrender the original or then current Letter of Credit to Subtenant.

11. **Sublandlord's Lien Rights**. Subtenant, as debtor, hereby grants to Sublandlord, as secured party, a security interest in the Sold Personal Property in order to secure the payment and performance of Base Rent and Additional Rent due under this Sublease. This Sublease shall constitute a security agreement under the California Uniform Commercial Code covering the Personal Property. Sublandlord shall have the right to file a UCC 1 Financing Statement and any other statements necessary or desirable to perfect, continue or correct its security interest in the Sold Personal Property.

12. **No Third Party Rights**. Except as otherwise expressly provided herein, the benefit of the provisions of this Sublease is limited to Sublandlord and Subtenant and to their successors and permitted assigns. No third party shall be construed to have any rights as a third party beneficiary with respect to any of the provisions of this Sublease; provided, however, that Master Landlord shall be entitled to the benefit of Subtenant's indemnities under this Sublease.

13. **Environmental Matters**. Subtenant acknowledges receipt of a copy of the Detailed Divestiture Environmental Site Assessment prepared by URS on August 29, 2003 under Project No. 07427-093-175, together with all exhibits and attachments thereto. Section 13.6 of the Master Lease is incorporated into this Sublease with the following modifications:

(a) **Copies of Filings**. All notices, reports, MSDS, Hazardous Materials Management Plans, Contingency Plans and Emergency Procedures as well as copies of permits, licenses, or registrations authorizing Subtenant to conduct any activities involving hazardous substances, or other documents to be delivered to Master Landlord pursuant to Section 13.6 of the Master Lease shall be concurrently delivered to Sublandlord; provided, however, that Subtenant may redact out the chemical name and chemical equation of active pharmaceutical compounds.

(b) **No Underground Tanks without Consent; Grease Trap**. Subtenant shall not be permitted to install any new underground storage tanks or to use any existing underground storage tanks, without, in each instance, the express prior written consent of the Sublandlord and Master Landlord, which consent may be withheld in the sole and absolute discretion of either Sublandlord or Master Landlord. Subtenant shall be permitted to use, in accordance with all applicable laws, the underground grease trap installed in connection with the cafetorium.

(c) **Sublandlord's Indemnity of Subtenant**. Master Landlord's indemnity set forth in Section 13.6(c) of the Master Lease shall not apply as between Sublandlord and Subtenant and shall not be incorporated into this Sublease. Sublandlord shall indemnify, defend and hold Subtenant harmless from and against any and all claims, losses, damages, liabilities, costs, legal fees and expenses of any sort arising out of or relating to any unauthorized release into the environment of any hazardous substances or wastes or radiation or radioactive materials from the Sublease Premises only to the extent such release resulted from the negligence of or willful misconduct by Sublandlord.

14. **No Option to Extend**. Subtenant shall not have any option to renew or extend the term of this Sublease.

15. **Right of First Refusal**. Sublandlord hereby grants the following right of first refusal ("Right of First Refusal") to Subtenant.

(a) **Offer; Offered Premises; Acceptance Notice; Amendment, Termination**. If, during the Term, Sublandlord receives an executed letter of interest, letter of intent or similar summary of terms (collectively, a "Letter of Interest") from an unrelated third party ("Offeror") in connection with the subleasing of (i) all or a portion of the Phase IIA 220 East Grand Avenue Building or (ii) all or a portion of the Phase IIA 220 East Grand Avenue Building together with all or a portion of the Initial Building/230 East Grand Avenue (in either case, the "Offered Premises"), Sublandlord shall deliver to Subtenant a copy of such Letter of Interest. Delivery of the Letter of Interest by Sublandlord to Subtenant shall constitute Sublandlord's offer (the "Offer") to sublease to Subtenant the Offered Premises, in accordance with the specific terms of the Letter of Interest and otherwise on the terms and conditions of this

Sublease. The Offered Premises, if subleased to Subtenant pursuant to this Right of First Refusal, shall be hereinafter referred to as the "Additional Premises." Subtenant shall have ten (10) business days after receipt of the Offer within which to deliver to Sublandlord written notice ("Acceptance Notice") unconditionally accepting the Offer. The Acceptance Notice shall constitute Subtenant's acceptance of the Offer and binding agreement to sublease the Additional Premises in accordance with the terms of the Offer. If Subtenant so notifies Sublandlord by timely providing an Acceptance Notice, the parties shall execute an amendment of this Sublease (or, at Sublandlord's option, a new sublease) demising the Additional Premises on the terms and conditions specified in the Offer. If Subtenant fails to properly deliver the Acceptance Notice within such ten (10) business day period, or conditionally accepts the Offer, or fails to execute a Sublease amendment or new sublease, as the case may be, within the later of: (i) fifteen (15) business days following the date on which the Acceptance Notice was delivered to Sublandlord, and (ii) ten (10) days after the draft Sublease amendment or new sublease is received by Subtenant, then Subtenant's right of first refusal shall terminate and Sublandlord shall be free to enter into a sublease (a "Phase II A Sublease") with the party who made the Offer substantially upon the terms set forth in the Offer; provided, however, that if the aggregate rent for the Phase II A Sublease is more than ten percent (10%) lower than the aggregate rent disclosed in the Offer, then Sublandlord shall be required to provide Subtenant with a revised Offer describing the reduced rent and Subtenant shall have five (5) business days from receipt of such revised Offer to provide Sublandlord with an Acceptance Notice pursuant to which Subtenant unconditionally accepts the revised Offer. Such Acceptance Notice shall constitute Subtenant's binding agreement to sublease the Additional Premises in accordance with the terms of the revised Offer. If Subtenant so notifies Sublandlord by timely providing an Acceptance Notice, the parties shall execute an amendment of this Sublease (or, at Sublandlord's option, a new sublease) demising the Additional Premises on the terms and conditions specified in the revised Offer. If Subtenant fails to properly deliver the Acceptance Notice within such five (5) business day period, or conditionally accepts the revised Offer, or fails to execute a Sublease amendment or new sublease, as the case may be, within the later of: (i) ten (10) business days following the date on which the Acceptance Notice was delivered to Sublandlord, and (ii) ten (10) days after the draft Sublease amendment or new sublease is received by Subtenant, then Subtenant's right of first refusal shall terminate and Sublandlord shall be free to enter into a Phase II A Sublease with the party who made the revised Offer.

(b) **Termination of Right of First Refusal**. Upon mutual execution of a Phase II A Sublease by Sublandlord and by Subtenant or a third-party subtenant, as applicable,

Subtenant's Right of First Refusal shall terminate and expire with respect to the space covered by such Phase II A Sublease. In addition, if a Phase II A Sublease to a third-party subtenant grants an option, right of first refusal, right of first offer, or similar right for a portion of the Phase IIA 220 East Grand Avenue Building (a "Phase II A Option"), then the remaining Right of First Refusal granted to Subtenant by this Section 15 shall automatically become subordinate to the Phase II A Option so long as the Phase II A Option was disclosed to Subtenant. Upon the termination of the Subtenant's Right of First Refusal, then: (i) Sublandlord shall not have any further obligations under this Section 15, and (ii) except for the license of the Specialized Utilities Closet and Back-up Generator Pad, Subtenant shall not have any occupancy or other rights with respect to all or any portion of the Phase IIA 220 East Grand Avenue Building.

(c) **Conditions to Effective Exercise**. Subtenant's exercise of its right of first refusal shall be conditioned upon the following: (i) on the date Subtenant receives the Offer from Sublandlord, Subtenant shall not be in default under this Sublease, (ii) there must not have been an Event of Default under this Sublease by Subtenant on more than two (2) occasions during the term of this Sublease, and (iii) on the date Subtenant receives the Offer from Sublandlord, Subtenant shall occupy one hundred percent (100%) of the Sublease Premises.

(d) **Personal Right**. The right of first refusal shall be personal to Subtenant and may not be assigned except in connection with an assignment of this Sublease, and then only in connection with an assignment (but not a sublease) constituting a "Permitted Transfer" under Section 15.1 of the Master Lease. The right of first refusal shall terminate upon the expiration or earlier termination of the Master Lease.

(e) **Sugen's Transfer to an Affiliate**. Notwithstanding any provision of this Section 15 to the contrary, Sublandlord shall be entitled to transfer its leasehold interest in the Phase IIA 220 East Grand Avenue Building or any portion thereof, with or without any portion of the Initial Building/230 East Grand Avenue, to an affiliate of the Sublandlord, or upon the consolidation, merger or other reorganization of Sublandlord or upon the sale or transfer of substantially all of the stock or assets of Sublandlord; so long as any such transfer is permitted by the terms of the Master Lease or consented to by Master Lessor (each, an "Exempt Transfer") without the obligation to offer to Subtenant the leasehold to be transferred under this Section 15. The transferee under an Exempt Transfer shall be bound, however, by Sublandlord's obligations under this Section 15 with respect to any future sublease which is not an Exempt Transfer. For purposes of this Section 15, an "affiliate" shall be any person or entity which controls Sublandlord, is controlled by Sublandlord, or is under common control with Sublandlord.

16. **Notices**. Notices to be delivered to the parties hereunder shall be delivered in accordance with Section 21.1 of the Master Lease to the following addresses:

If to Sublandlord: Sugen, Inc.
235 East 42nd Street,
New York, NY 10017-5755
Attn: Arthur R. Silverman

With copies to: 50 Pequot Avenue,
MS 6025-C5124
New London, CT 06320
Attn: William C. Longa
Susan E. Zimbelmann

and Reed Smith LLP
1901 Avenue of the Stars, Suite 700
Los Angeles, CA 90067
Attn: James R. Eskilson, Esq.

If to Subtenant: Exelixis, Inc.
170 Harbor Way
South San Francisco, CA 94083-0511
Attn: Chief Financial Officer

With a copy to: Cooley Godward LLP
One Maritime Plaza, 20th Floor
San Francisco, CA 94111-3580
Attn: Anna B. Pope, Esq.

If to Master Landlord: Britannia Pointe Grand Limited Partnership
555 Twelfth Street, Suite 1650
Oakland, CA 94607
Attn: Magdalena Shushan
Telecopier: (510) 763-6262

With a copy to: Folger Levin & Kahn LLP
Embarcadero Center West
275 Battery Street, 23rd Floor
San Francisco, CA 94111
Attn: Donald E. Kelley, Jr., Esq.
Telecopier: (415) 986-2827

and a copy to: Britannia Pointe Grand Limited Partnership
444 North Michigan Avenue, Suite 3230
Chicago, IL 60611
Attn: Randall W. Rohner
Telecopier: (312) 755-0717

17. **Parking**. During the Term, Subtenant shall be entitled to use a pro rata portion of the parking rights granted to the Sublandlord under the Master Lease, as determined in Sublandlord's good faith judgment, and all such rights shall be subject to the terms, conditions and restrictions set forth in the CC&Rs.

18. **Signage**. Notwithstanding any provisions of Section 11.5 of the Master Lease to the contrary, and subject to the conditions and limitations set forth in succeeding sentence of this Section 18, Subtenant's signage rights shall be limited to: (a) a sign displaying its corporate name and logo on the back wall of the Lobby Area entrance as described on Exhibit F-1 attached

hereto, (b) a sign displaying its corporate name on the west side of the outside of the Sublease Premises in the location designated as "D" on Exhibit F-1 attached hereto, (c) a sign displaying its corporate name on the east side of the outside of the Sublease Premises in the location designated as "B" on Exhibit F-1 attached hereto, and (d) the inclusion of its corporate name on the existing monument sign which is shown as "E" on Exhibit F-1 attached hereto. In each instance, the signage described above shall be subject to: (i) the approval of Master Landlord, (ii) consistent with the size, color, and general appearance for such sign shown on Exhibit F-1 attached hereto, (iii) the CC&Rs and (iv) any signage program adopted for the Center. Subtenant's use of the monument sign identified as "E" on Exhibit F-1 attached hereto shall be shared with the occupants (and future occupants) of the Phase IIA 220 East Grand Avenue Building and the Initial Building/230 East Grand Avenue. Notwithstanding anything to the contrary contained herein, if the Phase IIA 220 East Grand Avenue Building is occupied by a subtenant other than Subtenant, then Subtenant shall, upon written request as described in Section 1 (a) above move the Lobby signage to the wall which abuts the Sublease Premises or, only if agreed to by all Phase IIA 220 East Grand Avenue Building subtenants, repaint and resize the Lobby sign (and the painted background) to occupy not more than one-half (1/2) (divided, side to side, not top to bottom) of the back wall of the Lobby (the half of the back wall of the Lobby which is closest to Building 3). In such case, Sublessee shall concurrently, and at its expense, repaint the back wall of the Lobby in a neutral color. In addition, at Sublandlord's or Master Landlord's request, Subtenant shall remove any signage installed by Subtenant upon the expiration or earlier termination of this Sublease. Sublandlord shall, at its sole cost, remove the "Sugen" signage on the Sublease Premises identified on Exhibit F-2 attached hereto within thirty (30) days after the Commencement Date. Sublandlord shall not have any obligation to remove, replace or modify any existing signage which bears the name of the Master Landlord or the Center or any Sugen signage which is not located on the Sublease Premises.

19. **Utilities**.

(a) **Generic Utilities**. Electric and gas utility services are individually metered for the Sublease Premises and Subtenant shall be responsible for contracting directly with the utility provider for such services. Sublandlord shall provide generic water (industrial and domestic but not deionized or other specialty water) and sewer service to the Sublease Premises as such services are not currently separately metered and/or invoiced. Sublandlord shall have the right, however, at any time to separate such services or install monitoring meters to track water consumption at the Sublease Premises with the cost of such installation to be paid for one-half by Sublandlord and one-half by Subtenant. Until such services are separately metered, Subtenant shall pay as Additional Rent its pro rata share of such utility costs, subject to adjustment for any vacancy of the Phase IIA 220 East Grand Avenue Property, as determined in Sublandlord's reasonable judgment. Following the separation of such services, Subtenant shall pay, as Additional Rent, the charges for such services shown by the applicable meter or submeter.

(b) **Specialized Utilities and Back-up Generator**. Deionized/reverse osmosis water, carbon dioxide, nitrogen and clean dry air (collectively, the "Specialized Utilities") are provided to the Sublease Premises and to the Phase IIA 220 East Grand Avenue Building by the portion of the Licensed Personal Property which is located in the closet described on Exhibit G-1 attached hereto (the "Specialized Utilities Closet"). Back-up electricity is provided to the Sublease Premises and to the Phase IIA 220 East Grand Avenue Building by

the portion of the Licensed Personal Property (collectively, the "Back-Up Generator") which is located on the pad described in Exhibit G-2 attached hereto (the "Back-up Generator Pad"). The Back-up Generator Pad shall not include the pad for the back-up generator which serves the Initial Building/230 East Grand Avenue. Except as set forth herein, during the Sublease Term, Subtenant shall have a license, for no additional consideration, to use the Specialized Utilities Closet and the Back-Up Generator Pad to provide the Specialized Utilities and back-up electricity to the Sublease Premises, the Lobby Area (solely with respect to back-up power), and to the Phase IIA 220 East Grand Avenue Building (the "Utilities Closet/Generator Pad License"). The Utilities Closet/Generator Pad License may be terminated by Sublandlord with respect to the Specialized Utilities Closet, the Back-Up Generator Pad, or both, as follows: (a) upon the occurrence of an Event of Default under this Sublease, (b) if Sublandlord has separated the Specialized Utilities and/or Back-Up Generator pursuant to subsection (e) below, or (c) if Sublandlord has elected to operate (or to cause another party, including but not limited to an occupant of the Phase IIA 220 East Grand Avenue Building to operate) the Specialized Utilities and/or Back-Up Generator pursuant to subsection (e) below. Upon the occurrence of an Event of Default, Sublandlord shall have the right, but not the obligation, to terminate the license of the Specialized Utilities Closet and/or Back-Up Generator Pad, either wholly or with respect to only the Specialized Utilities Closet or the Back-Up Generator Pad, whether or not Sublandlord terminates this Sublease. So long as the Specialized Utilities Closet/Back-Up Generator Pad License remains in effect, Subtenant shall have the obligation, at no expense to the Sublandlord, to operate, maintain, repair, and replace the Licensed Personal Property and to keep both the Specialized Utilities Closet and the Back-Up Generator Pad operational, safe, secure and clean. In addition, so long as the Specialized Utilities Closet/Back-Up Generator Pad License remains in effect, Subtenant shall, at no expense to Sublandlord, provide to the Phase IIA 220 East Grand Avenue Building (a) sufficient quantities of the Specialized Utilities to allow any occupants of the Phase II 220 East Grand Avenue Building to use the laboratory space which currently exists in the Phase IIA 220 East Grand Avenue Building at full capacity and (b) sufficient quantities of electricity as needed in the case of any power outage, to operate the Phase IIA 220 East Grand Avenue Building at full capacity. Subtenant shall enter into an agreement with the occupant(s) of the Phase IIA 220 East Grand Avenue Building pursuant to which such occupant(s) shall reimburse Subtenant for the pro rata share (reasonably based on the utilities usage) of Subtenant's costs to provide the Specialized Utilities and back-up electricity and to operate, maintain, repair and replace the Licensed Personal Property located in the Specialized Utilities Closet and on the Back-Up Generator Pad. The form of the agreement described in the preceding sentence shall be subject to the reasonable consent of Sublandlord.

(c) **Increase of Laboratory Space In Phase IIA 220 East Grand Avenue Building**. If an occupant of the Phase IIA 220 East Grand Avenue Building desires to construct additional laboratory space in the Phase IIA 220 East Grand Avenue Building, and Sublandlord reasonably determines that such construction necessitates an increase in the capacity of one or more of the Specialized Utilities, then Subtenant shall be obligated to promptly install/construct facilities to provide the increased capacity of Specialized Utilities; provided, however, that Subtenant's obligation to do so shall be conditioned upon the commitment of the occupant(s) of the Phase IIA 220 East Grand Avenue Building to reimburse Subtenant for Subtenant's reasonable out-of-pocket installation/construction costs incurred to provide such increased capacity of Specialized Utilities. Subtenant shall obtain all necessary approvals from Sublandlord, Master Landlord, and all applicable governmental bodies/agencies prior to performing any such work.

(d) **Increase of Laboratory Space In the Sublease Premises**. If Subtenant desires to construct additional laboratory space in the Sublease Premises and Sublandlord reasonably determines that such construction necessitates an increase in the capacity of one or more of the Specialized Utilities, then Subtenant shall, at its sole cost (and without any right of reimbursement from Sublandlord or from any occupant of the Phase IIA 220 East Grand Avenue Building) and after obtaining all necessary approvals from Sublandlord, Master Landlord and all applicable governmental bodies/agencies, construct additional facilities in the Specialized Utilities Closet in order to provide an additional capacity of the Specialized Utilities sufficient to allow the occupant(s) of the Phase IIA 220 East Grand Avenue Building to continue operating laboratory space at full capacity. In no event shall Subtenant diminish the capacity of the Specialized Utilities available to the Phase IIA 220 East Grand Avenue Building by diverting Specialized Utilities to the Sublease Premises.

(e) **Option of Sublandlord To Take Control of Specialized Utilities Closet/Back-Up Generator Pad**. At its sole option, which may be exercised at any time during the Sublease Term, Sublandlord may, without cause and upon at least thirty (30) days prior written notice to Subtenant, terminate the Specialized Utilities Closet/Back-Up Generator Pad License, either wholly or only with respect to either the Specialized Utilities Closet or the Back-Up Generator Pad. As described above, Sublandlord may also terminate the Specialized Utilities Closet/Back-Up Generator Pad License immediately upon the occurrence of an Event of Default, either wholly or only with respect to either the Specialized Utilities Closet or the Back-Up Generator Pad. Upon the termination of the Specialized Utilities Closet/Back-Up Generator Pad License, Sublandlord shall, with respect to the area/system for which the license has been terminated (i.e., either or both of the Specialized Utilities Closet and/or Back-Up Generator Pad License) either: (a) operate, maintain, repair, and replace such system and/or generator (in which case Sublandlord shall charge Subtenant for its pro-rata portion of all of such expenditures as Additional Rent due monthly under the Sublease, including but not limited to any expense of a third party company engaged to operate, maintain, repair and/or replace any portion of the Specialized Utilities or Back-Up Generator), (b) cause a third party, including but not limited to an occupant of the Phase IIA East Grand Avenue Building to operate, maintain, repair and/or replace such system and/or generator (in which case Sublandlord, or the third party, shall charge Subtenant for its pro rate share of all such expenditures, and all such expenditures shall be considered Additional Rent, whether paid to Sublandlord or to a third party) or (c) provide separate specialized utilities and/or a separate back-up generator dedicated solely to the Sublease Premises. If Sublandlord elects option (c) described in the preceding sentence, then Sublandlord shall pay for all capital expenditures incurred to create a separate back-up generator and/or one or more specialized utility systems dedicated to the Sublease Premises and Subtenant shall thereafter pay on a monthly basis, as Additional Rent, all expenditures incurred in connection with the operation, maintenance, repair and replacement of such system and/or generator.

20. **Conditions Precedent**. This Sublease and Sublandlord's and Subtenant's rights and obligations hereunder are conditioned upon Master Landlord's consent to this Sublease pursuant to Section 22 below and Master Landlord's execution of a Subordination Non-Disturbance and Attornment Agreement substantially in the form attached hereto as Exhibit D.

21. **Authority to Execute**. Subtenant represents and warrants that: (a) Subtenant is a duly organized and existing Delaware corporation, and is qualified to do business in California, (b) such persons executing this Sublease on Subtenant's behalf are duly authorized to execute

and deliver this Sublease on Subtenant's behalf in accordance with a duly adopted resolution of Subtenant's board of directors and the Subtenant's bylaws and (c) this Sublease is binding upon Subtenant in accordance with its terms. Concurrently with Subtenant's execution and delivery of this Sublease to Sublandlord and/or at any time during the Term within ten (10) days of Sublandlord's request, Subtenant shall provide to Sublandlord a copy of any documents reasonably requested by Sublandlord evidencing such qualification, organization, existence and authorization.

22. **Master Landlord's Consent to Sublease**. This Sublease is subject to the consent of the Master Landlord, which consent shall be evidenced by such form as may be acceptable to Master Landlord. Sublandlord agrees that Subtenant has the right to seek Master Landlord's agreement to include in the consent to this Sublease the following provisions: (a) Master Landlord's agreement to Subtenant's signage specifications and (b) Master Landlord's conceptual approval of the items set forth on Exhibit H attached hereto. Sublandlord has reviewed Exhibit H and it has no conceptual objection to the alterations briefly described thereon; provided, however, that Sublandlord has retained its rights under this Sublease to approve of or disapprove of the alterations conceptually described on Exhibit H, based upon its review of drawings, plans, and specifications, and other details provided regarding the alterations described in Exhibit H. Nothing in the preceding sentence shall provide Subtenant with the right to condition its approval of Master Landlord's consent upon the inclusion of any of the items stated in the preceding sentence. Sublandlord agrees to use commercially reasonable efforts to obtain the consent of Master Landlord to this Sublease as soon as reasonably possible following execution of this Sublease by Subtenant and Sublandlord. In the event that Master Landlord's consent is not obtained within sixty (60) days following the submittal of this Sublease by Sublandlord to Master Landlord for consent, each of Sublandlord and Subtenant shall have the right to terminate this Sublease by providing written notice of termination to the other party. For purposes of this Section 22, Master Landlord's consent shall be deemed to have been given as of the date when Master Landlord's unconditional written consent to this Sublease has been delivered to Subtenant, or, in the event such consent is conditional, the date upon which such conditions have been fully satisfied or waived by Master Landlord. Subtenant shall pay any and all fees charged by Master Landlord in connection with seeking its consent to this Sublease.

23. **Counterparts**. This Sublease may be executed in any number of counterparts, each of which counterparts shall be deemed to be an original, and all of which taken together shall constitute one and the same instrument.

24. **Examination of Sublease**. The submission of this Sublease to Subtenant does not constitute an offer or option to lease or create any obligation whatsoever on Sublandlord to negotiate with Subtenant in good faith or to enter into a Sublease or any other agreement with Subtenant.

IN WITNESS WHEREOF, Sublandlord and Subtenant have executed this Sublease as of the date first written above, intending to be bound hereby.

SUBLANDLORD:

SUGEN, INC.
a Delaware corporation

By: /s/ Kent Bernard
Name: Kent Bernard
Title: Vice President

SUBTENANT:

EXELIXIS, INC.
a Delaware corporation

By: /s/ Frank Karbe
Name: Frank Karbe
Title: CFO

By: /s/ Christoph Pereira
Name: Christoph Pereira
Title: VP, Legal Affairs

LEASE

Landlord: Britannia Pointe Grand Limited Partnership

Tenant: Exelixis, Inc.

Date: May 24, 2001

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EXHIBITS

LEASE

THIS LEASE ("Lease") 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., a Delaware corporation ("Tenant").

THE PARTIES AGREE AS FOLLOWS:

1. PROPERTY

1.1 Lease of Building and Property.

(a) Landlord leases to Tenant and Tenant hires and leases from Landlord, on the terms, covenants and conditions hereinafter set forth, the two-story office and laboratory building which is located on the real property described in Exhibit A attached hereto (the "Property"), is commonly known as 240 East Grand Avenue, South San Francisco, contains approximately 60,967 square feet and is presently occupied by Rigel, Inc. ("Rigel") as tenant (the "Building"). The location of the Building on the Property is depicted on the site plan attached hereto as Exhibit B (the "Site Plan"). The Property is part of the Britannia Pointe Grand Business Park (the "Center") at East Grand Avenue and Harbor Way in the City of South San

Francisco, County of San Mateo, State of California. The Building and related improvements presently existing on the Property are sometimes referred to collectively herein as the "Improvements." The parking areas, driveways, sidewalks, landscaped areas and other portions of the Center that lie outside the exterior walls of the buildings now or hereafter existing from time to time in the Center, as depicted in the Site Plan and as hereafter modified by Landlord from time to time in accordance with the provisions of this Lease, are sometimes referred to herein as the "Common Areas." Tenant already leases two other buildings in the Center from Landlord pursuant to a Build-to-Suit Lease dated May 12, 1999, as amended by a First Amendment to Build-to-Suit Lease dated March 29, 2000, a Second Amendment to Build-to-Suit Lease dated January 31, 2001 and a Third Amendment to Build-to-Suit Lease dated May 24, 2001 (as amended, the "Existing Lease"); the location of those two buildings (the "Existing Buildings") is also depicted in the Site Plan.

(b) As an appurtenance to Tenant's leasing of the Building pursuant to Section 1.1(a), Landlord hereby grants to Tenant, for the benefit of Tenant and its employees, suppliers, shippers, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, (i) those portions of the Common Areas improved from time to time for use as parking areas, driveways, sidewalks, landscaped areas, or for other common purposes, and (ii) all access easements and similar rights and privileges relating to or appurtenant to the Property and created or existing from time to time under any access easement agreements, declarations of covenants, conditions and restrictions, or other written agreements now or hereafter of record with respect to the Property, subject however to any limitations applicable to such rights and privileges under applicable law, under this Lease and/or under the written agreements creating such rights and privileges.

1.2 Landlord's Reserved Rights. To the extent reasonably necessary to permit Landlord to exercise any rights of Landlord and discharge any obligations of Landlord under this Lease, Landlord shall have, in addition to the right of entry set forth in Section 16.1 hereof, the following rights: (i) to make changes to the Common Areas, including, without limitation, changes in the location, size or shape of any portion of the Common Areas, and to relocate parking spaces on the Property and in the Common Areas (but not materially decrease the number of such parking spaces in areas of the Property generally adjacent to the Building); (ii) to close temporarily any of the Common Areas for maintenance or other reasonable purposes, provided that reasonable parking and reasonable access to the Building remain available; (iii) to construct, alter or add to other buildings and Common Area improvements on the Property (including, but not limited to, construction of site improvements, buildings and Common Area improvements on portions of the Property and/or on adjacent properties owned by Landlord from time to time); (iv) to build in areas adjacent to the Property and to add such areas to the Property or operate such areas, for maintenance, access, parking and other purposes, on an integrated basis with the Property; (v) to use the Common Areas while engaged in making additional improvements, repairs or alterations to the Property or any portion thereof or to any adjacent properties owned by Landlord from time to time; and (vi) to do and perform such other acts with respect to the Common Areas and the Property as may be necessary or appropriate; provided, however, that notwithstanding anything to the contrary in this Section 1.2, Landlord's exercise of its rights hereunder shall not cause any material diminution of Tenant's rights, nor any material increase of Tenant's obligations, under this Lease or with respect to the Improvements.

2. TERM

2.1 Term.

(a) The term of this Lease shall commence on the date (the "Commencement Date") on which Landlord delivers possession of the Building to Tenant with Rigel having vacated the Building and with Landlord's written, correct, good faith certification to Tenant that to the best of Landlord's knowledge, Landlord has completed Landlord's Work pursuant to Section 2.3(a) hereof, and shall end, unless sooner terminated or extended as hereinafter provided, on May 15, 2017 (the "Termination Date"), which is also the date on which the initial term of the Existing Lease terminates in accordance with the terms of the Existing Lease. Tenant's minimum rental and Operating Expense obligations with respect to the Building shall begin on the date (the "Rent Commencement Date") which is fifteen (15) days after the

Commencement Date. The parties presently estimate that the Rent Commencement Date will occur on approximately February 1, 2003.

(b) Notwithstanding the provisions of Section 2.1(a), Tenant acknowledges that Landlord's ability to deliver the Building to Tenant free of Rigel's rights under its existing lease of the Building is dependent upon the actual construction and completion of new buildings to be constructed for occupancy by Rigel in the Britannia Oyster Point development in South San Francisco, pursuant to a Build-to-Suit Lease dated May 16, 2001 between Slough BTC, LLC and Rigel, and Tenant agrees that Landlord shall have no liability to Tenant for any damages caused by any delay in Landlord's completion of Landlord's Work and delivery of the Building to Tenant as a result of any circumstances beyond Landlord's reasonable control, including (but not limited to) any failure or inability of Slough BTC, LLC and/or Rigel to complete the construction of their respective portions of such new buildings and/or any failure or inability of Rigel to move into such new buildings in a timely manner, nor shall any such delay affect the validity of this Lease or the obligations of Tenant hereunder. Notwithstanding any other provisions of this Lease, however, if for any reason the Commencement Date has not occurred by December 31, 2003, then Tenant shall have the right to terminate this Lease by written notice to Landlord at any time prior to Landlord's satisfaction of the conditions necessary to establish the Commencement Date hereunder.

(c) This Lease is conditional upon Landlord's receipt and delivery to Tenant, no later than sixty (60) days after the date hereof (provided that Landlord shall have the right to extend such period for up to an additional thirty (30) days in order to continue pursuing receipt of the approval required hereunder if not received within such initial 60-day period), of written approval by Landlord's lender, The Northwestern Mutual Life Insurance Company, of (i) the Lease Termination Agreement between Landlord and Rigel with respect to Rigel's existing lease of the Building and (ii) the material terms of this Lease. Landlord agrees to use its best efforts to obtain such written agreement promptly following mutual execution of this Lease.

2.2 Early Possession. If Landlord, in its sole discretion, permits Tenant to have access to or possession of the Building after the Building has been vacated by Rigel but prior to the completion of Landlord's Work, for the purpose of installing fixtures and furniture, laboratory equipment, computer equipment, telephone equipment, low voltage data wiring and personal property and other similar work preparatory to the commencement of Tenant's business in the Building, such early access and possession shall be subject to and upon all of the terms and conditions of this Lease (including, but not limited to, conditions relating to the maintenance of required insurance), except that Tenant shall have no obligation to pay minimum rental or Operating Expenses for any period prior to the Rent Commencement Date as determined under Section 2.1; such early possession shall not advance or otherwise affect the Rent Commencement Date or the Termination Date determined under Section 2.1. Tenant shall not interfere with or delay Landlord's contractors by any such early access or possession under this Section 2.2, shall coordinate and cooperate with Landlord and its contractors to minimize any interference or delay with respect to the completion of Landlord's Work, and shall indemnify, defend and hold harmless Landlord and its agents and employees from and against any and all claims, demands, liabilities, actions, losses, costs and expenses, including (but not limited to) reasonable attorneys' fees, arising out of or in connection with Tenant's early entry upon any portion of the Building hereunder.

2.3 Condition of Premises; Landlord's Work.

(a) Promptly following the surrender of the Building by Rigel upon termination of its existing lease of the Building, Landlord shall, at Landlord's sole cost and expense, (i) replace all defective and/or stained ceiling and floor tiles in the Building, (ii) perform all work necessary to place the electrical, HVAC, plumbing and other existing systems in the Building in good working order and to place the Building and Improvements therein in compliance with all applicable building codes, and (iii) cause the Building to be in broom-clean condition and free of debris (collectively, "Landlord's Work"). Except to the extent of Landlord's obligations expressly set forth in this Section 2.3, Tenant acknowledges that it will accept and occupy the Building in "AS IS" condition as the Building exists on the date possession is surrendered by Rigel, and Landlord shall have no other obligation to improve, repair or prepare the Building for occupancy by Tenant.

(b) Landlord warrants to Tenant that on the Commencement Date, the electrical, HVAC, plumbing and other existing systems in the Building shall be in good working order and that the Building and Improvements shall be in compliance with all applicable building codes, regulations and ordinances in effect on the Commencement Date. If this warranty is violated in any respect, or if Landlord has failed in any other way to complete the performance of Landlord's Work as described above by the Commencement Date, then it shall be the obligation of Landlord, after receipt of written notice from Tenant setting forth with specificity the nature of the violation or failure of performance, to promptly, at Landlord's sole cost, correct the condition(s) constituting such violation or failure of performance. Tenant's failure to give such written notice to Landlord within ninety (90) days after the Commencement Date shall give rise to a conclusive presumption that Landlord has complied with all Landlord's obligations under this Section 2.3 and that there has been no violation of Landlord's warranty hereunder or failure of performance with respect to Landlord's Work, even with respect to latent defects (if any). TENANT ACKNOWLEDGES THAT THE WARRANTY CONTAINED IN THIS SECTION IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PHYSICAL CONDITION OF THE BUILDING AND IMPROVEMENTS AND THAT LANDLORD MAKES NO OTHER WARRANTIES EXCEPT AS EXPRESSLY SET FORTH IN THIS LEASE. Without limiting the generality of the foregoing, Tenant acknowledges that except as expressly set forth in this Lease, neither Landlord nor any agent of Landlord has made any representation or warranty as to the present or future suitability of the Building or Improvements for the conduct of Tenant's business or proposed business thereon.

(c) Landlord and Tenant shall each use their respective best efforts to schedule and participate in, and to cause Rigel to participate in, a mutual walk-through of the Building within thirty (30) days after the date hereof, with the objective of promptly thereafter arriving at a list mutually approved by Landlord, Tenant and Rigel describing all material fixtures, trade fixtures, equipment (if any) and tenant improvements to be left in place in the Building by Rigel upon Rigel's surrender of the Building, including (but not limited to) all attached fume hoods and lab benches. A copy of such list, when mutually executed by Landlord, Tenant and Rigel, shall be deemed to be attached hereto as Exhibit C and incorporated herein by this reference. Landlord shall have no obligation to enforce Rigel's obligation to leave such items in place in the Building, but shall, upon written request by Tenant, assign to Tenant for enforcement by Tenant, in Tenant's sole discretion, any rights and/or claims of Landlord against Rigel, under such written agreement and/or under Rigel's existing lease of the Building, with respect to the condition in which Rigel is required to leave the Building, including (but not limited to) the leaving of the specified items in place in the Building.

2.4 Acknowledgement Of Commencement Date. Promptly following the Commencement Date, Landlord and Tenant shall execute a written acknowledgement of the Commencement Date, Rent Commencement Date, Termination Date and related matters, substantially in the form attached hereto as Exhibit D (with appropriate insertions), which acknowledgement shall be deemed to be incorporated herein by this reference. Notwithstanding the foregoing requirement, the failure of either party to execute any such written acknowledgement shall not affect the determination of the Commencement Date, Rent Commencement Date, Termination Date and related matters in accordance with the provisions of this Lease.

2.5 Holding Over. If Tenant holds possession of the Property or any portion thereof after the term of this Lease with Landlord's written consent, then except as otherwise specified in such consent, Tenant shall become a tenant from month to month at one hundred ten percent (110%) of the rental and otherwise upon the terms herein specified for the period immediately prior to such holding over and shall continue in such status until the tenancy is terminated by either party upon not less than thirty (30) days prior written notice. If Tenant holds possession of the Property or any portion thereof after the term of this Lease without Landlord's written consent, then Landlord in its sole discretion may elect (by written notice to Tenant) to have Tenant become a tenant either from month to month or at will, at one hundred fifty percent (150%) of the rental (prorated on a daily basis for an at-will tenancy, if applicable) and otherwise upon the terms herein specified for the period immediately prior to such holding over, or may elect to pursue any and all legal remedies available to Landlord under applicable law with respect to such unconsented holding over by Tenant. Tenant shall indemnify and hold

Landlord harmless from any loss, damage, claim, liability, cost or expense (including reasonable attorneys' fees) resulting from any delay by Tenant in surrendering the Property or any portion thereof (except to the extent such delay is with Landlord's prior written consent), including but not limited to any claims made by a succeeding tenant by reason of such delay. Acceptance of rent by Landlord following expiration or termination of this Lease shall not constitute a renewal of this Lease.

2.6 Option To Extend Term. Tenant shall have the option to extend the term of this Lease, at the minimum rental set forth in Section 3.1(b) and (c) and otherwise upon all the terms and provisions set forth herein with respect to the initial term of this Lease, for up to two (2) additional periods of five (5) years each, the first commencing upon the expiration of the initial term hereof and the second commencing upon the expiration of the first extended term, if any. Exercise of such option with respect to the first such extended term shall be by written notice to Landlord at least twelve (12) months prior to the expiration of the initial term hereof; exercise of such option with respect to the second extended term, if the first extension option has been duly exercised, shall be by like written notice to Landlord at least twelve (12) months prior to the expiration of the first extended term hereof. If Tenant is in default hereunder, beyond any applicable notice and cure periods, on the date of such notice or on the date any extended term is to commence, then the exercise of the option shall be of no force or effect, the extended term shall not commence and this Lease shall expire at the end of the then current term hereof (or at such earlier time as Landlord may elect pursuant to the default provisions of this Lease). If Tenant properly exercises one or more extension options under this Section, then all references in this Lease (other than in this Section 2.6) to the "term" of this Lease shall be construed to include the extension term(s) thus elected by Tenant. Except as expressly set forth in this Section 2.6, Tenant shall have no right to extend the term of this Lease beyond its prescribed term.

3. RENTAL

3.1 Minimum Rental.

(a) Rental Amounts. Tenant shall pay to Landlord as minimum rental for the Building, in advance, without deduction, offset, notice or demand, on or before the Commencement Date (i.e., the date on which possession of the Building is tendered to Tenant, although the first such payment shall be applied to the rental period which begins thereafter on the Rent Commencement Date) and on or before the first day of each subsequent calendar month of the initial term of this Lease, the following amounts per month (with the counting of such months to begin on and as of the Rent Commencement Date):

Months	Monthly Minimum Rental
001 - 012	$ 259,109.75 ($ 4.2500/sq ft)
013 - 024	269,474.14 ($ 4.4200/sq ft)
025 - 036	280,253.11 ($ 4.5968/sq ft)
037 - 048	291,463.23 ($ 4.7807/sq ft)
049 - 060	303,121.76 ($ 4.9719/sq ft)
061 - 072	315,246.63 ($ 5.1708/sq ft)
073 - 084	327,856.49 ($ 5.3776/sq ft)
085 - 096	340,970.75 ($ 5.5927/sq ft)
097 - 108	354,609.58 ($ 5.8164/sq ft)
109 - 120	368,793.97 ($ 6.0491/sq ft)
121 - 132	383,545.73 ($ 6.2910/sq ft)
133 - 144	398,887.56 ($ 6.5427/sq ft)
145 - 156	414,843.06 ($ 6.8044/sq ft)
157 - 168	431,436.78 ($ 7.0766/sq ft)
169 - 180	448,694.25 ($ 7.3596/sq ft)
181 - 192 (as applicable)	466,642.02 ($ 7.6540/sq ft)
193 - 204 (if applicable)	485,307.70 ($ 7.9602/sq ft)

If the obligation to pay minimum rental hereunder commences on other than the first day of a calendar month or if the term of this Lease terminates on other than the last day of a calendar month, the minimum rental for such first or last month of the term of this Lease, as the case may be, shall be prorated based on the number of days the term of this Lease is in effect during such month. If an increase in minimum rental becomes effective on a day other than the first day of a calendar month, the minimum rental for that month shall be the sum of the two applicable rates, each prorated for the portion of the month during which such rate is in effect.

(b) Rental Amounts During First Extended Term. If Tenant properly exercises its right to extend the term of this Lease pursuant to Section 2.6 hereof, the minimum rental during the first year of the first extended term shall be equal to ninety percent (90%) of the fair market rental value of the Building (as defined below), determined as of the commencement of such extended term in accordance with this paragraph, and during each subsequent year of the first extended term shall be equal to one hundred three percent (103%) of the minimum rental in effect during the immediately preceding year of such extended term. Upon Landlord's receipt of a proper notice of Tenant's exercise of its option to extend the term of this Lease, the parties shall have sixty (60) days in which to agree on the initial fair market rental for the Building at the commencement of the first extended term for the uses permitted hereunder. If the parties agree on such initial fair market rental, they shall execute an amendment to this Lease stating the amount of the applicable minimum monthly rental (including the indexed amounts applicable during subsequent years of the first extended term as described above). If the parties are unable to agree on such rental within such sixty (60) day period, then within fifteen (15) days after the expiration of such period each party, at its cost and by giving notice to the other party, shall appoint a real estate appraiser with at least five (5) years experience appraising similar commercial properties in northeastern San Mateo County to appraise and set the initial fair market rental for the Building at the commencement of the first extended term in accordance with the provisions of this Section 3.1(b). If either party fails to appoint an appraiser within the allotted time, the single appraiser appointed by the other party shall be the sole appraiser. If an appraiser is appointed by each party and the two appraisers so appointed are unable to agree upon an initial fair market rental within thirty (30) days after the appointment of the second, the two appraisers shall appoint a third similarly qualified appraiser within ten (10) days after expiration of such 30-day period; if they are unable to agree upon a third appraiser, then either party may, upon not less than five (5) days notice to the other party, apply to the Presiding Judge of the San Mateo County Superior Court for the appointment of a third qualified appraiser. Each party shall bear its own legal fees in connection with appointment of the third appraiser and shall bear one-half of any other costs of appointment of the third appraiser and of such third appraiser's fee. The third appraiser, however selected, shall be a person who has not previously acted for either party in any capacity. Within thirty (30) days after the appointment of the third appraiser, a majority of the three appraisers shall set the initial fair market rental for the first extended term and shall so notify the parties. If a majority are unable to agree within the allotted time, the three appraised initial fair market rentals shall be added together and divided by three and the resulting quotient shall be the initial fair market rental for the first extended term, which determination shall be binding on the parties and shall be enforceable in any further proceedings relating to this Lease. For purposes of this Section 3.1(b), the "fair market rental" of the Building shall be determined with reference to the then prevailing market rental rates for properties in the City of South San Francisco with shell and office, laboratory and research and development improvements and site (common area) improvements comparable to those then existing in the Building and on the Property, taking into account for such determination all tenant improvements constructed at Landlord's expense and paid for by Landlord or by Tenant through additional rent (including, but not limited to, all fixtures, equipment and laboratory improvements in place in the Building on the Commencement Date), but excluding from such determination any alterations or improvements constructed by Tenant at its sole expense after the Commencement Date.

(c) Rental Amounts During Second Extended Term. If Tenant properly exercises its right to a second extended term of this Lease pursuant to Section 2.6 hereof, the minimum rental during such second extended term shall be determined in the same manner provided in the preceding paragraph for the first extended term (including the indexation provision for years after the first year of such second extended term), except that the determination shall be made as of the commencement of the second extended term.

3.2 Late Charge. If Tenant fails to pay when due rental or other amounts due Landlord hereunder, such unpaid amounts shall bear interest for the benefit of Landlord at a rate equal to the lesser of fifteen percent (15%) per annum or the maximum rate permitted by law, from the date due to the date of payment. In addition to such interest, Tenant shall pay to Landlord a late charge in an amount equal to six percent (6%) of any installment of minimum rental and any other amounts due Landlord if not paid in full on or before the fifth (5th) day after such rental or other amount is due. Tenant acknowledges that late payment by Tenant to Landlord of rental or other amounts due hereunder will cause Landlord to incur costs not contemplated by this Lease, including, without limitation, processing and accounting charges and late charges which may be imposed on Landlord by the terms of any loan relating to the Property. Tenant further acknowledges that it is extremely difficult and impractical to fix the exact amount of such costs and that the late charge set forth in this Section 3.2 represents a fair and reasonable estimate thereof. Acceptance of any late charge by Landlord shall not constitute a waiver of Tenant's default with respect to overdue rental or other amounts, nor shall such acceptance prevent Landlord from exercising any other rights and remedies available to it. Acceptance of rent or other payments by Landlord shall not constitute a waiver of late charges or interest accrued with respect to such rent or other payments or any prior installments thereof, nor of any other defaults by Tenant, whether monetary or non-monetary in nature, remaining uncured at the time of such acceptance of rent or other payments.

4. [Omitted.]

5. [Omitted.]

6. TAXES

6.1 Personal Property. Tenant shall be responsible for and shall pay prior to delinquency all taxes and assessments levied against or by reason of (a) any and all alterations, additions and items installed or placed on or in the Building and taxed as personal property rather than as real property, and/or (b) all personal property, trade fixtures and other property placed by Tenant on or about the Property. Upon request by Landlord, Tenant shall furnish Landlord with satisfactory evidence of Tenant's payment thereof. If at any time during the term of this Lease any of said alterations, additions or personal property, whether or not belonging to Tenant, shall be taxed or assessed as part of the Property, then such tax or assessment shall be paid by Tenant to Landlord within fifteen (15) days after presentation by Landlord of copies of the tax bills in which such taxes and assessments are included and shall, for the purposes of this Lease, be deemed to be personal property taxes or assessments under this Section 6.1.

6.2 Real Property. To the extent any real property taxes and assessments on the Property (including, but not limited to, the Improvements or any portion thereof) are assessed directly to Tenant, Tenant shall be responsible for and shall pay prior to delinquency all such taxes and assessments levied against the Property. Upon request by Landlord, Tenant shall furnish Landlord with satisfactory evidence of Tenant's payment thereof. To the extent the Property and/or Improvements are taxed or assessed to Landlord following the Rent Commencement Date, such real property taxes and assessments shall constitute Operating Expenses (as that term is defined in Section 7.2 of this Lease) and shall be paid in accordance with the provisions of Article 7 of this Lease.

7. OPERATING EXPENSES

7.1 Payment of Operating Expenses.

(a) Tenant shall pay to Landlord, at the time and in the manner hereinafter set forth, as additional rental, an amount equal to ten and eighty-three hundredths percent (10.83%) ("Tenant's Operating Cost Share") of the Operating Expenses defined in Section 7.2; provided, however, that the Tenant's Operating Cost Share set forth in the preceding portion of this sentence shall apply only to expenses that are determined and allocated by Landlord on a Center-wide or multi-building basis, subject to any adjustments required under any other applicable

provisions of this Section 7.1, and that Tenant's Operating Cost Share shall be one hundred percent (100%) with respect to any Operating Expenses defined in Section 7.2 that are reasonably allocable solely to the Building and/or to the separate legal parcel on which the Building is located. As of the date of this Lease, Landlord represents that the Building is the only building located on the separate legal parcel on which the Building is located, that Landlord's current practice is to allocate only the security expenses for the Center on a Center-wide basis and that all other Operating Expenses (including, but not limited to, real and personal property taxes and assessments, insurance, Building maintenance, property management, landscape maintenance and irrigation, and parking area maintenance and lighting) are determined and allocated on a stand-alone basis to the Building and/or to the separate legal parcel on which the Building is located.

(b) Tenant's Operating Cost Share as specified in paragraph (a) of this Section with respect to Operating Expenses which are determined and allocated on a Center-wide or multi-building basis is based upon an area of 60,967 square feet for the Building and upon an aggregate area of 562,859 square feet for the existing buildings owned by Landlord in the Center and consolidated with the Building for operation, maintenance, common area and Operating Expense purposes. If the actual area of the buildings owned from time to time by Landlord in the Center and consolidated with the Building for operation, maintenance, common area and Operating Expense purposes, as such area is determined in good faith by Landlord's architect on the same basis of measurement under which the Building has been determined to contain 60,967 square feet (from the exterior faces of exterior walls and from the dripline of any overhangs, except that in the case of any two-story recesses or overhangs, the area to the dripline of the overhang shall be counted as part of the area of the first story but not as part of the area of the second story), differs from the assumed figure set forth above (including, but not limited to, any such difference arising from the construction of additional buildings in the Center as contemplated in Section 7.1(c) hereof), then Tenant's Operating Cost Share as it applies to Operating Expenses that are determined and allocated on a Center-wide or multi-building basis shall be adjusted to reflect the actual areas so determined as they exist from time to time.

(c) If Landlord at any time constructs additional buildings in the Center or on any adjacent property owned by Landlord and operated, for common area purposes, on an integrated basis with the Center, then Tenant's Operating Cost Share as it applies to Operating Expenses that are determined and allocated on a Center-wide or multi-building basis shall be adjusted to be equal to the percentage determined by dividing the gross square footage of the Building as it exists from time to time by the gross square footage of all buildings located in the Center or on any applicable adjacent property owned by Landlord as described above. In determining such percentage, a building shall be taken into account from and after the date on which a tenant first enters into possession of the building or a portion thereof, and the good faith determination of the gross square footage of any such building by Landlord's architects shall be final and binding upon the parties.

7.2 Definition Of Operating Expenses.

(a) Subject to the exclusions and provisions hereinafter contained, the term "Operating Expenses" shall mean the total costs and expenses incurred by or allocable to Landlord for management, operation and maintenance of the Improvements, the Building, the Property and the Center (or, in the case of items that are determined and allocated on a stand-alone basis as described in Section 7.1, that portion of the Property and the Center that consists of the separate legal parcel on which the Building is located), including, without limitation, costs and expenses of (i) insurance (including earthquake and environmental insurance), property management, landscaping, and the operation, repair and maintenance of buildings and Common Areas; (ii) all utilities and services; (iii) real and personal property taxes and assessments or substitutes therefor levied or assessed against the Center or any part thereof, including (but not limited to) any possessory interest, use, business, license or other taxes or fees, any taxes imposed directly on rents or services, any assessments or charges for police or fire protection, housing, transit, open space, street or sidewalk construction or maintenance or other similar services from time to time by any governmental or quasi-governmental entity, and any other new taxes on landlords in addition to taxes now in effect; (iv) supplies, equipment, utilities and tools used in management, operation and maintenance of the Center; (v) capital improvements to the Center, the Improvements or the Building, amortized over a reasonable period, (aa) which reduce

or will cause future reduction of other items of Operating Expenses for which Tenant is otherwise required to contribute or (bb) which are required by law, ordinance, regulation or order of any governmental authority or (cc) of which Tenant has use or which benefit Tenant; and (vi) any other costs (including, but not limited to, any parking or utilities fees or surcharges) allocable to or paid by Landlord, as owner of the Center, Building or Improvements, pursuant to any applicable laws, ordinances, regulations or orders of any governmental or quasi-governmental authority or pursuant to the terms of any declarations of covenants, conditions and restrictions now or hereafter affecting the Center or any other property over which Tenant has non-exclusive use rights as contemplated in Section 1.1(b) hereof. Operating Expenses shall not include any costs attributable to Landlord's Work, nor any costs attributable to the initial construction of the Building or of Common Area improvements in the Center. The distinction between items of ordinary operating maintenance and repair and items of a capital nature shall be made in accordance with generally accepted accounting principles applied on a consistent basis or in accordance with tax accounting principles, as determined in good faith by Landlord's accountants.

(b) Notwithstanding anything to the contrary contained in this Lease, the following shall not be included within Operating Expenses:

(i) Costs of maintenance or repair of the roof membrane for any building, except during periods (if any) in which costs of maintenance or repair of the roof membrane for the Building are likewise included as an Operating Expense (rather than being incurred directly by Tenant or passed through directly to Tenant);

(ii) Leasing commissions, attorneys' fees, costs, disbursements, and other expenses incurred in connection with negotiations or disputes with tenants, or in connection with leasing, renovating or improving space for tenants or other occupants or prospective tenants or other occupants of the Center or of any other property owned by Landlord;

(iii) The cost of any service sold to any tenant (including Tenant) or other occupant for which Landlord is entitled to be reimbursed as an additional charge or rental over and above the basic rent and operating expenses payable under the lease with that tenant;

(iv) Any depreciation on the Building or on any other improvements in the Center or on any other property owned by Landlord;

(v) Expenses in connection with services or other benefits of a type that are not offered or made available to Tenant but that are provided to another tenant of the Center or of any other property owned by Landlord;

(vi) Costs incurred due to Landlord's violation of any terms or conditions of this Lease or of any other lease relating to the Building or to any other portion of the Center or of any other property owned by Landlord;

(vii) Overhead profit increments paid to any subsidiary or affiliate of Landlord for management or other services on or to the Center or any portion thereof or any other property owned by Landlord, or for supplies or other materials to the extent that the cost of the services, supplies or materials exceeds the cost that would have been paid had the services, supplies or materials been provided by unaffiliated parties on a competitive basis;

(viii) All interest, loan fees and other carrying costs related to any mortgage or deed of trust or related to any capital item, and all rental and other amounts payable under any ground or underlying lease, or under any lease for any equipment ordinarily considered to be of a capital nature (except (A) janitorial equipment which is not affixed to the Building and/or (B) equipment the cost of which, if purchased, would be considered an amortizable Operating Expense under the provisions of this Section 7.2, notwithstanding the capital nature of such equipment);

(ix) Any compensation paid to clerks, attendants or other persons in commercial concessions operated by Landlord;

(x) Advertising and promotional expenditures;

(xi) Costs of repairs and other work occasioned by fire, windstorm or other casualty of an insurable nature, except to the extent of any applicable deductible amounts under insurance actually carried by Landlord;

(xii) Any costs, fines or penalties incurred due to violations by Landlord of any governmental rule or authority or of this Lease or any other lease of any portion of the Center or any other property owned by Landlord, or due to Landlord's negligence or willful misconduct;

(xiii) Management fees to the extent they exceed, in any given period, one percent (1%) of gross income (rent and Operating Expenses) received by Landlord with respect to the Center (and any other property owned by Landlord and operated on an integrated basis with the Center for operation, maintenance and common area purposes) during the applicable period;

(xiv) Costs for sculpture, paintings or other objects of art, and for any insurance thereon or extraordinary security in connection therewith;

(xv) Wages, salaries or other compensation paid to any executive employees above the grade of building manager;

(xvi) The cost of correcting any building code or other violations which were violations prior to the Commencement Date;

(xvii) The cost of containing, removing or otherwise remediating any contamination of the Center (including the underlying land and groundwater) by any toxic or hazardous materials (including, without limitation, asbestos and PCBs); and

(xviii) Premiums for earthquake insurance coverage, but only to the extent (if any) that such premiums exceed, in any applicable period, a commercially reasonable rate, taking into account all relevant factors (including, but not limited to, the nature, size and location of the Center, the nature and value of the improvements therein that are owned by or insurable by Landlord, and the general availability and cost of commercial earthquake insurance in the insurance markets existing from time to time during the term of this Lease).

7.3 Determination Of Operating Expenses. On or before the Rent Commencement Date and during the last month of each calendar year of the term of this Lease ("Lease Year"), or as soon thereafter as practical, Landlord shall provide Tenant notice of Landlord's estimate of the Operating Expenses for the ensuing Lease Year or applicable portion thereof. On or before the first day of each month during the ensuing Lease Year or applicable portion thereof, beginning on the Rent Commencement Date, Tenant shall pay to Landlord Tenant's Operating Cost Share of the portion of such estimated Operating Expenses allocable (on a prorata basis) to such month; provided, however, that if such notice is not given in the last month of a Lease Year, Tenant shall continue to pay on the basis of the prior year's estimate, if any, until the month after such notice is given. If at any time or times it appears to Landlord that the actual Operating Expenses will vary from Landlord's estimate by more than five percent (5%), Landlord may, by notice to Tenant, revise its estimate for such year and subsequent payments by Tenant for such year shall be based upon such revised estimate.

7.4 Final Accounting For Lease Year.

(a) Within ninety (90) days after the close of each Lease Year, or as soon after such 90-day period as practicable, Landlord shall deliver to Tenant a statement of Tenant's Operating Cost Share of the Operating Expenses for such Lease Year prepared by Landlord from Landlord's books and records, which statement shall be final and binding on Landlord and Tenant (except as provided in Section 7.4(b)). If on the basis of such statement

Tenant owes an amount that is more or less than the estimated payments for such Lease Year previously made by Tenant, Tenant or Landlord, as the case may be, shall pay the deficiency to the other party within thirty (30) days after delivery of the statement. Failure or inability of Landlord to deliver the

annual statement within such ninety (90) day period shall not impair or constitute a waiver of Tenant's obligation to pay Operating Expenses, or cause Landlord to incur any liability for damages.

(b) At any time within three (3) months after receipt of Landlord's annual statement of Operating Expenses as contemplated in Section 7.4(a), Tenant shall be entitled, upon reasonable written notice to Landlord and during normal business hours at Landlord's office or such other places as Landlord shall designate, to inspect and examine those books and records of Landlord relating to the determination of Operating Expenses for the immediately preceding Lease Year covered by such annual statement or, if Tenant so elects by written notice to Landlord, to request an independent audit of such books and records. The independent audit of the books and records shall be conducted by a certified public accountant acceptable to both Landlord and Tenant or, if the parties are unable to agree, by a certified public accountant appointed by the Presiding Judge of the San Mateo County Superior Court upon the application of either Landlord or Tenant (with notice to the other party). In either event, such certified public accountant shall be one who is not then employed in any capacity by Landlord or Tenant or by any of their respective affiliates. The audit shall be limited to the determination of the amount of Operating Expenses for the subject Lease Year, and shall be based on generally accepted accounting principles and tax accounting principles, consistently applied. If it is determined, by mutual agreement of Landlord and Tenant or by independent audit, that the amount of Operating Expenses billed to or paid by Tenant for the applicable Lease Year was incorrect, then the appropriate party shall pay to the other party the deficiency or overpayment, as applicable, within thirty (30) days after the final determination of such deficiency or overpayment. All costs and expenses of the audit shall be paid by Tenant unless the audit shows that Landlord overstated Operating Expenses for the subject Lease Year by more than five percent (5%), in which case Landlord shall pay all costs and expenses of the audit. Each party agrees to maintain the confidentiality of the findings of any audit in accordance with the provisions of this Section 7.4.

7.5 Proration. If the Rent Commencement Date falls on a day other than the first day of a Lease Year or if this Lease terminates on a day other than the last day of a Lease Year, then the amount of Operating Expenses payable by Tenant with respect to such first or last partial Lease Year shall be prorated on the basis which the number of days during such Lease Year in which this Lease is in effect bears to 365. The termination of this Lease shall not affect the obligations of Landlord and Tenant pursuant to Section 7.4 to be performed after such termination.

8. UTILITIES

8.1 Payment. Commencing with the Rent Commencement Date and thereafter throughout the term of this Lease, Tenant shall pay, before delinquency, all charges for water, gas, heat, light, electricity, power, sewer, telephone, alarm system, janitorial and other services or utilities supplied to or consumed in or with respect to the Building (other than any separately metered costs for water, electricity or other services or utilities furnished with respect to the Common Areas, which costs shall be paid by Landlord and shall constitute Operating Expenses under Section 7.2 hereof), including any taxes on such services and utilities. It is the intention of the parties that all such services shall be separately metered to the Building. In the event that any of such services supplied to the Building are not separately metered, then the amount thereof shall be an item of Operating Expenses and shall be paid as provided in Article 7.

8.2 Interruption. There shall be no abatement of rent or other charges required to be paid hereunder and Landlord shall not be liable in damages or otherwise for interruption or failure of any service or utility furnished to or used with respect to the Building or Property because of accident, making of repairs, alterations or improvements, severe weather, difficulty or inability in obtaining services or supplies, labor difficulties or any other cause. Notwithstanding the foregoing provisions of this Section 8.2, however, in the event of any interruption or failure of any service or utility to the Building that (i) is caused in whole or in material part by the active negligence or willful misconduct of Landlord or its agents or employees and (ii) continues for more than three (3) business days and (iii) materially impairs Tenant's ability to use the Building for its intended purposes hereunder, then following such three (3) business day period, Tenant's

obligations for payment of rent and other charges under this Lease shall be abated in proportion to the degree of impairment of Tenant's use of the Building, and such abatement shall continue until Tenant's use of the Building is no longer materially impaired thereby.

9. ALTERATIONS; SIGNS

9.1 Right To Make Alterations. Tenant shall make no alterations, additions or improvements to the Building or the Property, other than interior non-structural alterations costing less than Fifty Thousand Dollars ($50,000.00) in the aggregate during any twelve (12) month period, without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. All such alterations, additions and improvements shall be completed with due diligence in a first-class workmanlike manner, in compliance with plans and specifications approved in writing by Landlord and in compliance with all applicable laws, ordinances, rules and regulations, and to the extent Landlord's consent is not otherwise required hereunder for such alterations, additions or improvements, Tenant shall give prompt written notice thereof to Landlord. Tenant shall cause any contractors engaged by Tenant for work in the Building or on the Property to maintain public liability and property damage insurance, and other customary insurance, with such terms and in such amounts as Landlord may reasonably require, naming as additional insureds Landlord and any of its partners, shareholders, property managers and lenders designated by Landlord for this purpose, and shall furnish Landlord with certificates of insurance or other evidence that such coverage is in effect. Notwithstanding any other provisions of this Section 9.1, under no circumstances shall Tenant make any structural alterations or improvements, or any substantial changes to the roof or substantial equipment installations on the roof, or any substantial changes or alterations to the building systems, without Landlord's prior written consent (which consent shall not be unreasonably withheld or delayed). If Tenant so requests in seeking Landlord's consent to any alterations, additions or improvements, Landlord shall specify in granting such consent whether Landlord intends to require that Tenant remove such alterations, additions or improvements (or any specified portions thereof) upon expiration or termination of this Lease. Landlord shall receive no fee for supervision, profit, overhead or general conditions in connection with any alterations, additions or improvements constructed or installed by Tenant under this Lease.

9.2 Title To Alterations. All alterations, additions and improvements installed in, on or about the Building or the Property shall become part of the Property and shall become the property of Landlord, unless Landlord elects to require Tenant to remove the same upon the termination of

this Lease; provided, however, that the foregoing shall not apply to Tenant's movable furniture and equipment and trade fixtures. Tenant shall promptly repair any damage caused by its removal of any such furniture, equipment or trade fixtures. Notwithstanding any other provisions of this Article 9, however, (a) under no circumstances shall Tenant have any right to remove from the Building or the Property, during the term of this Lease or at the expiration or termination of this Lease, any lab benches, fume hoods, cold rooms or other similar improvements and equipment existing in the Building on the Commencement Date, except with Landlord's written consent (which consent may take the form of either (i) a separate written consent or (ii) a written approval of plans for proposed alterations or improvements, if and to the extent that such plans specifically show the removal or relocation of any existing lab benches, fume hoods, cold rooms or other similar improvements or equipment as part of the proposed alterations or improvements), and (b) if Tenant requests Landlord's written consent to any alterations, additions or improvements under Section 9.1 hereof and, in requesting such consent, asks that Landlord specify whether Landlord will require removal of such alterations, additions or improvements upon termination or expiration of this Lease, then Landlord shall not be entitled to require such removal unless Landlord specified its intention to do so at the time of granting of Landlord's consent to the requested alterations, additions or improvements.

9.3 Tenant Fixtures. Subject to the final sentence of Section 9.2 and to Section 9.5, Tenant may install, remove and reinstall trade fixtures without Landlord's prior written consent, except that installation and removal of any fixtures which are affixed to the Building or the Property or which affect the exterior or structural portions of the Building or the building systems shall require Landlord's written approval, which approval shall not be unreasonably withheld or delayed. Subject to the provisions of Section 9.5, the foregoing shall apply to Tenant's signs, logos and insignia, all of which Tenant shall have the right to place and

remove and replace (a) only with Landlord's prior written consent as to location, size and composition, which consent shall not be unreasonably withheld or delayed, and (b) only in compliance with all restrictions and requirements of applicable law and of any covenants, conditions and restrictions or other written agreements now or hereafter applicable to the Property. Tenant shall immediately repair any damage caused by installation and removal of fixtures under this Section 9.3.

9.4 No Liens. Tenant shall at all times keep the Building and the Property free from all liens and claims of any contractors, subcontractors, materialmen, suppliers or any other parties employed either directly or indirectly by Tenant in construction work on the Building or the Property. Tenant may contest any claim of lien, but only if, prior to such contest, Tenant either (i) posts security in the amount of the claim, plus estimated costs and interest, or (ii) records a bond of a responsible corporate surety in such amount as may be required to release the lien from the Building and the Property. Tenant shall indemnify, defend and hold Landlord harmless against any and all liability, loss, damage, cost and other expenses, including, without limitation, reasonable attorneys' fees, arising out of claims of any lien for work performed or materials or supplies furnished at the request of Tenant or persons claiming under Tenant.

9.5 Signs. Without limiting the generality of the provisions of Section 9.3 hereof, Tenant shall have the right to display its corporate name and logo on the Building and in front of the entrance to the Building, subject to Landlord's prior approval as to location, size, design and composition (which approval shall not be unreasonably withheld or delayed), subject to the established sign criteria for the Britannia Pointe Grand Business Park and subject to all restrictions and requirements of applicable law and of any covenants, conditions and restrictions or other written agreements now or hereafter applicable to the Property.

10.   MAINTENANCE AND REPAIRS

10.1 Landlord's Work.

(a) Landlord shall repair and maintain or cause to be repaired and maintained the Common Areas of the Property and the roof (structural portions only), exterior walls and other structural portions of the Building. The cost of all work performed by Landlord under this Section 10.1 shall be an Operating Expense hereunder, except to the extent such work (i) is required due to the negligence of Landlord, (ii) involves the repair or correction of a condition or defect that Landlord is required to correct pursuant to Section 5.2 hereof, (iii) is a capital expense not includible as an Operating Expense under Section 7.2 hereof, or (iv) is required due to the negligence or willful misconduct of Tenant or its agents, employees or invitees (in which event Tenant shall bear the full cost of such work pursuant to the indemnification provided in Section 12.6 hereof, subject to the release set forth in Section 12.4 hereof). Tenant knowingly and voluntarily waives the right to make repairs at Landlord's expense, except to the extent permitted by Section 10.1(b) below, or to offset the cost thereof against rent, under any law, statute, regulation or ordinance now or hereafter in effect.

(b) If Landlord fails to perform any repairs or maintenance required to be performed by Landlord on the Building under Section 10.1(a) and such failure continues for thirty (30) days or more after Tenant gives Landlord written notice of such failure (or, if such repairs or maintenance cannot reasonably be performed within such 30-day period, then if Landlord fails to commence performance within such 30-day period and thereafter to pursue such performance diligently to completion), then Tenant shall have the right to perform such repairs or maintenance and Landlord shall reimburse Tenant for the reasonable cost thereof within fifteen (15) days after written notice from Tenant of the completion and cost of such work, accompanied by copies of invoices or other reasonable supporting documentation. Under no circumstances, however, shall Tenant have any right to offset the cost of any such work against rent or other charges falling due from time to time under this Lease.

10.2 Tenant's Obligation For Maintenance.

(a) Good Order, Condition And Repair. Except as provided in Section 10.1 hereof, Tenant at its sole cost and expense shall keep and maintain in good and sanitary order, condition and repair the Building and every part thereof, wherever located,

including but not limited to the roof (non-structural portions only), signs, interior, ceiling, electrical system, plumbing system, telephone and communications systems of the Building, the HVAC equipment and related mechanical systems serving the Building (for which equipment and systems Tenant shall enter into a service contract with a person or entity designated or approved by Landlord), all doors, door checks, windows, plate glass, door fronts, exposed plumbing and sewage and other utility facilities, fixtures, lighting, wall surfaces, floor surfaces and ceiling surfaces of the Building and all other interior repairs, foreseen and unforeseen, with respect to the Building, as required.

(b) Landlord's Remedy. If Tenant, after notice from Landlord, fails to make or perform promptly any repairs or maintenance which are the obligation of Tenant hereunder, Landlord shall have the right, but shall not be required, to enter the Building and make the repairs or perform the maintenance necessary to restore the Building to good and sanitary order, condition and repair. Immediately on demand from Landlord, the cost of such repairs shall be due and payable by Tenant to Landlord.

(c) Condition Upon Surrender. At the expiration or sooner termination of this Lease, Tenant shall surrender the Building and the Improvements, including any additions, alterations and improvements thereto, broom clean, in good and sanitary order, condition and repair, ordinary wear and tear excepted, first, however, removing all goods and effects of Tenant and all and fixtures and items required to be removed or specified to be removed at Landlord's election pursuant to this Lease (including, but not limited to, any such removal required as a result of an election duly made by Landlord to require such removal as contemplated in Section 9.2), and repairing any damage caused by such removal. Tenant shall not have the right to remove fixtures or equipment if Tenant is in default hereunder unless Landlord specifically waives this provision in writing. Tenant expressly waives any and all interest in any personal property and trade fixtures not removed from the Property by Tenant at the expiration or termination of this Lease, agrees that any such personal property and trade fixtures may, at Landlord's election, be deemed to have been abandoned by Tenant, and authorizes Landlord (at its election and without prejudice to any other remedies under this Lease or under applicable law) to remove and either retain, store or dispose of such property at Tenant's cost and expense, and Tenant waives all claims against Landlord for any damages resulting from any such removal, storage, retention or disposal.

11. &# 160; USE OF PROPERTY

11.1 Permitted Use. Subject to Sections 11.3, 11.4 and 11.6 hereof, Tenant shall use the Building solely for a laboratory research and development facility, including (but not limited to) wet chemistry and biology labs, clean rooms, pilot scale, clinical scale and GMP scale manufacturing, storage and use of toxic and radioactive materials (subject to the provisions of Section 11.6 hereof), storage and use of laboratory animals, administrative offices, and other lawful purposes reasonably related to or incidental to such specified uses (subject in each case to receipt of all necessary approvals from the City of South San Francisco and other governmental agencies having jurisdiction over the Building), and for no other purpose.

11.2 [Omitted.]

11.3 No Nuisance. Tenant shall not use the Property for or carry on or permit upon the Property or any part thereof any offensive, noisy or dangerous trade, business, manufacture, occupation, odor or fumes, or any nuisance or anything against public policy, nor interfere with the rights or business of Landlord in the Building or the Property, nor commit or allow to be committed any waste in, on or about the Property. Tenant shall not do or permit anything to be done in or about the Property, nor bring nor keep anything therein, which will in any way cause the Property to be uninsurable with respect to the insurance required by this Lease or with respect to standard fire and extended coverage insurance with vandalism, malicious mischief and riot endorsements.

11.4 Compliance With Laws. Tenant shall not use the Property or permit the Property to be used in whole or in part for any purpose or use that is in violation of any applicable laws, ordinances, regulations or rules of any governmental agency or public authority.

Tenant shall keep the Building and Improvements equipped with all safety appliances required by law, ordinance or insurance on the Property, or any order or regulation of any public authority, because of Tenant's particular use of the Property. Tenant shall procure all licenses and permits required for use of the Property. Tenant shall use the Property in strict accordance with all applicable ordinances, rules, laws and regulations and shall comply with all requirements of all governmental authorities now in force or which may hereafter be in force pertaining to the use of the Property by Tenant, including, without limitation, regulations applicable to noise, water, soil and air pollution, and making such nonstructural alterations and additions thereto as may be required from time to time by such laws, ordinances, rules, regulations and requirements of governmental authorities or insurers of the Property (collectively, "Requirements") because of Tenant's construction of improvements in or other particular use of the Property. Any structural alterations or additions required from time to time by applicable Requirements because of Tenant's construction of improvements in the Building or other particular use of the Property shall, at Landlord's election, either (i) be made by Tenant, at Tenant's sole cost and expense, in accordance with the procedures and standards set forth in Section 9.1 for alterations by Tenant, or (ii) be made by Landlord at Tenant's sole cost and expense, in which event Tenant shall pay to Landlord as additional rent, within ten (10) days after demand by Landlord, an amount equal to all reasonable costs incurred by Landlord in connection with such alterations or additions. The judgment of any court, or the admission by Tenant in any proceeding against Tenant, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement shall be conclusive of such violation as between Landlord and Tenant.

11.5 Liquidation Sales. Tenant shall not conduct or permit to be conducted any auction, bankruptcy sale, liquidation sale, or going out of business sale, in, upon or about the Property, whether said auction or sale be voluntary, involuntary or pursuant to any assignment for the benefit of creditors, or pursuant to any bankruptcy or other insolvency proceeding.

11.6 Environmental Matters.

(a) For purposes of this Section, "hazardous substance" shall mean the substances included within the definitions of the term "hazardous substance" under (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq., and the regulations promulgated thereunder, as amended, (ii) the California Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health & Safety Code §§ 25300 et seq., and regulations promulgated thereunder, as amended, (iii) the Hazardous Materials Release Response Plans and Inventory Act, California Heath & Safety Code §§ 25500 et seq., and regulations promulgated thereunder, as amended, and (iv) petroleum; "hazardous waste" shall mean (i) any waste listed as or meeting the identified characteristics of a "hazardous waste" under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq., and regulations promulgated pursuant thereto, as amended (collectively, "RCRA"), (ii) any waste meeting the identified characteristics of "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under the California Hazardous Waste Control Law, California Health & Safety Code §§ 25100 et seq., and regulations promulgated pursuant thereto, as amended (collectively, the "CHWCL"), and/or (iii) any waste meeting the identified characteristics of "medical waste" under California Health & Safety Code §§ 25015-25027.8, and regulations promulgated thereunder, as amended; and "hazardous waste facility" shall mean a hazardous waste facility as defined under the CHWCL.

(b) Without limiting the generality of the obligations set forth in Section 11.4 of this Lease:

(i) Tenant shall not cause or permit any hazardous substance or hazardous waste to be brought upon, kept, stored or used in or about the Property without the prior written consent of Landlord, which consent shall not be unreasonably withheld, except that Tenant, in connection with its permitted use of the Property as provided in Section 11.1, may keep, store and use materials that constitute hazardous substances which are customary for such permitted use, provided such hazardous substances are kept, stored and used in quantities which are customary for such permitted use and are kept, stored and used in full compliance with clauses (ii) and (iii) immediately below.

(ii) Tenant shall comply with all applicable laws, rules, regulations, orders, permits, licenses and operating plans of any governmental authority with respect to the receipt, use, handling, generation, transportation, storage, treatment and/or disposal of hazardous substances or wastes by Tenant or its agents or employees, and Tenant will provide Landlord with copies of all permits, licenses, registrations and other similar documents that authorize Tenant to conduct any such activities in connection with its authorized use of the Property from time to time.

(iii) Tenant shall not (A) operate on or about the Property any facility required to be permitted or licensed as a hazardous waste facility or for which interim status as such is required, nor (B) store any hazardous wastes on or about the Property for ninety (90) days or more, nor (C) conduct any other activities on or about the Property that could result in the Property being deemed to be a "hazardous waste facility" (including, but not limited to, any storage or treatment of hazardous substances or hazardous wastes which could have such a result).

(iv) Tenant shall comply with all applicable laws, rules, regulations, orders and permits relating to underground storage tanks installed by Tenant or its agents or employees or at the request of Tenant (including any installation, monitoring, maintenance, closure and/or removal of such tanks) as such tanks are defined in California Health & Safety Code § 25281(x), including, without limitation, complying with California Health & Safety Code §§ 25280-25299.7 and the regulations promulgated thereunder, as amended. Tenant shall furnish to Landlord copies of all registrations and permits issued to or held by Tenant from time to time for any and all underground storage tanks located on or under the Property.

(v) If applicable, Tenant shall provide Landlord in writing the following information and/or documentation within fifteen (15) days after the Rent Commencement Date, and shall update such information at least annually, on or before each anniversary of the Rent Commencement Date, to reflect any change in or addition to the required information and/or documentation (provided, however, that in the case of the materials described in subparagraphs (B), (C) and (E) below, Tenant shall not be required to deliver copies of such materials to Landlord but shall maintain copies of such materials to such extent and for such periods as may be required by applicable law and shall permit Landlord or its representatives to inspect and copy such materials during normal business hours at any time and from time to time upon reasonable notice to Tenant):

(A) A list of all hazardous substances and/or wastes that Tenant receives, uses, handles, generates, transports, stores, treats or disposes of from time to time in connection with its operations on the Property.

(B) All Material Safety Data Sheets ("MSDS's"), if any, required to be completed with respect to operations of Tenant at the Property from time to time in accordance with Title 26, California Code of Regulations § 8-5194 or 42 U.S.C. § 11021, or any amendments thereto, and any Hazardous Materials Inventory Sheets that detail the MSDS's.

(C) All hazardous waste manifests (as defined in Title 26, California Code of Regulations § 22-66481), if any, that Tenant is required to complete from time to time in connection with its operations at the Property.

(D) A copy of any Hazardous Materials Management Plan required from time to time with respect to Tenant's operations at the Property, pursuant to California Health & Safety Code §§ 25500 et seq., and any regulations promulgated thereunder, as amended.

(E) Any Contingency Plans and Emergency Procedures required of Tenant from time to time due to its operations in accordance with Title 26, California Code of Regulations §§ 22-67140 et seq., and any amendments thereto, and any Training Programs and Records required under Title 26, California Code of Regulations, § 22-67105, and any amendments thereto.

(F) Copies of any biennial reports to be furnished to the California Department of Health Services from time to time relating to hazardous substances or wastes, pursuant to Title 26, California Code of Regulations, § 22-66493, and any amendments thereto.

(G) Copies of all industrial wastewater discharge permits issued to or held by Tenant from time to time in connection with its operations on the Property.

(H) Copies of any other lists or inventories of hazardous substances and/or wastes on or about the Property that Tenant is otherwise required to prepare and file from time to time with any governmental or regulatory authority.

(vi) Tenant shall secure Landlord's prior written approval for any proposed receipt, storage, possession, use, transfer or disposal of "radioactive materials" or "radiation," as such materials are defined in Title 26, California Code of Regulations § 17-30100, and/or any other materials possessing the characteristics of the materials so defined, which approval Landlord may withhold in its sole and absolute discretion; provided, that such approval shall not be required for any radioactive materials for which Tenant has secured prior written approval of the Nuclear Regulatory Commission and delivered to Landlord a copy of such approval. Tenant, in connection with any such authorized receipt, storage, possession, use, transfer or disposal of radioactive materials or radiation, shall:

(A) Comply with all federal, state and local laws, rules, regulations, orders, licenses and permits issued to or applicable to Tenant with respect to its business operations on the Property;

(B) Maintain, to such extent and for such periods as may be required by applicable law, and permit Landlord and its representatives to inspect during normal business hours at any time and from time to time upon reasonable notice to Tenant, a list of all radioactive materials or radiation received, stored, possessed, used, transferred or disposed of by Tenant or in connection with the operation of Tenant's business on the Property

from time to time, to the extent not already disclosed through delivery of a copy of a Nuclear Regulatory Commission approval with respect thereto as contemplated above; and

(C) Maintain, to such extent and for such periods as may be required by applicable law, and permit Landlord or its representatives to inspect during normal business hours at any time and from time to time upon reasonable notice to Tenant, all licenses, registration materials, inspection reports, governmental orders and permits in connection with the receipt, storage, possession, use, transfer or disposal of radioactive materials or radiation by Tenant or in connection with the operation of Tenant's business on the Property from time to time.

(vii) Tenant shall comply with any and all applicable laws, rules, regulations and orders of any governmental authority with respect to the release into the environment of any hazardous wastes or substances or radiation or radioactive materials by Tenant or its agents or employees. Tenant shall give Landlord immediate verbal notice of any unauthorized release of any such hazardous wastes or substances or radiation or radioactive materials into the environment, and shall follow such verbal notice with written notice to Landlord of such release within twenty-four (24) hours of the time at which Tenant became aware of such release.

(viii) Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, losses (including, but not limited to, loss of rental income), damages, liabilities, costs, legal fees and expenses of any sort arising out of or relating to (A) any failure by Tenant to comply with any provisions of this paragraph 11.6(b), or (B) any receipt, use handling, generation, transportation, storage, treatment, release and/or disposal of any hazardous substance or waste or any radioactive material or radiation on or about the Property as a proximate result of Tenant's use of the Property or as a result of any intentional or negligent acts or omissions of Tenant or of any agent, employee or invitee of Tenant.

(ix) Tenant shall cooperate with Landlord in furnishing Landlord with complete information regarding Tenant's receipt, handling, use, storage, transportation, generation, treatment and/or disposal of any hazardous substances or wastes or radiation or radioactive materials. Upon request, Tenant shall grant Landlord reasonable access at reasonable times to the Property to inspect Tenant's receipt, handling, use, storage, transportation, generation, treatment and/or disposal of hazardous substances or wastes or radiation or radioactive materials, provided that Landlord uses reasonable efforts to avoid any unreasonable interference with Tenant's business operations in exercising such access and inspection rights, without thereby being deemed guilty of any disturbance of Tenant's use or possession and without being liable to Tenant in any manner.

(x) Notwithstanding Landlord's rights of inspection and review under this paragraph 11.6(b), Landlord shall have no obligation or duty to so inspect or review, and no third party shall be entitled to rely on Landlord to conduct any sort of inspection or review by reason of the provisions of this paragraph 11.6(b).

(xi) If Tenant receives, handles, uses, stores, transports, generates, treats and/or disposes of any hazardous substances or wastes or radiation or radioactive materials on or about the Property at any time during the term of this Lease, then within thirty (30) days after the termination or expiration of this Lease, Tenant at its sole cost and expense shall obtain and deliver to Landlord an environmental study, performed by an expert reasonably satisfactory to Landlord, evaluating the presence or absence of hazardous substances and wastes, radiation and radioactive materials on and about the Property. Such study shall be based on a reasonable and prudent level of tests and investigations of the Property and surrounding areas (if appropriate), which tests shall be conducted no earlier than the date of termination or expiration of this Lease. Liability for any remedial actions required or recommended on the basis of such study shall be allocated in accordance with Sections 11.4, 11.6, 12.6 and other applicable provisions of this Lease.

(c) Landlord shall indemnify, defend and hold Tenant harmless from and against any and all claims, losses, damages, liabilities, costs, legal fees and expenses of any sort arising out of or relating to (i) the presence on the Property of any hazardous substances or wastes or radiation or radioactive materials as of the Rent Commencement Date (other than as a result of any intentional or negligent acts or omissions of Tenant or of any agent, employee or invitee of Tenant), (ii) any unauthorized release into the environment (including, but not limited to, the Property) of any hazardous substances or wastes or radiation or radioactive materials to the extent such release results from the negligence of or willful misconduct or omission by Landlord or its agents or employees, and/or (iii) the presence on the Property of any hazardous substances or wastes or radiation or radioactive materials arising after the Rent Commencement Date from any cause or source other than as a result of any intentional or negligent acts or omissions of Tenant or of any agent, employee or invitee of Tenant.

(d) The provisions of this Section 11.6 shall survive the termination of this Lease.

12. &# 160; INSURANCE AND INDEMNITY

12.1 Insurance.

(a) Tenant shall procure and maintain in full force and effect at all times during the term of this Lease, at Tenant's cost and expense, commercial general liability insurance to protect against liability to the public, or to any invitee of Tenant or Landlord, arising out of or related to the use of or resulting from any accident occurring in, upon or about the Property, with limits of liability of not less than (i) Two Million Dollars ($2,000,000.00) for injury to or death of one person, (ii) Five Million Dollars ($5,000,000.00) for personal injury or death, per occurrence, and (iii) One Million Dollars ($1,000,000.00) for property damage, or combined single limit of liability of not less than Five Million Dollars ($5,000,000.00). Such insurance shall name Landlord, its general partners, its Managing Agent and any lender holding a deed of trust on the Property from time to time (as designated in writing by Landlord to Tenant from time to time) as additional insureds thereunder. The amount of such insurance shall not be construed to limit any liability or obligation of Tenant under this Lease. Tenant shall also

procure and maintain in full force and effect at all times during the term of this Lease, at Tenant's cost and expense, products/completed operations coverage on terms and in amounts (A) customary in Tenant's industry for companies engaged in the marketing of products on a scale comparable to that in which Tenant is engaged from time to time and (B) mutually satisfactory to Landlord and Tenant in their respective reasonable discretion.

(b) Landlord shall procure and maintain in full force and effect at all times during the term of this Lease, at Landlord's cost and expense (but reimbursable as an Operating Expense under Section 7.2 hereof), commercial general liability insurance to protect against liability arising out of or related to the use of or resulting from any accident occurring in, upon or about the Property, with combined single limit of liability of not less than Five Million Dollars ($5,000,000.00) per occurrence for bodily injury and property damage.

(c) Landlord shall procure and maintain in full force and effect at all times during the term of this Lease, at Landlord's cost and expense (but reimbursable as an Operating Expense under Section 7.2 hereof), policies of property insurance providing protection against "all risk of direct physical loss" (as defined by and detailed in the Insurance Service Office's Commercial Property Program "Cause of Loss—Special Form [CP1030]" or its equivalent) for the shell of the Building and for the improvements in the Common Areas of the Property, on a full replacement cost basis (with no co-insurance or, if coverage without co-insurance is not reasonably available, then on an "agreed amount" basis). Such insurance shall include earthquake and environmental coverage and shall have such commercially reasonable deductibles and other terms as Landlord in its reasonable discretion determines to be appropriate. Landlord shall have no obligation to carry property damage insurance for any alterations, additions or improvements installed by Tenant or by any predecessor tenant in the Building or on or about the Property.

(d) Landlord shall procure and maintain in full force and effect at all times during the term of this Lease, at Tenant's cost and expense (chargeable, in Landlord's discretion, either as an Operating Expense allocable 100% to the Building or as a direct pass-through to Tenant), policies of property insurance providing protection against "all risk of direct physical loss" (as defined by and detailed in the Insurance Service Office's Commercial Property Program "Cause of Loss-Special Form [CP1030]" or its equivalent) for the tenant improvements existing in the Building on the Commencement Date and on all other alterations, additions and improvements installed by Tenant from time to time in or about the Building, on a full replacement cost basis (with no co-insurance or, if coverage without co-insurance is not reasonably available, then on an "agreed amount" basis). Such insurance may have such commercially reasonable deductibles and other terms as Landlord in its discretion determines to be appropriate, and shall name both Tenant and Landlord as insureds as their interests may appear. The coverage required to be maintained under this paragraph (d) may, in Landlord's discretion, be added to or combined with Landlord's master policy carried under paragraph (c) above, in which event Tenant shall be named as an insured only with respect to the portion of the policy that covers tenant improvements as described in this paragraph (d). Tenant shall provide to Landlord from time to time, upon request by Landlord annually or at other reasonable intervals, an updated schedule of values for the existing tenant improvements and any subsequently constructed tenant improvements in the Building, and Landlord shall have no obligation or liability with respect to any underinsurance of tenant improvements that results from Tenant's failure to keep Landlord informed from time to time, on a current basis, of the insurable value of the tenant improvements in the Building.

12.2 Quality Of Policies And Certificates. All policies of insurance required hereunder shall be issued by responsible insurers and, in the case of policies carried or required to be carried by Tenant, shall be written as primary policies not contributing with and not in excess of any coverage that Landlord may carry. Tenant shall deliver to Landlord copies of policies or certificates of insurance showing that said policies are in effect. The coverage provided by such policies shall include the clause or endorsement referred to in Section 12.4. If Tenant fails to acquire, maintain or renew any insurance required to be maintained by it under this Article 12 or to pay the premium therefor, then Landlord, at its option and in addition to its other remedies, but without obligation so to do, may procure such insurance, and any sums expended by it to procure any such insurance on behalf of or in place of Tenant shall be repaid upon demand, with interest as provided in Section 3.2 hereof. Tenant shall obtain written

undertakings from each insurer under policies required to be maintained by it to notify all insureds thereunder at least thirty (30) days prior to cancellation of coverage.

12.3 Workers' Compensation. Tenant shall maintain in full force and effect during the term of this Lease workers' compensation insurance in at least the minimum amounts required by law, covering all of Tenant's employees working on the Property.

12.4 Waiver Of Subrogation. To the extent permitted by law and without affecting the coverage provided by insurance required to be maintained hereunder, Landlord and Tenant each waive any right to recover against the other with respect to (i) damage to property, (ii) damage to the Property or any part thereof, or (iii) claims arising by reason of any of the foregoing, but only to the extent that any of the foregoing damages and claims under clauses (i)-(iii) hereof are covered, and only to the extent of such coverage, by casualty insurance actually carried or required to be carried hereunder by either Landlord or Tenant. This provision is intended to waive fully, and for the benefit of each party, any rights and claims which might give rise to a right of subrogation in any insurance carrier. Each party shall procure a clause or endorsement on any casualty insurance policy denying to the insurer rights of subrogation against the other party to the extent rights have been waived by the insured prior to the occurrence of injury or loss. Coverage provided by insurance maintained by Tenant shall not be limited, reduced or diminished by virtue of the subrogation waiver herein contained.

12.5 Increase In Premiums. Tenant shall do all acts and pay all expenses necessary to insure that the Property is not used for purposes prohibited by any applicable fire insurance, and that Tenant's use of the Property complies with all requirements necessary to obtain any such insurance. If Tenant uses or permits the Property to be used in a manner which increases the existing rate of any insurance carried by Landlord on the Property and such use continues for longer than a reasonable period specified in any written notice from Landlord to Tenant identifying the rate increase and the factors causing the same, then Tenant shall pay the amount of the increase in premium caused thereby, and Landlord's costs of obtaining other replacement insurance policies, including any increase in premium, within ten (10) days after demand therefor by Landlord.

12.6 Indemnification.

(a) Tenant shall indemnify, defend and hold Landlord and its partners, shareholders, officers, directors, agents and employees harmless from any and all liability for injury to or death of any person, or loss of or damage to the property of any person, and all actions, claims, demands, costs (including, without limitation, reasonable attorneys' fees), damages or expenses of any kind arising therefrom which may be brought or made against Landlord or which Landlord may pay or incur by reason of the use, occupancy and enjoyment of the Property by Tenant or any invitees, sublessees, licensees, assignees, employees, agents or contractors of Tenant or holding under Tenant (including, but not limited to, any such matters arising out of or in connection with any early entry upon the Property by Tenant pursuant to Section 2.2 hereof) from any cause whatsoever other than negligence or willful misconduct or omission by Landlord, its agents or employees. Landlord and its partners, shareholders, officers, directors, agents and employees shall not be liable for, and Tenant hereby waives all claims against such persons for, damages to goods, wares and merchandise in or upon the Property, or for injuries to Tenant, its agents or third persons in or upon the Property, from any cause whatsoever other than negligence or willful misconduct or omission by Landlord, its agents or employees. Tenant shall give prompt notice to Landlord of any casualty or accident in, on or about the Property.

(b) Landlord shall indemnify, defend and hold Tenant and its partners, shareholders, officers, directors, agents and employees harmless from any and all liability for injury to or death of any person, or loss of or damage to the property of any person, and all actions, claims, demands, costs (including, without limitation, reasonable attorneys' fees), damages or expenses of any kind arising therefrom which may be brought or made against Tenant or which Tenant may pay or incur, to the extent such liabilities or other matters arise in, on or about the Property by reason of any negligence or willful misconduct or omission by Landlord, its agents or employees.

12.7 Blanket Policy. Any policy required to be maintained hereunder may be maintained under a so-called "blanket policy" insuring other parties and other locations so long as the amount of insurance required to be provided hereunder is not thereby diminished.

13. &# 160; SUBLEASE AND ASSIGNMENT

13.1 Assignment And Sublease Of Building. Except in the case of a Permitted Transfer, Tenant shall not have the right or power to assign its interest in this Lease, or make any sublease of the Building or any portion thereof, nor shall any interest of Tenant under this Lease be assignable involuntarily or by operation of law, without on each occasion obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. Any purported sublease or assignment of Tenant's interest in this Lease requiring but not having received Landlord's consent thereto (to the extent such consent is required hereunder) shall be void. Without limiting the generality of the foregoing, Landlord may withhold consent to any proposed subletting or assignment for which consent is requested solely on the ground, if applicable, that the use by the proposed subtenant or assignee is reasonably likely to be incompatible with Landlord's use of any adjacent property owned or operated by Landlord, unless the proposed use is within the permitted uses specified in Section 11.1, in which event it shall not be reasonable for Landlord to object to the proposed use. Except in the case of a Permitted Transfer, any dissolution, consolidation, merger or other reorganization of Tenant, or any sale or transfer of substantially all of the stock or assets of Tenant in a single transaction or series of related transactions, shall be deemed to be an assignment hereunder and shall be void without the prior written consent of Landlord as required above. Notwithstanding the foregoing, (i) an initial public offering of the common stock of Tenant shall not be deemed to be an assignment hereunder; (ii) any transfer of Tenant's stock during any period in which Tenant has a class of stock listed on any recognized securities exchange or traded in the NASDAQ over-the-counter market shall not be deemed to be an assignment hereunder; (iii) any transfer of Tenant's stock in connection with a bona fide financing, capitalization or recapitalization of Tenant shall not be deemed to be an assignment hereunder, provided that such financing, capitalization or recapitalization does not result in a material reduction in Tenant's net worth or materially change the nature of Tenant's ongoing business as a going concern; and (iv) Tenant shall have the right to assign this Lease or sublet the Building, or any portion thereof, without Landlord's consent (but with prior or concurrent written notice by Tenant to Landlord, except to the extent Tenant is advised by its counsel that such prior or concurrent notice would be in violation of applicable law, in which event Tenant shall give such written notice as soon as reasonably possible after the giving of such notice is no longer in violation of applicable law), to any Affiliate of Tenant, or to any entity which results from a merger or consolidation with Tenant, or to any entity which acquires substantially all of the stock or assets of Tenant as a going concern (hereinafter each a "Permitted Transfer"). For purposes of the preceding sentence, an "Affiliate" of Tenant shall mean any entity in which Tenant owns at least a twenty percent (20%) equity interest, any entity which owns at least a twenty percent (20%) equity interest in Tenant, and/or any entity which is related to Tenant by a chain of ownership interests involving at least a twenty percent (20%) equity interest at each level in the chain. Landlord shall have no right to terminate this Lease in connection with, and shall have no right to any sums or other economic consideration resulting from, any Permitted Transfer. Except as expressly set forth in this Section 13.1, however, the provisions of Section 13.2 shall remain applicable to any Permitted Transfer and the transferee under such Permitted Transfer shall be and remain subject to all of the terms and provisions of this Lease.

13.2 Rights Of Landlord.

(a) Consent by Landlord to one or more assignments of this Lease, or to one or more sublettings of the Building or any portion thereof, or collection of rent by Landlord from any assignee or sublessee, shall not operate to exhaust Landlord's rights under this Article 13, nor constitute consent to any subsequent assignment or subletting. No assignment of Tenant's interest in this Lease and no sublease shall relieve Tenant of its obligations hereunder, notwithstanding any waiver or extension of time granted by Landlord to any assignee or sublessee, or the failure of Landlord to assert its rights against any assignee or sublessee, and regardless of whether Landlord's consent thereto is given or required to be given hereunder. In the event of a default by any assignee, sublessee or other successor of Tenant in the performance

of any of the terms or obligations of Tenant under this Lease, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against any such assignee, sublessee or other successor. In addition, Tenant immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any subletting of all or a part of the Building as permitted under this Lease, and Landlord, as Tenant's assignee and as attorney-in-fact for Tenant, or any receiver for Tenant appointed on Landlord's application, may collect such rent and apply it toward Tenant's obligations under this Lease; except that, until the occurrence of an act of default by Tenant, Tenant shall have the right to collect such rent and to retain all sublease profits (subject to the provisions of Section 13.2(c), below).

(b) Upon any assignment of Tenant's interest in this Lease for which Landlord's consent is required under Section 13.1 hereof, Tenant shall pay to Landlord, within ten (10) days after receipt thereof by Tenant from time to time, one-half (1/2) of all cash sums and other economic considerations received by Tenant in connection with or as a result of such assignment, after first deducting therefrom (i) the unamortized cost of any leasehold improvements previously made in the Building and paid for by Tenant, (ii) any costs incurred by Tenant for leasehold improvements (including, but not limited to, third-party architectural and space planning costs) in the Building in connection with such assignment, (iii) any real estate commissions and/or attorneys' fees incurred by Tenant in connection with such assignment, and (iv) any economic consideration received by Tenant as bona fide, reasonable compensation for services rendered by Tenant to the assignee and/or personal property sold or leased by Tenant to the assignee.

(c) Upon any sublease of all or any portion of the Building for which Landlord's consent is required under Section 13.1 hereof, Tenant shall pay to Landlord, within ten (10) days after receipt thereof by Tenant from time to time, one-half (1/2) of all cash sums and other economic considerations received by Tenant in connection with or as a result of such sublease, after first deducting therefrom (i) the rental due hereunder for the corresponding period, prorated (on the basis of the average per-square-foot cost paid by Tenant for the entire Building for the applicable period under this Lease) to reflect the size of the subleased portion of the Building, (ii) any costs incurred by Tenant for leasehold improvements in the subleased portion of the Building (including, but not limited to, third-party architectural and space planning costs) for the specific benefit of the sublessee in connection with such

sublease, amortized over the term of the sublease, (iii) any real estate commissions and/or attorneys' fees incurred by Tenant in connection with such sublease, amortized over the term of such sublease, (iv) the unamortized cost of any leasehold improvements previously made and paid for by Tenant with respect to the subleased portion of the Building, and (v) any economic consideration received by Tenant as bona fide, reasonable compensation for services rendered by Tenant to the sublessee and/or personal property sold or leased by Tenant to the sublessee.

14.   RIGHT OF ENTRY AND QUIET ENJOYMENT

14.1 Right Of Entry. Landlord and its authorized representatives shall have the right to enter the Building at any time during the term of this Lease during normal business hours and upon not less than twenty-four (24) hours prior notice, except in the case of emergency (in which event no notice shall be required and entry may be made at any time), for the purpose of inspecting and determining the condition of the Building or for any other proper purpose including, without limitation, to make repairs, replacements or improvements which Landlord may deem necessary, to show the Building to prospective purchasers, to show the Building to prospective tenants (but only during the final year of the term of this Lease), and to post notices of nonresponsibility. Landlord shall not be liable for inconvenience, annoyance, disturbance, loss of business, quiet enjoyment or other damage or loss to Tenant by reason of making any repairs or performing any work upon the Building or the Property or by reason of erecting or maintaining any protective barricades in connection with any such work, and the obligations of Tenant under this Lease shall not thereby be affected in any manner whatsoever, provided, however, Landlord shall use reasonable efforts to minimize the inconvenience to Tenant's normal business operations caused thereby.

14.2 Quiet Enjoyment. Landlord covenants that Tenant, upon paying the rent and performing its obligations hereunder and subject to all the terms and conditions of this Lease, shall peacefully and quietly have, hold and enjoy the Building and the Property throughout the term of this Lease, or until this Lease is terminated as provided by this Lease.

15.   CASUALTY AND TAKING

15.1 Damage or Destruction.

(a) If the Building, or the Common Areas of the Property necessary for Tenant's use and occupancy of the Building, are damaged or destroyed in whole or in part under circumstances in which (i) repair and restoration is permitted under applicable governmental laws, regulations and building codes then in effect and (ii) repair and restoration reasonably can be completed within a period of one (1) year (or, in the case of an occurrence during the last year of the term of this Lease, within a period of sixty (60) days) following the date of the occurrence, then Landlord, as to the Common Areas of the Property and the Building Shell (as such term is defined in the Existing Lease, but interpreted and applied with reference to the Building), and Tenant, as to the Tenant Improvements (as such term is defined in the Existing Lease, but interpreted and applied with reference to the Building) in the Building, shall commence and complete, with all due diligence and as promptly as is reasonably practicable under the conditions then existing, all such repair and restoration as may be required to return the affected portions of the Property to a condition comparable to that existing immediately prior to the occurrence. In the event of damage or destruction the repair of which is not permitted under applicable governmental laws, regulations and building codes then in effect, if such damage or destruction (despite being corrected to the extent then permitted under applicable governmental laws, regulations and building codes) would still materially impair Tenant's ability to conduct its business in the Building, then either party may terminate this Lease as of the date of the occurrence by giving written notice to the other within thirty (30) days after the date of the occurrence; if neither party timely elects such termination, or if such damage or destruction does not materially impair Tenant's ability to conduct its business in the Building, then this Lease shall continue in full force and effect, except that there shall be an equitable adjustment in monthly minimum rental and of Tenant's Operating Cost Share of Operating Expenses, based upon the extent to which Tenant's ability to conduct its business in the Building is impaired, and Landlord and Tenant respectively shall restore the Common Areas and Building Shell and the Tenant Improvements to a complete architectural whole and to a functional condition. In the event of damage or destruction which cannot reasonably be repaired within one (1) year (or, in the case of an occurrence during the last year of the term of this Lease, within a period of sixty (60) days) following the date of the occurrence, then either Landlord or Tenant, at its election, may terminate this Lease as of the date of the occurrence by giving written notice to the other within thirty (30) days after the date of the occurrence; if neither party timely elects such termination, then this Lease shall continue in full force and effect and Landlord and Tenant shall each repair and restore applicable portions of the Property in accordance with the first sentence of this Section 15.1.

(b) The respective obligations of Landlord and Tenant pursuant to Section 15.1(a) are subject to the following limitations:

(i) If the occurrence results from a peril which is required to be insured pursuant to Section 12.1(c) and (d) above, the obligations of either party shall not exceed the amount of insurance proceeds received from insurers (or, in the case of any failure to maintain required insurance, proceeds that reasonably would have been available if the required insurance had been maintained) by reason of such occurrence, plus the amount of the party's permitted deductible (provided that each party shall be obligated to use its best efforts to recover any available proceeds from the insurance which it is required to maintain pursuant to the provisions of Section 12.1(c) or (d), as applicable), and, if such proceeds (including, in the case of a failure to maintain required insurance, any proceeds that reasonably would have been available) are insufficient, either party may terminate the Lease unless the other party promptly elects and agrees, in writing, to contribute the amount of the shortfall; and

(ii) If the occurrence results from a peril which is not required to be insured pursuant to Section 12.1(c) and (d) above and is not actally insured, Landlord shall be required to repair and restore the Building Shell and Common Areas to the extent necessary for Tenant's continued use and occupancy of the Building, and Tenant shall be required to repair and restore the Tenant Improvements to the extent necessary for Tenant's continued use and occupancy of the Building, provided that each party's obligation to repair and restore shall not exceed an amount equal to five percent (5%) of the replacement cost of the Building Shell and Common Area improvements, as to Landlord, or five percent (5%) of the replacement cost of the Tenant Improvements, as to Tenant; if the replacement cost as to either party exceeds such amount, then the party whose limit has been exceeded may terminate this Lease unless the other party promptly elects and agrees, in writing, to contribute the amount of the shortfall.

(c) If this Lease is terminated pursuant to the foregoing provisions of this Section 15.1 following an occurrence which is a peril actually insured or required to be insured against pursuant to Section 12.1(c) and (d), Landlord and Tenant agree (and any Lender shall be asked to agree) that such insurance proceeds shall be allocated between Landlord and Tenant in a manner which fairly and reasonably reflects their respective ownership rights

under this Lease, as of the termination or expiration of the term of this Lease, with respect to the improvements, fixtures, equipment and other items to which such insurance proceeds are attributable.

(d) From and after the date of an occurrence resulting in damage to or destruction of the Building or of the Common Areas necessary for Tenant's use and occupancy of the Building, and continuing until repair and restoration thereof are completed, there shall be an equitable abatement of minimum rental and of Tenant's Operating Cost Share of Operating Expenses based upon the degree to which Tenant's ability to conduct its business in the Building is impaired.

15.2 Condemnation.

(a) If during the term of this Lease the Property or Improvements, or any substantial part of either, is taken by eminent domain or by reason of any public improvement or condemnation proceeding, or in any manner by exercise of the right of eminent domain (including any transfer in avoidance of an exercise of the power of eminent domain), or receives irreparable damage by reason of anything lawfully done under color of public or other authority, then (i) this Lease shall terminate as to the entire Building at Landlord's election by written notice given to Tenant within sixty (60) days after the taking has occurred, and (ii) this Lease shall terminate as to the entire Building at Tenant's election, by written notice given to Landlord within thirty (30) days after the nature and extent of the taking have been finally determined, if the portion of the Building taken is of such extent and nature as substantially to handicap, impede or permanently impair Tenant's use of the balance of the Building. If Tenant elects to terminate this Lease, Tenant shall also notify Landlord of the date of termination, which date shall not be earlier than thirty (30) days nor later than ninety (90) days after Tenant has notified Landlord of Tenant's election to terminate, except that this Lease shall terminate on the date of taking if such date falls on any date before the date of termination designated by Tenant. If neither party elects to terminate this Lease as hereinabove provided, this Lease shall continue in full force and effect (except that there shall be an equitable abatement of minimum rental and of Tenant's Operating Cost Share of Operating Expenses based upon the degree to which Tenant's ability to conduct its business in the Building is impaired), Landlord shall restore the Building Shell and Common Area improvements to a complete architectural whole and a functional condition and as nearly as reasonably possible to the condition existing before the taking, and Tenant shall restore the Tenant Improvements and Tenant's other alterations, additions and improvements to a complete architectural whole and a functional condition and as nearly as reasonably possible to the condition existing before the taking. In connection with any such restoration, each party shall use its respective best efforts (including, without limitation, any necessary negotiation or intercession with its respective lender, if any) to ensure that any severance damages or other condemnation awards intended to provide compensation for rebuilding or restoration costs are promptly collected and made available to Landlord and Tenant in portions reasonably corresponding to the cost and scope of their respective restoration obligations, subject only to such payment controls as either party or its lender may reasonably require in order to ensure the proper application of such proceeds toward the restoration of the Improvements. Each party waives the provisions of Code of Civil Procedure Section 1265.130,

allowing either party to petition the Superior Court to terminate this Lease in the event of a partial condemnation of the Building or Property.

(b) The respective obligations of Landlord and Tenant pursuant to Section 15.2(a) are subject to the following limitations:

(i) Each party's obligation to repair and restore shall not exceed, net of any condemnation awards or other proceeds available for and allocable to such restoration as contemplated in Section 15.2(a), an amount equal to five percent (5%) of the replacement cost of the Building Shell and Common Area improvements, as to Landlord, or five percent (5%) of the replacement cost of the Tenant Improvements, as to Tenant; if the replacement cost as to either party exceeds such amount, then the party whose limit has been exceeded may terminate this Lease unless the other party promptly elects and agrees, in writing, to contribute the amount of the shortfall; and

(ii) If this Lease is terminated pursuant to the foregoing provisions of this Section 15.2, or if this Lease remains in effect but any condemnation awards or other proceeds become available as compensation for the loss or destruction of any of the Improvements, then Landlord and Tenant agree (and any Lender shall be asked to agree) that such proceeds shall be allocated between Landlord and Tenant, respectively, in the respective proportions in which Landlord and Tenant would have shared, under Section 15.1(c), the proceeds of any insurance proceeds following loss or destruction of the applicable Improvements by an insured casualty.

15.3 Reservation Of Compensation. Landlord reserves, and Tenant waives and assigns to Landlord, all rights to any award or compensation for damage to the Improvements, the Property and the leasehold estate created hereby, accruing by reason of any taking in any public improvement, condemnation or eminent domain proceeding or in any other manner by exercise of the right of eminent domain or of anything lawfully done by public authority, except that (a) Tenant shall be entitled to any and all compensation or damages paid for or on account of Tenant's moving expenses, trade fixtures and equipment and any leasehold improvements installed by Tenant in the Building at its own sole expense, but only to the extent Tenant would have been entitled to remove such items at the expiration of the term of this Lease and then only to the extent of the then remaining unamortized value of such improvements computed on a straight-line basis over the term of this Lease, and (b) any condemnation awards or proceeds described in Section 15.2(b)(ii) shall be allocated and disbursed in accordance with the provisions of Section 15.2(b)(ii), notwithstanding any contrary provisions of this Section 15.3.

15.4 Restoration Of Improvements. In connection with any repair or restoration of Improvements by either party following a casualty or taking as hereinabove set forth, the party responsible for such repair or restoration shall, to the extent possible, return such Improvements to a condition substantially equal to that which existed immediately prior to the casualty or taking. To the extent such party wishes to make material modifications to such Improvements, such modifications shall be subject to the prior written approval of the other party (not to be unreasonably withheld or delayed), except that no such approval shall be required for modifications that are required by applicable governmental authorities as a condition of the repair or restoration, unless such required modifications would impair or impede Tenant's conduct of its business in the Building (in which case any such modifications in Landlord's work shall require Tenant's consent, not unreasonably withheld or delayed) or would materially and adversely affect the exterior appearance, the structural integrity or the mechanical or other operating systems of the Building (in which case any such modifications in Tenant's work shall require Landlord's consent, not unreasonably withheld or delayed).

16. Š DEFAULT

16.1 Events Of Default. The occurrence of any of the following shall constitute an event of default on the part of Tenant:

(a) [Omitted.]

(b) Nonpayment. Failure to pay, when due, any amount payable to Landlord hereunder, such failure continuing for a period of five (5) business days after written notice of such failure; provided, however, that any such notice shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161 et seq., as amended from time to time;

(c) Other Obligations. Failure to perform any obligation, agreement or covenant under this Lease other than those matters specified in subsection (b) hereof, such failure continuing for thirty (30) days after written notice of such failure; provided, however, that if such failure is curable in nature but cannot reasonably be cured within such 30-day period, then Tenant shall not be in default if, and so long as, Tenant promptly (and in all events within such 30-day period) commences such cure and thereafter diligently pursues such cure to completion; and provided further, however, that any such notice shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161 et seq., as amended from time to time;

(d) General Assignment. A general assignment by Tenant for the benefit of creditors;

(e) Bankruptcy. The filing of any voluntary petition in bankruptcy by Tenant, or the filing of an involuntary petition by Tenant's creditors, which involuntary petition remains undischarged for a period of thirty (30) days. In the event that under applicable law the trustee in bankruptcy or Tenant has the right to affirm this Lease and continue to perform the obligations of Tenant hereunder, such trustee or Tenant shall, in such time period as may be permitted by the bankruptcy court having jurisdiction, cure all defaults of Tenant hereunder outstanding as of the date of the affirmance of this Lease and provide to Landlord such adequate assurances as may be necessary to ensure Landlord of the continued performance of Tenant's obligations under this Lease. Specifically, but without limiting the generality of the foregoing, such adequate assurances must include assurances that the Building continues to be operated only for the use permitted hereunder. The provisions hereof are to assure that the basic understandings between Landlord and Tenant with respect to Tenant's use of the Property and the benefits to Landlord therefrom are preserved, consistent with the purpose and intent of applicable bankruptcy laws;

(f) Receivership. The employment of a receiver appointed by court order to take possession of substantially all of Tenant's assets or the Building, if such receivership remains undissolved for a period of thirty (30) days;

(g) Attachment. The attachment, execution or other judicial seizure of all or substantially all of Tenant's assets or the Building, if such attachment or other seizure remains undismissed or undischarged for a period of thirty (30) days after the levy thereof;

(h) Insolvency. The admission by Tenant in writing of its inability to pay its debts as they become due, the filing by Tenant of a petition seeking any reorganization or arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, the filing by Tenant of an answer admitting or failing timely to contest a material allegation of a petition filed against Tenant in any such proceeding or, if within thirty (30) days after the commencement of any proceeding against Tenant seeking any reorganization or arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed; or

(i) Cross-Default. Any default by Tenant under the Existing Lease, to the extent such default continues beyond any applicable cure periods provided in the Existing Lease and to the extent Landlord therefore has (and exercises concurrently with any termination of this Lease) a right to terminate the Existing 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 Existing Lease if, at the time of such default, any of the following conditions exists: (A) the holder of the landlord's interest under the Existing 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 Existing 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 Existing Lease is subject to one or more outstanding mortgages or deeds of trust, and the other such property either is not subject to any outstanding mortgage or deed of 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.

16.2 Remedies Upon Tenant's Default.

(a) Upon the occurrence of any event of default described in Section 16.1 hereof, Landlord, in addition to and without prejudice to any other rights or remedies it may have, shall have the immediate right to re-enter the Building or any part thereof and repossess the same, expelling and removing therefrom all persons and property (which property may be stored in a public warehouse or elsewhere at the cost and risk of and for the account of Tenant), using such force as may be necessary to do so (as to which Tenant hereby waives any claim for loss or damage that may thereby occur). In addition to or in lieu of such re-entry, and without prejudice to any other rights or remedies it may have, Landlord shall have the right either (i) to terminate this Lease and recover from Tenant all damages incurred by Landlord as a result of Tenant's default, as hereinafter provided, or (ii) to continue this Lease in effect and recover rent and other charges and amounts as they become due.

(b) Even if Tenant has breached this Lease and abandoned the Building, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession under subsection (a) hereof and Landlord may enforce all of its rights and remedies under this Lease, including the right to recover rent as it becomes due, and Landlord, without terminating this Lease, may exercise all of the rights and remedies of a lessor under California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations), or any successor Code section. Acts of maintenance, preservation or efforts to relet

the Building or the appointment of a receiver upon application of Landlord to protect Landlord's interests under this Lease shall not constitute a termination of Tenant's right to possession.

(c) If Landlord terminates this Lease pursuant to this Section 16.2, Landlord shall have all of the rights and remedies of a landlord provided by Section 1951.2 of the Civil Code of the State of California, or any successor Code section, which remedies include Landlord's right to recover from Tenant (i) the worth at the time of award of the unpaid rent and additional rent which had been earned at the time of termination, (ii) the worth at the time of award of the amount by which the unpaid rent and additional rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided, (iii) the worth at the time of award of the amount by which the unpaid rent and additional rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided, and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, the cost of recovering possession of the Building, expenses of reletting, including necessary repair, renovation and alteration of the Building, reasonable attorneys' fees, and other reasonable costs. The "worth at the time of award" of the amounts referred to in clauses (i) and (ii) above shall be computed by allowing interest at ten percent (10%) per annum from the date such amounts accrued to Landlord. The "worth at the time of award" of the amounts referred to in clause (iii) above shall be computed by discounting such amount at one percentage point above the discount rate of the Federal Reserve Bank of San Francisco at the time of award.

16.3 Remedies Cumulative. All rights, privileges and elections or remedies of Landlord contained in this Article 16 are cumulative and not alternative to the extent permitted by law and except as otherwise provided herein.

17.   SUBORDINATION, ATTORNMENT AND SALE

17.1 Subordination To Mortgage. This Lease, and any sublease entered into by Tenant under the provisions of this Lease, shall be subject and subordinate to any ground lease, mortgage, deed of trust, sale/leaseback transaction or any other hypothecation for security now or hereafter placed upon the Building, the Property, or any of them, and the rights of any assignee of Landlord or of any ground lessor, mortgagee, trustee, beneficiary or leaseback lessor under any of the foregoing, and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof; provided, however, that such subordination in the case of any future ground lease, mortgage, deed of trust, sale/leaseback transaction or any other hypothecation for security placed upon the Building, the Property, or any of them shall be conditioned on Tenant's receipt from the ground lessor, mortgagee, trustee, beneficiary or leaseback lessor of a Non-Disturbance Agreement in a form reasonably acceptable to Tenant (i) confirming that so long as Tenant is not in material default hereunder beyond any applicable cure period (for which purpose the occurrence of any event of default under Section 16.1 hereof shall be deemed to be "material"), Tenant's rights hereunder shall not be disturbed by such person or entity and (ii) agreeing that the benefit of such Non-Disturbance Agreement shall be transferable to any transferee under a Permitted Transfer and to any other assignee or subtenant that is acceptable to the ground lessor, mortgagee, trustee, beneficiary or leaseback lessor at the time of transfer. Moreover, Tenant's obligations under this Lease shall be conditioned on Tenant's receipt, within sixty (60) days after the date hereof (provided that Landlord shall have the right to extend such period for up to an additional thirty (30) days in order to continue pursuing receipt of the agreement required hereunder if not received within such initial 60-day period), from The Northwestern Mutual Life Insurance Company, the beneficiary under an existing deed of trust on the Property, of a Non-Disturbance Agreement in a form reasonably acceptable to Tenant confirming (i) that so long as Tenant is not in material default hereunder beyond any applicable cure period (for which purpose the occurrence of any event of default under Section 16.1 hereof shall be deemed to be "material"), Tenant's rights hereunder shall not be disturbed by such person or entity and (ii) agreeing that the benefit of such Non-Disturbance Agreement shall be transferable to any transferee under a Permitted Transfer and to any other assignee or subtenant that is acceptable to the ground lessor, mortgagee, trustee, beneficiary or leaseback lessor at the time of transfer. If any mortgagee, trustee, beneficiary, ground lessor, sale/leaseback lessor or assignee elects to have this Lease be an encumbrance upon the Property prior to the lien of its mortgage, deed of trust, ground lease or leaseback lease or other security arrangement and gives notice thereof to Tenant, this Lease shall be deemed prior thereto, whether this Lease is dated prior or subsequent to the date thereof or the date of recording thereof. Tenant, and any sublessee, shall execute such documents as may reasonably be requested by any mortgagee, trustee, beneficiary, ground lessor, sale/leaseback lessor or assignee to evidence the subordination herein set forth, subject to the conditions set forth above, or to make this Lease prior to the lien of any mortgage, deed of trust, ground lease, leaseback lease or other security arrangement, as the case may be. Upon any default by Landlord in the performance of its obligations under any mortgage, deed of trust, ground lease, leaseback lease or assignment, Tenant (and any sublessee) shall, notwithstanding any subordination hereunder, attorn to the mortgagee, trustee, beneficiary, ground lessor, leaseback lessor or assignee thereunder upon demand and become the tenant of the successor in interest to Landlord, at the option of such successor in interest, and shall execute and deliver any instrument or instruments confirming the attornment herein provided for.

17.2 Sale Of Landlord's Interest. Upon sale, transfer or assignment of Landlord's entire interest in the Building and the Property, Landlord shall be relieved of its obligations hereunder with respect to liabilities accruing from and after the date of such sale, transfer or assignment.

17.3 Estoppel Certificates. Tenant or Landlord (the "responding party"), as applicable, shall at any time and from time to time, within ten (10) days after written request by

the other party (the "requesting party"), execute, acknowledge and deliver to the requesting party a certificate in writing stating: (i) that this Lease is unmodified and in full force and effect, or if there have been any modifications, that this Lease is in full force and effect as modified and stating the date and the nature of each modification; (ii) the date to which rental and all other sums payable hereunder have been paid; (iii) that the requesting party is not in default in the performance of any of its obligations under this Lease, that the certifying party has given no notice of default to the requesting party and that no event has occurred which, but for the expiration of the applicable time period, would constitute an event of default hereunder, or if the responding party alleges that any such default, notice or event has occurred, specifying the same in reasonable detail; and (iv) such other matters as may reasonably be requested by the requesting party or by any institutional lender, mortgagee, trustee, beneficiary, ground lessor, sale/leaseback lessor or prospective purchaser of the Property, or prospective sublessee or assignee of this Lease. Any such certificate provided under this Section 17.3 may be relied upon by any lender, mortgagee, trustee, beneficiary, assignee or successor in interest to the requesting party, by any prospective purchaser, by any purchaser on foreclosure or sale, by any grantee under a deed in lieu of foreclosure of any mortgage or deed of trust on the Property, by any subtenant or assignee, or by any other third party. Failure to execute and return within the required time any estoppel certificate requested hereunder, if such failure continues for five (5) days after a second

written request by the requesting party for such estoppel certificate, shall be deemed to be an admission of the truth of the matters set forth in the form of certificate submitted to the responding party for execution.

17.4 Subordination to CC&R's. This Lease, and any permitted sublease entered into by Tenant under the provisions of this Lease, and the interests in real property conveyed hereby and thereby shall be subject and subordinate to any declarations of covenants, conditions and restrictions affecting the Property from time to time, provided that the terms of such declarations are reasonable, do not materially impair Tenant's ability to conduct the uses permitted hereunder on the Property, and do not discriminate against Tenant relative to other similarly situated tenants occupying portions of the property covered by such declaration(s). Moreover, this Lease, and any permitted sublease entered into by Tenant under the provisions of this Lease, and the interests in real property conveyed hereby and thereby shall also be subject and subordinate (a) to the Declaration of Covenants, Conditions and Restrictions for Pointe Grand Business Park dated November 4, 1991 and recorded on February 25, 1992 as Instrument No. 92025214, Official Records of San Mateo County, as amended from time to time (the "Master Declaration"), the provisions of which Master Declaration are an integral part of this Lease to the extent this sentence is applicable, (b) to the Declaration of Covenants, Conditions and Restrictions dated November 23, 1987 and recorded on November 24, 1987 as Instrument No. 87177987, Official Records of San Mateo County, which declaration imposes certain covenants, conditions and restrictions on the Pointe Grand Business Park, and (c) to the Environmental Restriction and Covenant (Pointe Grand) dated as of April 16, 1997 and recorded on April 16, 1997 as Instrument No. 97-043682, Official Records of San Mateo County, which declaration imposes certain covenants, conditions and restrictions on the Pointe Grand Business Park. Tenant agrees to execute, upon request by Landlord, any documents reasonably required from time to time to evidence such subordination.

17.5 Mortgagee Protection. If, following a default by Landlord under any mortgage, deed of trust, ground lease, leaseback lease or other security arrangement covering the Building, the Property, or any of them, the Buildings and/or the Property, as applicable, is acquired by the mortgagee, beneficiary, master lessor or other secured party, or by any other successor owner, pursuant to a foreclosure, trustee's sale, sheriff's sale, lease termination or other similar procedure (or deed in lieu thereof), then any such person or entity so acquiring the Building and/or the Property shall not be:

(a) liable for any act or omission of a prior landlord or owner of the Property (including, but not limited to, Landlord);

(b) subject to any offsets or defenses that Tenant may have against any prior landlord or owner of the Property (including, but not limited to, Landlord);

(c) bound by any rent or additional rent that Tenant may have paid in advance to any prior landlord or owner of the Property (including, but not limited to, Landlord) for a

period in excess of one month, or by any security deposit, cleaning deposit or other prepaid charge that Tenant may have paid in advance to any prior landlord or owner (including, but not limited to, Landlord), except to the extent such deposit or prepaid amount has been expressly turned over to or credited to the successor owner thus acquiring the Property;

(d) liable for any warranties or representations of any nature whatsoever, whether pursuant to this Lease or otherwise, by any prior landlord or owner of the Property (including, but not limited to, Landlord) with respect to the use, construction, zoning, compliance with laws, title, habitability, fitness for purpose or possession, or physical condition (including, without limitation, environmental matters) of the Property or the Building; or

(e) liable to Tenant in any amount beyond the interest of such mortgagee, beneficiary, master lessor or other secured party or successor owner in the Property as it exists from time to time, it being the intent of this provision that Tenant shall look solely to the interest of any such mortgagee, beneficiary, master lessor or other secured party or successor owner in the Property for the payment and discharge of the landlord's obligations under this Lease and that such mortgagee, beneficiary, master lessor or other secured party or successor owner shall have no separate personal liability for any such obligations.

18.   SECURITY

18.1 Deposit. Within ten (10) days after mutual execution of this Lease, Tenant shall deposit with Landlord the sum of Two Hundred Fifty-Nine Thousand Ninety-Seven and No/100 Dollars ($259,097.00), which sum (the "Security Deposit") shall be held by Landlord as security for the faithful performance of all of the terms, covenants, and conditions of this Lease to be kept and performed by Tenant during the term hereof. If Tenant defaults with respect to any provision of this Lease, including, without limitation, the provisions relating to the payment of rental and other sums due hereunder, Landlord shall have the right, but shall not be required, to use, apply or retain all or any part of the Security Deposit for the payment of rental or any other amount which Landlord may spend or become obligated to spend by reason of Tenant's default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of the Security Deposit is so used or applied, Tenant shall, within ten (10) days after written demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its original amount and Tenant's failure to do so shall be a material breach of this Lease. Landlord shall not be required to keep any deposit under this Section separate from Landlord's general funds, and Tenant shall not be entitled to interest thereon. If Tenant fully and faithfully performs every provision of this Lease to be performed by it, the Security Deposit, or any balance thereof, shall be returned to Tenant or, at Landlord's option, to the last assignee of Tenant's interest hereunder, at the expiration of the term of this Lease and after Tenant has vacated the Property. In the event of termination of Landlord's interest in this Lease, Landlord shall transfer all deposits then held by Landlord under this Section to Landlord's successor in interest, whereupon Tenant agrees to release Landlord from all liability for the return of such deposit or the accounting thereof.

19.   MISCELLANEOUS

19.1 Notices. All notices, consents, waivers and other communications which this Lease requires or permits either party to give to the other shall be in writing and shall be deemed given when delivered personally (including delivery by private courier or express delivery service) or four (4) days after deposit in the United States mail, registered or certified mail, postage prepaid, addressed to the parties at their respective addresses as follows:

To Tenant: Exelixis, Inc.
170 Harbor Way
South San Francisco, CA 94080
Attn: George A. Scangos

with copy to: Cooley Godward LLP
One Maritime Plaza, 20th Floor
San Francisco, CA 94111-3580

Attn: Anna B. Pope, Esq.

To Landlord: Britannia Pointe Grand Limited Partnership
1939 Harrison Street, Suite 715
Park Plaza Building
Oakland, CA 94612
Attn: T. J. Bristow

with copy to: Folger Levin & Kahn LLP
Embarcadero Center West
275 Battery Street, 23rd Floor
San Francisco, CA 94111
Attn: Donald E. Kelley, Jr.

and copy to: Slough Estates USA Inc.
33 West Monroe Street, Suite 2000
Chicago, IL 60603
Attn: William Rogalla

or to such other address as may be contained in a notice at least fifteen (15) days prior to the address change from either party to the other given pursuant to this Section. Rental payments and other sums required by this Lease to be paid by Tenant shall be delivered to Landlord at Landlord's address provided in this Section, or to such other address as Landlord may from time to time specify in writing to Tenant, and shall be deemed to be paid only upon actual receipt.

19.2 Successors And Assigns. The obligations of this Lease shall run with the land, and this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that the original Landlord named herein and each successive Landlord under this Lease shall be liable only for obligations accruing during the period of its ownership of the Property, and any liability for obligations accruing after termination of such ownership shall terminate as of the date of such termination of ownership and shall pass to the successor lessor.

19.3 No Waiver. The failure of Landlord to seek redress for violation, or to insist upon the strict performance, of any covenant or condition of this Lease shall not be deemed a waiver of such violation, or prevent a subsequent act which would originally have constituted a violation from having all the force and effect of an original violation.

19.4 Severability. If any provision of this Lease or the application thereof is held to be invalid or unenforceable, the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each of the provisions of this Lease shall be valid and enforceable, unless enforcement of this Lease as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would materially frustrate the purposes of this Lease.

19.5 Litigation Between Parties. In the event of any litigation or other dispute resolution proceedings between the parties hereto arising out of or in connection with this Lease, the prevailing party shall be reimbursed for all reasonable costs, including, but not limited to, reasonable accountants' fees and attorneys' fees, incurred in connection with such proceedings (including, but not limited to, any appellate proceedings relating thereto) or in connection with the enforcement of any judgment or award rendered in such proceedings. "Prevailing party" within the meaning of this Section shall include, without limitation, a party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached or consideration substantially equal to the relief sought in the action.

19.6 Surrender. A voluntary or other surrender of this Lease by Tenant, or a mutual termination thereof between Landlord and Tenant, shall not result in a merger but shall, at the option of Landlord, operate either as an assignment to Landlord of any and all existing subleases and subtenancies, or a termination of all or any existing subleases and subtenancies.

This provision shall be contained in any and all assignments or subleases made pursuant to this Lease.

19.7 Interpretation. The provisions of this Lease shall be construed as a whole, according to their common meaning, and not strictly for or against Landlord or Tenant. The captions preceding the text of each Section and subsection hereof are included only for convenience of reference and shall be disregarded in the construction or interpretation of this Lease.

19.8 Entire Agreement. This written Lease, together with the exhibits hereto, contains all the representations and the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are replaced in total by this Lease and the exhibits hereto. This Lease may be modified only by an agreement in writing signed by each of the parties.

19.9 Governing Law. This Lease and all exhibits hereto shall be construed and interpreted in accordance with and be governed by all the provisions of the laws of the State of California.

19.10 No Partnership. The relationship between Landlord and Tenant is solely that of a lessor and lessee. Nothing contained in this Lease shall be construed as creating any type or manner of partnership, joint venture or joint enterprise with or between Landlord and Tenant.

19.11 Financial Information. From time to time Tenant shall promptly provide directly to prospective lenders and purchasers of the Property designated by Landlord such financial information pertaining to the financial status of Tenant as Landlord may reasonably request; provided, Tenant shall be permitted to provide such financial information in a manner which Tenant deems reasonably necessary to protect the confidentiality of such information. In addition, from time to time, Tenant shall provide Landlord with such financial information pertaining to the financial status of Tenant as Landlord may reasonably request. Landlord agrees that all financial information supplied to Landlord by Tenant shall be treated as confidential material, and shall not be disseminated to any party or entity (including any entity affiliated with Landlord) without Tenant's prior written consent, except that Landlord shall be entitled to provide such information, subject to reasonable precautions to protect the confidential nature thereof, (i) to Landlord's partners and professional advisors, solely to use in connection with Landlord's execution and enforcement of this Lease, and (ii) to prospective lenders and/or purchasers of the Property, solely for use in connection with their bona fide consideration of a proposed financing or purchase of the Property, provided that such prospective lenders and/or purchasers are not then engaged in businesses directly competitive with the business then being conducted by Tenant. For purposes of this Section, without limiting the generality of the obligations provided herein, it shall be deemed reasonable for Landlord to request copies of Tenant's most recent audited annual financial statements, or, if audited statements have not been prepared, unaudited financial statements for Tenant's most recent fiscal year, accompanied by a certificate of Tenant's chief financial officer that such financial statements fairly present Tenant's financial condition as of the date(s) indicated. Notwithstanding any other provisions of this Section 19.11, during any period in which Tenant has outstanding a class of publicly traded securities and is filing with the Securities and Exchange Commission, on a regular basis, Forms 10Q and 10K and any other periodic filings required under the Securities Exchange Act of 1934, as amended, it shall constitute sufficient compliance under this Section 19.11 for Tenant to furnish Landlord with copies of such periodic filings substantially concurrently with the filing thereof with the Securities and Exchange Commission.

Landlord and Tenant recognize the need of Tenant to maintain the confidentiality of information regarding its financial status and the need of Landlord to be informed of, and to provide to prospective lenders and purchasers of the Property financial information pertaining to, Tenant's financial status. Landlord and Tenant agree to cooperate with each other in achieving these needs within the context of the obligations set forth in this Section.

19.12 Costs. If Tenant requests the consent of Landlord under any provision of this Lease for any act that Tenant proposes to do hereunder, including, without limitation, assignment or subletting of the Building or any portion thereof, Tenant shall, as a condition to

doing any such act and the receipt of such consent, reimburse Landlord promptly for any and all reasonable costs and expenses incurred by Landlord in connection therewith, including, without limitation, reasonable attorneys' fees, up to a maximum of $2,500.00 per request.

19.13 Time. Time is of the essence of this Lease, and of every term and condition hereof.

19.14 Rules And Regulations. Tenant shall observe, comply with and obey, and shall cause its employees, agents and, to the best of Tenant's ability, invitees to observe, comply with and obey such rules and regulations as Landlord may reasonably promulgate from time to time for the safety, care, cleanliness, order and use of the Improvements, the Building and the Property.

19.15 Brokers. Landlord agrees to pay a brokerage commission to Tenant's broker, Cornish & Carey Commercial, in connection with the consummation of this Lease in accordance with a separate agreement. Each party represents and warrants that no other broker participated in the consummation of this Lease and agrees to indemnify, defend and hold the other party harmless against any liability, cost or expense, including, without limitation, reasonable attorneys' fees, arising out of any claims for brokerage commissions or other similar compensation in connection with any conversations, prior negotiations or other dealings by the indemnifying party with any other broker.

19.16 Memorandum Of Lease. At any time during the term of this Lease, either party, at its sole expense, shall be entitled to record a memorandum of this Lease and, if either party so elects, both parties agree to cooperate in the preparation, execution, acknowledgement and recordation of such document in reasonable form.

19.17 Corporate Authority. Each of the persons signing this Lease on behalf of Tenant warrants that he or she is fully authorized to do so and, by jointly so signing, to bind Tenant.

19.18 Execution and Delivery. This Lease 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.

19.19 Survival. Without limiting survival provisions which would otherwise be implied or construed under applicable law, the provisions of Sections 2.5, 7.4, 9.2, 9.3, 9.4, 11.6, 12.6 and 19.5 hereof shall survive the termination of this Lease with respect to matters occurring prior to the expiration of this Lease.

19.20 Parking. Landlord and Tenant agree that the Common Areas, taken as a whole, shall include parking in amounts sufficient to satisfy the minimum parking requirements of the City of South San Francisco applicable to the Property and the Britannia Pointe Grand Business Park from time to time. Landlord represents to Tenant that under the most current drawings at this date for the complete build-out of the Property and the Britannia Pointe Grand Business Park, the overall rate of parking is approximately 3.00 spaces for each 1,000 square feet of space in the various buildings presently existing or presently contemplated for construction on the Property and in the remainder of the Britannia Pointe Grand Business Park.

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IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first set forth above

"Landlord" "Tenant"

BRITANNIA POINTE GRAND LIMITED PARTNERSHIP, a Delaware limited partnership

By: BRITANNIA 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

EXELIXIS, INC., a Delaware corporation

By: /s/ George A. Scangos
George A. Scangos
President and CEO

By: /s/ Glen Y. Sato
Its: CFO

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE ("Second Amendment") is entered into as of July 20, 2004 between BRITANNIA POINTE GRAND LIMITED PARTNERSHIP, a Delaware limited partnership ("Landlord") and EXELIXIS, INC., a Delaware corporation ("Tenant"), with reference to the following facts:

A. Landlord and Tenant are parties to a Lease dated as of May 24, 2001, as amended by a First Amendment to Lease dated as of February 28, 2003 (as amended, the "Lease"), covering the building commonly known as 240 East Grand Avenue, South San Francisco, California (the "Premises") in the Britannia Pointe Grand Business Park. Terms used in this Second Amendment as defined terms but not actually defined herein shall have the meanings assigned to such terms in the Lease.

B. In connection with Tenant's subleasing of certain other premises in the Britannia Pointe Grand Business Park from Sugen, Inc. as sublandlord, Landlord and Tenant are entering into this Second Amendment to confirm and implement their agreement to certain modifications of the rental schedule under the Lease, as more particularly set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree that the Lease is amended as follows, effective as of the date first set forth above:

1. Revised Minimum Rental Schedule. The schedule of monthly minimum rental set forth in Section 3.1(a) of the Lease is modified to read as follows with respect to Months 23 through 118 (reflecting a reduction and deferral of $60,964.00 per month [$1.00 per square foot per month] for the three-year period constituting Months 23 through 58 and a recovery of such deferred rent, without interest, in equal monthly installments of $36,478.40 per month over the five-year period constituting Months 59 through 118):

Months	Monthly Minimum Rental
023-024	$ 208,510.14/mo
025-036	219,289.11/mo
037-048	230,499.23/mo
049-058	242,157.76/mo
059-060	339,600.16/mo
061-072	351,725.03/mo
073-084	364,334.89/mo
085-096	377,449.15/mo
097-108	391,087.98/mo
109-118	405,272.37/mo

For all other Months during the initial term of the Lease, monthly minimum rental shall remain as presently set forth in Section 3.1(a) of the Lease.

2. Execution and Delivery. This Second Amendment may be executed in one or more counterparts and by separate parties on separate counterparts, effective when each party has executed at least one such counterpart or separate counterpart, but each such counterpart shall constitute an original and all such counterparts together shall constitute one and the same instrument.

3. 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, Landlord and Tenant have executed this Second Amendment as of the date first set forth above.

"Landlord"

BRITANNIA POINTE GRAND LIMITED PARTNERSHIP, a Delaware limited partnership

By: Slough Pointe Grand Incorporated, a Delaware corporation, Its General Partner

By: /s/ Randall W Rohner
Name: Randall W Rohner
Title: Vice President

"Tenant"

EXELIXIS, INC., a Delaware corporation

By: /s/ Frank Karbe
Name: Frank Karbe
Title: Chief Financial Officer

By: _____
Name: _____
Title: _____

EXHIBIT 31.1

CERTIFICATION

I, George A. Scangos, Ph.D., Chief Executive Officer of Exelixis, Inc., certify that:

1. I have reviewed this quarterly report on Form 10-Q of Exelixis, Inc.;

2. Based on my knowledge, this quarterly 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)) 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) 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

c) 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 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 registrant's board of directors (or persons performing the equivalent functions):

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

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

Date: August 5, 2004

/s/ George A. Scangos
George A. Scangos
President and Chief Executive Officer

EXHIBIT 31.2

CERTIFICATION

I, Frank Karbe, Chief Financial Officer of Exelixis, Inc., certify that:

1. I have reviewed this quarterly report on Form 10-Q of Exelixis, Inc.;

2. Based on my knowledge, this quarterly 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)) 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) 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

c) 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 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 registrant's board of directors (or persons performing the equivalent functions):

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

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

Date: August 5, 2004

/s/ Frank Karbe
Frank Karbe
Senior Vice President, Chief Financial Officer

EXHIBIT 32.1

CERTIFICATION

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350), George A Scangos, Chief Executive Officer of Exelixis, Inc. (the "Company"), and Frank Karbe, Chief Financial Officer of the Company, each hereby certifies, to his knowledge, that:

1. The Company's Quarterly Report on Form 10-Q for the period ended June 30, 2004 (the "Periodic Report"), to which this Certification is attached as Exhibit 32.1, fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act; and

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

In Witness Whereof, the undersigned have set their hands hereto as of the 5th day of August 2004.

/s/ George A. Scangos	/s/ Frank Karbe
George A. Scangos, Ph.D.	Frank Karbe
Chief Executive Officer	Chief Financial Officer
(Principal Executive Officer)	(Principal Financial Officer)