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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, 2005

Or

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

For the transition period from _____ to _____

Commission File Number: 0-30235

Exelixis, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**04-3257395**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification 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 ☐

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

On July 29, 2005, there were 76,565,908 shares of common stock, par value $.001 per share, of Exelixis, Inc. outstanding.

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EXELIXIS, INC.

QUARTERLY REPORT ON FORM 10-Q
FOR THE QUARTERLY PERIOD ENDED JUNE 30, 2005

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ITEM 1. FINANCIAL STATEMENTS

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

	June 30, 2005 (unaudited)	December 31, 2004 [1]
ASSETS		
Current assets:		
Cash and cash equivalents	$ 104,821	$ 78,105
Short-term investments	42,682	77,078
Investments held by Symphony Evolution, Inc.	40,005	—
Other receivables	4,512	4,424
Prepaid expense and other current assets	5,891	4,350
Total current assets	197,911	163,957
Restricted cash and investments	14,753	16,040
Property and equipment, net	36,965	35,463
Related-party receivables	9	51
Goodwill	67,364	67,364
Other intangibles, net	3,968	4,512
Other assets	4,175	3,953
Total assets	$ 325,145	$ 291,340
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 3,565	$ 5,931
Other accrued expenses	10,489	12,012
Accrued compensation and benefits	5,449	6,297
Current portion of capital lease obligations	731	1,931
Current portion of notes payable and bank obligations	9,162	8,928
Convertible promissory note	30,000	—
Deferred revenue	32,497	28,697
Total current liabilities	91,893	63,796
Capital lease obligations	—	98
Notes payable and bank obligations	22,380	21,398
Convertible promissory loans	85,000	115,000
Other long-term liabilities	10,949	7,995
Deferred revenue	52,709	32,382
Total liabilities	262,931	240,669
Noncontrolling interest in Symphony Evolution, Inc.	33,729	—
Commitments		
Stockholders' equity:		
Common stock	77	75
Additional paid-in-capital	584,045	569,345
Accumulated other comprehensive income	844	624
Accumulated deficit	(556,481)	(519,373)
Total stockholders' equity	28,485	50,671
Total liabilities and stockholders' equity	$ 325,145	$ 291,340

[1] The condensed consolidated balance sheet at December 31, 2004 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,	
	2005	2004	2005	2004
Revenues:				
Contract	$ 24,954	$ 9,431	$ 35,044	$ 18,195
License	9,356	3,128	12,140	6,256
Total revenues	34,310	12,559	47,184	24,451
Operating expenses:				
Research and development	36,568	34,416	69,889	68,640
General and administrative	7,112	4,702	13,354	10,278
Amortization of intangibles	272	167	544	333
Restructuring charge	—	1,738	—	2,275
Acquired in-process research and development	—	395	—	395
Total operating expenses	43,952	41,418	83,787	81,921
Loss from operations	(9,642)	(28,859)	(36,603)	(57,470)
Other income (expense):				
Interest income	1,046	782	1,974	1,698
Interest expense	(1,545)	(1,221)	(3,097)	(2,454)
Other income (expense), net	16	7	190	92
Total other income (expense)	(483)	(432)	(933)	(664)
Loss before noncontrolling interest	(10,125)	(29,291)	(37,536)	(58,134)
Loss attributed to noncontrolling interest	429	—	429	—
Net loss	$ (9,696)	$ (29,291)	$ (37,107)	$ (58,134)
Net loss per share, basic and diluted	$ (0.13)	$ (0.41)	$ (0.49)	$ (0.81)
Shares used in computing basic and diluted net loss per share	76,405	72,011	76,162	71,762

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

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

	Six Months Ended June 30,	
	2005	2004
Cash flows from operating activities:		
Net loss	$ (37,107)	$ (58,134)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	8,256	8,575
Loss attributed to noncontrolling interest	(429)	—
Stock compensation expense	7	75
Non-cash portion of restructuring charge	—	(150)
Acquired in-process research and development	—	395
Amortization of intangibles	544	333
Gain on the sale of equipment	(138)	—
Other	289	54
Changes in assets and liabilities:		
Other receivables	(184)	1,865
Prepaid expense and other current assets	(1,594)	(1,764)
Related-party receivables	42	102
Other assets	(1,078)	(1,123)
Accounts payable and other accrued expenses	(3,463)	(4,790)
Other long-term liabilities	2,953	1,100
Deferred revenue	24,363	(9,695)
Net cash used in operating activities	(7,539)	(63,157)
Cash flows from investing activities:		
Cash received from acquisition, net of cash paid	—	860
Purchases of investments held by Symphony Evolution, Inc.	(40,005)	—
Purchases of property and equipment	(8,260)	(7,074)
Proceeds on sale of equipment	153	—
Change in restricted cash and investments	1,287	(2,796)
Proceeds from maturities of short-term investments	70,538	54,080
Purchases of short-term investments	(36,881)	(54,156)
Net cash used in investing activities	(13,168)	(9,086)
Cash flows from financing activities:		
Proceeds from issuance of common stock, net	8,854	—
Proceeds from exercise of stock options, net of repurchases	663	1,989
Proceeds from employee stock purchase plan	1,116	1,166
Repayment of notes from stockholders	—	53
Payments on capital lease obligations	(1,298)	(2,974)
Proceeds from notes payable and bank obligations	6,618	1,909
Principal payments on notes payable and bank obligations	(5,402)	(2,717)
Proceeds from purchase of noncontrolling interest by preferred shareholders in Symphony Evolution, Inc., net of fees	37,000	—
Net cash provided by (used in) financing activities	47,551	(574)
Effect of foreign exchange rates on cash and cash equivalents	(128)	(87)
Net increase (decrease) in cash and cash equivalents	26,716	(72,904)
Cash and cash equivalents, at beginning of period	78,105	111,828
Cash and cash equivalents, at end of period	$104,821	$ 38,924
Supplemental cash flow disclosure:		
Warrants issued in conjunction with the Symphony Evolution, Inc. transaction	$ (2,842)	$ —

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

EXELIXIS, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
JUNE 30, 2005
(unaudited)

NOTE 1 Organization and Summary of Significant Accounting Policies

Organization

Exelixis, Inc. ("Exelixis," "we," "our," or "us") is a biotechnology company whose primary mission is to use its biological expertise and integrated drug discovery capabilities to develop high-quality, differentiated pharmaceutical products in the treatment of cancer, metabolic disorders, cardiovascular disease and other serious diseases. Our research is designed to identify important genes and proteins that, when expressed at altered levels, either decrease or increase the activity of 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. Our most advanced pharmaceutical programs focus on drug discovery and development of small molecules in cancer, metabolic disorders, cardiovascular disease and other serious diseases. We use our drug discovery and medicinal chemistry capabilities to identify lead compounds against important targets that are validated and modified into candidates for clinical development. We believe that our proprietary technologies and drug discovery engine are also valuable to other industries whose products can be enhanced by an understanding of the DNA or proteins, including the agrochemical, agricultural and diagnostic industries.

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared 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 U.S. generally accepted accounting principles for complete financial statements. In our opinion, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation of the results of operations and cash flows for the periods presented have been included. Operating results for the three- and six-month periods ended June 30, 2005 are not necessarily indicative of the results that may be expected for the year ended December 31, 2005 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, 2004 included in our Annual Report on Form 10-K filed with the SEC on March 15, 2005.

Basis of Consolidation

The condensed consolidated financial statements include the accounts of Exelixis and our wholly owned subsidiaries as well as one variable interest entity, Symphony Evolution, Inc., for which we are the primary beneficiary as defined in January 2003, by Financial Accounting Standards Board ("FASB") Interpretation No. 46 (revised 2003), *Consolidation of Variable Interest Entities* ("FIN 46R"). All significant inter-company balances and transactions have been eliminated. We record our minority ownership interest in Genoptera LLC using the equity method of accounting.

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, adjusted for shares that are subject to repurchase. The calculation of diluted net loss per share excludes potential common stock because its effect is antidilutive. Potential common stock consists of incremental common shares issuable upon the exercise of stock options and warrants and shares issuable upon conversion of the convertible promissory note and loans.

Stock-Based Compensation

We recognize 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* ("APB 25") and related interpretations. Accordingly, no compensation expense is recognized in our condensed consolidated financial statements for the stock options granted to employees, which 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 net loss per share if we had applied the fair value recognition provisions of the Statement of Financial Accounting Standard No. 123, *Accounting for Stock-Based Compensation* ("SFAS 123"), as amended by SFAS No. 148, *Accounting for Stock-Based Compensation – Transition and Disclosure – an amendment of FASB Statement No. 123* ("SFAS 148") (in thousands, except per share amounts):

	Three Months Ended June 30,	
	2005	2004
Net loss:		
As reported	$ (9,696)	$ (29,291)
Add: Stock-based employee compensation expense included in reported net loss	—	40
Deduct: Total stock-based employee compensation expense determined under fair value method for all awards	(2,363)	(3,638)
Pro forma net loss	$ (12,059)	$ (32,889)
Net loss per share (basic and diluted):		
As reported	$ (0.13)	$ (0.41)
Pro forma	$ (0.16)	$ (0.46)

	Six Months Ended June 30,	
	2005	2004
Net loss:		
As reported	$ (37,107)	$ (58,134)
Add: Stock-based employee compensation expense (reversal) included in reported net loss	(16)	72
Deduct: Total stock-based employee compensation expense determined under fair value method for all awards	(6,784)	(9,219)
Pro forma net loss	$ (43,907)	$ (67,281)
Net loss per share (basic and diluted):		
As reported	$ (0.49)	$ (0.81)
Pro forma	$ (0.58)	$ (0.94)

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, 2005 and 2004 is not necessarily representative of the pro forma effects on the results of operations for future periods.

Recent Accounting Pronouncements

In December 2004, the FASB issued SFAS No. 123 (revised 2004), *Share-Based Payment* ("SFAS 123R"), which replaces SFAS 123 and supersedes APB 25. SEC registrants were originally required to adopt SFAS 123R's provisions effective the first reporting period beginning after June 15, 2005. However, on April 14, 2005, the SEC announced that the registrants could delay adoption of SFAS 123R's provisions until the beginning of the next fiscal year, which makes SFAS

123R effective for Exelixis in the first quarter of 2006. The pro forma disclosures previously permitted under SFAS 123 no longer will be an alternative to financial statement recognition. Under SFAS 123R, we must determine the appropriate fair value model to be used for valuing share-based payments, the amortization method for compensation cost and the transition method to be used at date of adoption. The transition methods include a modified retrospective method and a modified prospective method. Under the modified retrospective method, prior periods are restated for all periods presented and compensation expense must be recorded for all unvested stock options and restricted stock beginning with the first period restated. Under the modified prospective method, compensation expense must be recorded for all unvested stock options and restricted stock at the beginning of the first quarter of the adoption of SFAS 123R.

We are evaluating the requirements of SFAS 123R and expect that the adoption of SFAS 123R will have a material impact on our consolidated results of operations and net loss per share. We have not yet determined the method of adoption or the effect of adopting SFAS 123R nor whether the adoption will result in amounts that are similar to our current pro forma disclosures under SFAS 123.

NOTE 2 Comprehensive Income (Loss)

Comprehensive income (loss) represents net income (loss) plus the results of certain stockholders' equity changes, which are comprised of unrealized gains and losses on available-for-sale securities and cumulative translation adjustments, not reflected in the consolidated statements of operations. Comprehensive income (loss) for the three- and six-month periods ended June 30, 2005 and 2004 were as follows (in thousands):

	Three Months Ended June 30,	
	2005	2004
Net loss	$ (9,696)	$ (29,291)
Increase (decrease) in unrealized gains on available-for-sale securities	207	(870)
Increase in cumulative translation adjustment	105	17
Comprehensive loss	$ (9,384)	$ (30,144)

	Six Months Ended June 30,	
	2005	2004
Net loss	$ (37,107)	$ (58,134)
Decrease in unrealized gains on available-for-sale securities	(29)	(695)
Increase (decrease) in cumulative translation adjustment	249	(48)
Reclassification of cumulative translation adjustment to income	—	(228)
Comprehensive loss	$ (36,887)	$ (59,105)

NOTE 3 Restructurings

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. We accounted for the restructuring activity in accordance with SFAS No. 146, *Accounting for Costs Associated with Exit or Disposal Activities* ("SFAS 146"). 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 primarily of involuntary termination benefits. As of March 31, 2005, all amounts under this restructuring liability had been fully paid. The restructuring liabilities as of December 31, 2004 were included under the caption "Other Accrued Expenses" on the balance sheet and are summarized in the following table (in thousands):

	Restructuring Liability at December 31, 2004	Cash Payments	Restructuring Liability at March 31, 2005
Severance and benefits	$ 59	$ (59)	$ —
Legal and other fees	48	(48)	—
	$ 107	$ (107)	$ —

2003 Restructuring Charges

During the third quarter of 2003, we implemented a worldwide 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 location and relocation of certain research activities and employees from Tübingen to South San Francisco. We recorded a cumulative charge of approximately $1.5 million to date in accordance with SFAS 146, of which approximately $0.5 million and $1.0 million was recorded during the years ended December 31, 2004 and 2003, respectively. The restructuring plan was substantially complete as of March 31, 2004. This charge primarily consists of severance payments, retention bonuses, relocation costs, lease buyout costs and legal and outplacement services fees. As of June 30, 2005, all amounts under this restructuring liability had been fully paid. The restructuring liabilities as of December 31, 2004 were included under the caption "Other Accrued Expenses" on the balance sheet and are summarized in the following table (in thousands):

	Restructuring Liability at December 31, 2004	Cash Payments	Restructuring Liability at June 30, 2005
Severance and benefits	$ 31	$ (31)	$ —
Legal and other fees	45	(45)	—
Lease buyout costs	66	(66)	—
	$ 142	$ (142)	$ —

NOTE 4 GlaxoSmithKline Collaboration

In October 2002, Exelixis and SmithKlineBeecham Corporation, which does business as GlaxoSmithKline, established a collaboration to discover and develop novel therapeutics in the areas of vascular biology, inflammatory disease and oncology. The collaboration involved three agreements: (a) a Product Development and Commercialization Agreement ("PDA"); (b) a Stock Purchase and Stock Issuance Agreement ("SPA"); and (c) a Loan and Security Agreement.

In January 2005, we amended the terms of our collaboration with GlaxoSmithKline. Under the original PDA, an option period commenced in October 2004 during which GlaxoSmithKline was required to elect a pre-defined limited or expanded program option. The terms of the amended PDA reflect GlaxoSmithKline's decision to select a modified program election that is neither the limited nor the expanded option envisioned in the original PDA. If GlaxoSmithKline had elected the limited program option, then GlaxoSmithKline would have been able to select up to 12 targets, along with the respective compounds directed against those targets, which would have narrowed the focus of further work under the collaboration. If GlaxoSmithKline had elected the expanded program option, there would not be a narrowing of focus, and all of the collaboration targets, and their respective compounds, would have remained in the collaboration. Under the amended PDA, GlaxoSmithKline selected a modified program election through which the focus of the collaboration is shifted to 12 internal programs at various stages of development (XL784, XL647, XL999, XL880, XL184, XL820, XL844 and five earlier stage oncology programs). Each program centers on compounds that are directed against one or more targets identified in the collaboration. Under the modified program, GlaxoSmithKline has the right to select from these programs up to two compounds at proof-of-concept (completion of Phase 2a clinical trial) or three compounds if GlaxoSmithKline extends the collaboration. If GlaxoSmithKline selects three compounds, we could receive up to approximately $240.0 million in acceptance milestones. Prior to the end of a specified development term, GlaxoSmithKline retains exclusivity rights to the approximately 32 specified targets that are encompassed by the 12 programs. However, we retain rights to all compounds not encompassed by the 12 programs selected by GlaxoSmithKline and may work on any targets with the exception of the approximately 32 targets subject to the exclusivity.

The terms of the amended PDA allow us to use third-party financing vehicles to fund the further clinical development of our compounds XL784, XL647 and XL999 but any such compounds developed through clinical financing vehicles continue to be subject to GlaxoSmithKline's compound selection rights. In June 2005, we entered into a transaction to fund the clinical development of XL784, XL647 and XL999 through Symphony Evolution, Inc., a third-party financing vehicle.

Under the amended PDA, GlaxoSmithKline was required to pay us a new $30.0 million milestone upon (i) the filing of investigational new drug applications ("INDs") for three out of four compounds (XL880, XL184, XL820 and XL844) prior to the end of 2005 or (ii) the successful completion in 2005 of a Phase 1 clinical trial for one of these four compounds. In May 2005, we filed the third of three INDs required by the amended PDA to achieve the $30.0 million milestone, which we received from GlaxoSmithKline in May 2005. The revenue from this milestone is being recognized over the terms of the amended PDA on a straight-line basis from January 2005 to November 2009. In return for the new $30.0 million milestone, GlaxoSmithKline will receive a $30.0 million credit and a specified reduction against the first acceptance milestone as well

as a temporary reduction in the royalty rate it owes us on net sales of products developed under the collaboration. If the acceptance milestone is less than the $30.0 million credit and the specified reduction, then the remaining balance will reduce any future product commercialization milestones that GlaxoSmithKline owes to us. Under the amended PDA, GlaxoSmithKline also was obligated to pay us a new $5.0 million milestone upon achieving specified progress with respect to certain other candidates. In May 2005, we submitted two new development candidates to GlaxoSmithKline, thereby triggering the additional $5.0 million milestone, which we received in May 2005. Under the original PDA, GlaxoSmithKline would have paid the first milestone upon its selection of a compound that had completed proof-of-concept for further development. We may also receive additional development related milestones and royalties on product sales and have certain co-promotion rights to products in North America. In addition, under the amended PDA, GlaxoSmithKline is obligated to provide research funding of $47.5 million over the remaining three-year term of the collaboration.

Pursuant to the terms of the original SPA and as a result of its modified program election, GlaxoSmithKline purchased an additional 1.0 million shares of our common stock in January 2005 at an aggregate purchase price of approximately $11.1 million, of which $2.2 million was a premium to the then fair value of the shares. We have no further option to sell, and GlaxoSmithKline has no further obligation to purchase, additional shares of our common stock. The premium portion of the equity purchase has been deferred and is being recognized as revenue over the development term.

NOTE 5 Genoptera Collaboration

In March 2005, Exelixis, BayerCropScience LP (“Bayer”) and Genoptera LLC (“Genoptera”) agreed to amend the terms of the collaboration agreement, dated January 1, 2000, among Exelixis, Bayer and Genoptera. Exelixis and Bayer formed Genoptera, a joint venture focused on the discovery of novel insecticides and nematicides for crop protection, in January 2000. The amended agreement provides for an early termination of the research term and requires Bayer to acquire our 40% ownership interest in Genoptera within six months after the termination of the research term. The amended agreement also requires Bayer to pay us an early termination fee of $10.9 million, which was paid in April 2005.

During the three months ended June 30, 2005, the final knowledge transfer was completed, and we recognized $21.1 million in revenues, which included an early termination fee paid in April 2005, and accelerated recognition of deferred revenues related to upfront payments and milestones. Pursuant to the terms of the amended agreement, Bayer, through Genoptera, will have exclusive rights in the field of agriculture to assays, compounds and products developed under the collaboration and we will have exclusive rights in all other fields. In addition, the obligations of Bayer to fund further research ceased and we have no further obligations to perform research.

NOTE 6 Genentech Collaboration

In May 2005, Exelixis and Genentech, Inc. (“Genentech”) established a collaboration to discover and develop therapeutics for the treatment of cancer, inflammatory diseases, and tissue growth and repair. Under the terms of the agreement, we have granted to Genentech a license to certain intellectual property.

Under the agreement, Genentech will have primary responsibility in the field of cancer for research and development activities as well as rights for commercialization of any products. In the fields of inflammation and tissue growth and repair, we will initially have primary responsibility for research activities. The research term under the agreement is three years and may be extended upon mutual consent for one-year terms. Genentech has agreed to make an upfront payment as well as provide research and development funding over the three-year research term, totaling in the aggregate $16.0 million of which we received $7.3 million in June 2005. After the expiration of the research term, we will have the option to elect to share a portion of the costs and profits associated with the development, manufacturing and commercialization of products in the field of inflammatory diseases or the field of tissue growth and repair. For products that we do not elect as cost/profit share products within these two fields, we may also receive milestone and royalty payments.

NOTE 7 Helsinn Healthcare S.A.

In June 2005, Exelixis and Helsinn Healthcare S.A. (“Helsinn”) entered into a license agreement for the development and commercialization of XL119 (becatecarin). Under the terms of the agreement, we have granted to Helsinn an exclusive worldwide, royalty bearing license to XL119. We have retained the option to reacquire the commercial rights to XL119 for North America for use in the indications of gall bladder cancer and bile duct tumors. If we decide to exercise the option, we have the right to negotiate with Helsinn to reach an agreement on commercially reasonable terms and conditions to reacquire the commercial rights to XL119 for North America for use in the indications of gall bladder cancer and bile duct tumors. Under the agreement, Helsinn is obligated to pay us a nonrefundable upfront payment in the amount of $4.0 million and

additional development and commercialization milestones of up to $21.0 million, as well as royalties on worldwide sales. Helsinn will also assume all future costs incurred for the ongoing multi-national Phase 3 clinical trial for XL119.

Beginning in June 2006, if Helsinn determines based on reasonable business judgment from scientific or economic evidence, that it is unable to carry out further development or marketing of XL119, it may terminate the license agreement upon six months' prior written notice. In addition, if we fail to supply Helsinn with certain clinical trial materials by the end of April 2006 and such failure prevents Helsinn from enrolling additional patients or from maintaining the then-current enrollment in the ongoing Phase 3 clinical trial, then Helsinn may terminate the license agreement or elect to continue the agreement at a reduced royalty rate.

NOTE 8 Symphony Evolution, Inc.

On June 9, 2005 ("Closing Date"), we entered into a series of related agreements providing for the financing of the clinical development of XL784, XL647 and XL999 (the "Programs"). Pursuant to these agreements, we have licensed to Symphony Evolution, Inc., ("SEI") our intellectual property rights related to the Programs. SEI has agreed to invest up to $80.0 million to fund the clinical development of the Programs. We will continue to be primarily responsible for the development of the Programs. SEI is a wholly owned subsidiary of Symphony Evolution Holdings LLC ("Holdings"), which has provided $40.0 million in funding to SEI at closing. Upon a second capital call by SEI, Holdings will fund at least an additional $20.0 million and not more than $40.0 million within one year of the Closing Date. In connection with the execution of these agreements, we paid to Symphony Capital LLC $3.0 million in structuring fees. This amount has been recorded as a deduction to the noncontrolling interest in SEI.

In accordance with FIN 46R, we have determined that SEI is a variable interest entity for which we are the primary beneficiary. As a result, we will include the financial condition and results of operations of SEI in our condensed consolidated financial statements. Accordingly, we have deducted the losses borne by the noncontrolling interest from the consolidated entity's net loss and we reduced the noncontrolling interest holders' investment balance by SEI's losses. For the three month period ended June 30, 2005, the losses attributed to the noncontrolling interest were $0.4 million.

Pursuant to the agreements, we have received an exclusive purchase option (the "Purchase Option") that gives us the right to acquire all of the equity of SEI, thereby allowing us to reacquire all of the Programs. This Purchase Option is exercisable at any time, beginning on the one-year anniversary of the Closing Date and ending on the four-year anniversary of the Closing Date (subject to an earlier exercise right in limited circumstances) at an exercise price equal to the sum of (a) the total amount of capital invested in SEI by Holdings and (b) an amount equal to 25% per year on such funded capital (with respect to the initial funded capital, compounded from the Closing Date and, with respect to the second draw amount, compounded from the second draw date). The exercise price will be subject to a premium if we exercise the Purchase Option between 12 and 18 months after the Closing Date. The Purchase Option exercise price may be paid for in cash or in a combination of cash and our common stock, at our sole discretion, provided that the common stock portion may not exceed 33% of the Purchase Option exercise price.

In addition, we have also received an exclusive purchase option (the "Program Option") from SEI, allowing us under certain conditions to separately reacquire from SEI one of the three Programs, exercisable at any time, at our sole discretion, during a period beginning on the Closing Date and ending 18 months after the Closing Date at a specified exercise price, which is payable in cash only. If we exercise the Program Option, the exercise price will be fully creditable against the exercise price for any subsequent exercise of the Purchase Option.

Pursuant to the agreements, we issued to Holdings a warrant to purchase 750,000 shares of our common stock at $8.90 per share, which expires in 2010. Contingent upon the second capital draw by SEI, we are obligated to issue to Holdings an additional warrant to purchase between 375,000 shares (if $20.0 million of additional funds are drawn) and 750,000 shares (if $40.0 million of additional funds are drawn) of our common stock at $8.90 per share, with a five-year term. In addition, if the Purchase Option expires unexercised at the four-year anniversary of the Closing Date, we are obligated to issue to Holdings an additional warrant to purchase up to 500,000 shares (if a total of $80.0 million of funds were drawn) of our common stock at a price per share equal to 125% of the market price of our common stock at the time of expiration of the Purchase Option, with a five-year term. The warrant issued upon closing was assigned a value of $2.8 million in accordance with the Black-Scholes option valuation methodology, which has been recorded as a deduction to the noncontrolling interest in SEI.

Under our collaboration with GlaxoSmithKline, GlaxoSmithKline may continue to select at proof-of-concept for further development one or more of the Programs licensed to SEI, in which case we would have to repurchase the selected Program or Programs through the exercise of our Purchase Option or Program Option.

NOTE 9 Commitments

In May 2005, we entered into an agreement to lease approximately 48,000 square feet of additional office and laboratory facilities in South San Francisco, California (the "New Building"), primarily in order to accommodate the expansion of our clinical development group. Pursuant to the terms of the lease agreement, we have the right to terminate the lease for the New Building effective December 31, 2006, upon three months' written notice in exchange for a termination payment of $0.5 million. The lease term for the new Building is from July 2005 through July 2018. The future minimum payments under this operating lease are as follows (in thousands):

Year Ending December 31,	
2005	$ —
2006	371
2007	1,570
2008	1,609
2009	1,649
Thereafter	15,968
	$21,167

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 2004 audited financial statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2004, filed with the Securities and Exchange Commission on March 15, 2005. 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

Exelixis, Inc. is a biotechnology company whose primary mission is to use its biological expertise and integrated drug discovery capabilities to develop high-quality, differentiated pharmaceutical products for the treatment of cancer, metabolic disorders, cardiovascular disease and other serious diseases. Our research is designed to identify important genes and proteins that, when expressed at altered levels, either decrease or increase the activity of 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. We use our drug discovery and medicinal chemistry capabilities to identify lead compounds against important targets that are validated and modified into candidates for clinical development. We believe that our proprietary technologies and drug discovery engine are also valuable to other industries whose products can be enhanced by an understanding of the DNA or proteins, including the agrochemical, agricultural and diagnostic industries.

Our clinical development pipeline currently includes the following compounds in cancer and renal disease: XL119 (becatecarin), for which a Phase 3 clinical trial is ongoing in patients with bile duct tumors and which has been exclusively licensed to Helsinn Healthcare S.A. with rights to reacquire the commercial rights for North America for the use in the indications of gall bladder cancer and bile duct tumors; XL784, initially an anticancer compound, currently being developed as a treatment for renal disease for which we anticipate initiating additional clinical studies in 2005; XL647, XL999, XL880 and XL820, anticancer compounds in ongoing Phase 1 clinical trials; and XL844 and XL184, anticancer compounds for which investigational new drug applications (or INDs) were filed in the second quarter of 2005.

Our preclinical pipeline, which is comprised of six programs, includes three cancer programs (XL281, XL418 and XL228) focused on the inhibition of the RAF, Akt/S6k and insulin growth factor 1 receptor (or IGF1R) kinases and three programs in metabolic and cardio-vascular disease that target the nuclear hormone receptors LXR (Liver X Receptor), FXR (Farnesoid X Receptor) and MR (Mineralocorticoid Receptor). We anticipate to advance at least some of these drug candidates in 2005, with the potential of filing INDs beginning in 2006.

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, 2005, we had approximately $202.3 million in cash and cash equivalents and short-term investments, which includes restricted cash and investments of $14.8 million and investments held by Symphony Evolution, Inc. of $40.0 million. As of June 30, 2005, we anticipate that our cash and cash equivalents, short-term investments, investments held by Symphony Evolution, Inc. and funding that we expect to receive from collaborators will enable us to maintain our operations for at least the next 12 months. We may seek additional funding within this timeframe through collaborative relationships, private or public financing or other arrangements.

We have established collaborations with major pharmaceutical and biotechnology companies based on the strength of our technologies and expertise in biology, drug discovery and development to support additional development of our proprietary products. Through these collaborations, we obtain license fees, research funding, and the opportunity to receive milestone

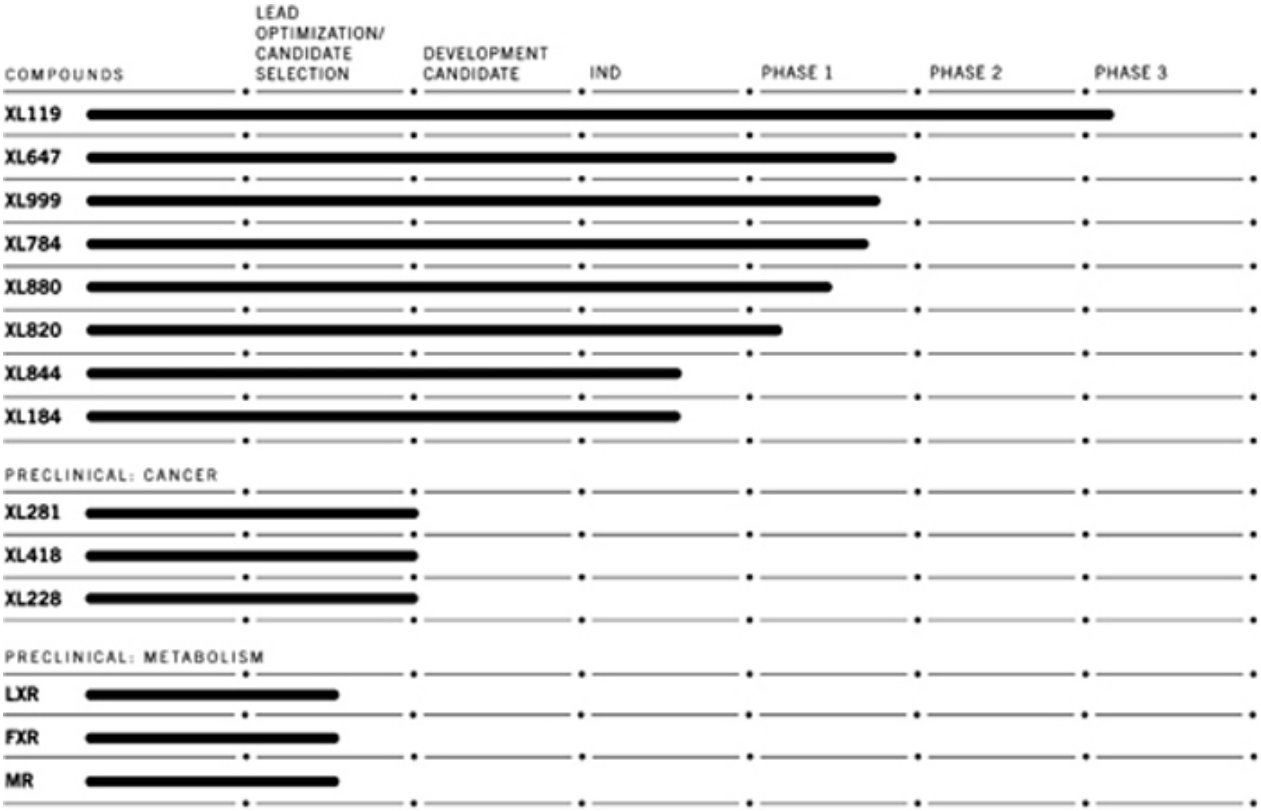
payments and royalties from research results and subsequent product development activities. In addition, many of our collaborations have been structured strategically to provide us with access to technologies that may help us to advance our internal programs more rapidly, while at the same time enabling us to retain rights to use these technologies in different industries. We have ongoing commercial collaborations with several leading pharmaceutical and biotechnology companies, including GlaxoSmithKline and Bristol-Myers Squibb Company. 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.

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.

Recent Developments

Development Update

We have an expansive pipeline of high-quality compounds in various stages of development to potentially treat cancer, renal disease and various metabolic and cardiovascular disorders. The following summarizes the status of our clinical and preclinical development pipeline.



Pipeline Update

We anticipate having eight compounds in active clinical trials in 2005. Our most advanced compounds continue to progress in clinical development. XL119, which we recently exclusively licensed to Helsinn Healthcare S.A. of Switzerland, is in a multi-national Phase 3 clinical trial for the treatment of bile duct tumors and is recruiting patients as anticipated. XL784 has been reformulated and will re-enter clinical trials later in 2005. Additionally, in oncology, we have four ongoing Phase 1 clinical trials and anticipate initiating two more Phase 1 clinical trials in the second half of 2005.

All of our compounds, with the exception of XL119 (which was licensed from BMS), were developed internally under our oncology program, which is focused on the development of highly potent, orally available diverse compounds that target specific kinases implicated in angiogenesis and cell proliferation. The oncology program is currently comprised of ten compounds – seven in clinical development and three in preclinical development. We anticipate completing Phase 1 clinical trials for XL647 and XL999 in the second half of 2005 and initiating broad Phase 2 clinical trial programs for these compounds as soon as practicable thereafter. In addition, the Phase 1 clinical trials for XL880 and XL820 were initiated earlier this year, and we filed INDs for XL844 and XL184 in May 2005 and June 2005, respectively. Additionally, we have selected the following drug candidates for further development: XL281, which targets the RAF kinase, XL418, which targets Akt/S6k, and XL228, which targets the IGF1R kinase. We plan to continue preclinical work on these compounds with the goal of potentially filing INDs for at least some of these drug candidates in 2006.

GlaxoSmithKline Collaboration

In January 2005, we amended the terms of our collaboration with GlaxoSmithKline. Under the original agreement, an option period commenced in October 2004 during which GlaxoSmithKline was required to elect a pre-defined limited or expanded program option. The terms of the amendment reflect GlaxoSmithKline's decision to select a modified program election that is neither the limited nor the expanded option envisioned in the original agreement. Under the amended terms, GlaxoSmithKline selected a modified program election through which the focus of the collaboration is shifted to 12 internal programs at various stages of development (XL784, XL647, XL999, XL880, XL184, XL820, XL844, XL281, XL418, XL228 and two earlier stage oncology programs). Each program centers on compounds that are directed against one or more targets identified in the collaboration. Under the modified program, GlaxoSmithKline has the right to select from these programs up to two compounds at proof-of-concept (completion of Phase 2a clinical trial) or three compounds if GlaxoSmithKline extends the collaboration.

If GlaxoSmithKline selects three compounds, we could receive up to approximately $240.0 million in acceptance milestones. Prior to the end of a specified development term, GlaxoSmithKline retains exclusivity rights to the approximately 32 specified targets that are encompassed by the 12 programs. However, we retain rights to all compounds not encompassed by the 12 programs selected by GlaxoSmithKline and may work on any targets with the exception of the approximately 32 targets subject to the exclusivity.

The terms of the amended collaboration allow us to use third-party financing vehicles to fund the further clinical development of our compounds XL784, XL647 and XL999 but any such compounds developed through clinical financing vehicles continue to be subject to GlaxoSmithKline's compound selection rights. In June 2005, we entered into a transaction to fund the clinical development of XL784, XL647 and XL999 through Symphony Evolution, Inc., a third-party financing vehicle.

Under the amended terms, GlaxoSmithKline paid us a new $30.0 million milestone for filing INDs for XL880, XL820 and XL844 in the first-half of 2005. In return for the new $30.0 million milestone, GlaxoSmithKline will receive a $30.0 million credit and a specified reduction against the first acceptance milestone as well as a temporary reduction in the royalty rate it owes us on net sales of any products developed under the collaboration. Under the amended agreement, GlaxoSmithKline also paid us a new $5.0 million milestone for achieving specified progress with respect to certain other candidates. Under the original agreement, GlaxoSmithKline would have paid the first milestone upon its selection of a compound that had completed proof-of-concept for further development. In return, we may also receive additional development related milestones and royalties on product sales and have certain co-promotion rights to products in North America. In addition, GlaxoSmithKline is obligated to provide research funding of $47.5 million over the remaining three-year term of the collaboration.

As a result of its modified program election, GlaxoSmithKline purchased an additional 1.0 million shares of Exelixis common stock in January 2005 at a premium to the then fair value of the shares and with an aggregate purchase price of approximately $11.1 million.

Genoptera Collaboration

In March 2005, Exelixis, Bayer CropScience LP and Genoptera LLC agreed to amend the terms of the collaboration agreement, dated January 1, 2000, among Exelixis, Bayer and Genoptera. Exelixis and Bayer formed Genoptera, a joint venture focused on the discovery of novel insecticides and nematicides for crop protection in January 2000. The amended agreement provides for an early termination of the research term and requires Bayer to acquire our 40% ownership interest in Genoptera within six months after the termination of the research term. The amended agreement also requires Bayer to pay us an early termination fee of $10.9 million, which was paid in April 2005. In June 2005, the final knowledge transfer was

completed, and we recognized $21.1 million in revenues, including an early termination fee paid in April 2005, and accelerated recognition of deferred revenues related to upfront payments and milestones. Pursuant to the terms of the amendment, Bayer, through Genoptera, now has exclusive rights in the field of agriculture to assays, compounds and products developed under the collaboration and we will have exclusive rights in all other fields. In addition, the obligations of Bayer to fund further research ceased and we have no further obligations to perform research.

Genentech Collaboration

In May 2005, Exelixis and Genentech, Inc. established a collaboration to discover and develop therapeutics that target the Notch pathway for treatment of cancer, inflammatory diseases, and tissue growth and repair. Under the terms of the agreement, we have granted to Genentech a license to certain intellectual property relating to our Notch portfolio.

Under the agreement, Genentech will have primary responsibility in the field of cancer for research and development activities as well as rights for commercialization of any products. In the fields of inflammation and tissue growth and repair, we will initially have primary responsibility for research activities. The research term under the agreement is three years and may be extended upon mutual consent for one-year terms. Genentech agreed to make an upfront payment as well as provide research and development funding over the three-year research term, totaling in the aggregate $16.0 million of which we received $7.3 million in June 2005. After the expiration of the research term, we will have the option to elect to share a portion of the costs and profits associated with the development, manufacturing and commercialization of products in the field of inflammatory diseases or the field of tissue growth and repair. For products that we do not elect as cost/profit products within these two fields, we may also receive milestone and royalty payments.

Helsinn Healthcare S.A.

In June 2005, Exelixis and Helsinn Healthcare S.A. entered into a license agreement for the development and commercialization of XL119 (becatecarin). Under the terms of the agreement, we have granted to Helsinn an exclusive worldwide, royalty-bearing license to XL119. We have retained an option to reacquire the commercial rights to XL119 for North America for use in the indications of gall bladder cancer and bile duct tumors. If we exercise the option, we have the right to negotiate with Helsinn to reach an agreement on commercially reasonable terms and conditions to reacquire the commercial rights to XL119 for North America for use in the indications of gall bladder cancer and bile duct tumors. Under the agreement, Helsinn made an upfront payment in the amount of $4.0 million and could pay additional development and commercialization milestones of up to $21.0 million, as well as royalties on worldwide sales. Helsinn will also assume all future costs incurred for the ongoing multi-national Phase 3 clinical trial for XL119.

Symphony Evolution, Inc.

In June 2005, we entered into a series of related agreements providing for the financing of the clinical development of our product candidates XL784, XL647 and XL999. We have licensed to Symphony Evolution, Inc. (or SEI) our intellectual property rights related to XL784, XL647 and XL999. SEI has agreed to invest up to $80.0 million to fund the clinical development of these product candidates. We will continue to be primarily responsible for the clinical development. SEI is a wholly owned subsidiary of Symphony Evolution Holdings LLC (or Holdings), which provided $40.0 million in funding to SEI at closing. Upon a second capital draw by SEI, Holdings will fund up to $40.0 million within one year of the closing date.

Pursuant to the agreements, we received an exclusive purchase option to reacquire all of the programs. This option is exercisable beginning on the one-year anniversary and ending on the four-year anniversary of the closing date at an exercise price equal to the sum of (a) the total amount of capital invested and (b) an amount equal to 25% per year on such funded capital. The exercise price will also be subject to a premium if we exercise this purchase option between 12 and 18 months after the closing date. The purchase may be paid for in cash or in a combination of cash and our common stock, at our sole discretion, provided that the common stock portion may not exceed 33% of the purchase option exercise price.

In addition, we have also received an exclusive program option allowing us under certain conditions to separately reacquire one of the three programs during a period beginning on the closing date and ending 18 months after the closing date at a specified exercise price, which is payable in cash only. If we exercise this option, the exercise price will be fully creditable against the exercise price for any subsequent exercise of the purchase option.

Pursuant to the agreements, we issued to Holdings a warrant to purchase 750,000 shares of our common stock at $8.90 per share, which expires in 2010. Contingent upon the second capital draw by SEI, we are obligated to issue to Holdings an

additional warrant to purchase between 375,000 shares (if $20.0 million of additional funds are drawn) and 750,000 shares (if $40.0 million of additional funds are drawn) of our common stock at $8.90 per share, with a five-year term.

Under our collaboration with GlaxoSmithKline, GlaxoSmithKline may continue to select at proof-of-concept for further development one or more of the programs licensed to SEI, in which case we would have to repurchase the selected program or programs through the exercise of our purchase option or program option.

Results of Operations

Revenues

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2005	2004	2005	2004
Total revenues	$ 34.3	$ 12.6	$ 47.2	$ 24.5
Dollar increase	$ 21.8		$ 22.7	
Percentage increase	173%		93%	

Total revenues by category for the three- and six-month periods ended June 30, 2005 and 2004 were as follows (in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2005	2004	2005	2004
Research and development funding	$ 19.6	$ 7.4	$ 29.5	$ 14.9
Amortization of upfront payments, including premiums paid on equity purchases	9.4	3.1	12.1	6.3
Delivery of compounds under chemistry collaborations	—	0.6	—	1.4
Milestones	5.3	1.5	5.6	1.9
Total revenues	$ 34.3	$ 12.6	$ 47.2	$ 24.5

The increase in revenues for the three months ended June 30, 2005, as compared to the comparable prior year period, was primarily due to the recognition of $21.1 million in revenues, which includes an early termination fee paid in April 2005, and accelerated recognition of deferred revenues related to upfront payments and milestones as a result of the termination of our Genoptera collaboration. The increase is also attributable to $4.5 million recognized from our GlaxoSmithKline collaboration related to revenue from a milestone achieved in May 2005 and increased research and development funding. These increases were partially offset by the loss of upfront payments and milestone revenues in the amount of $2.1 million from our collaboration with Bristol-Myers Squibb, which terminated in July 2004.

The increase in revenues for the six months ended June 30, 2005, as compared to the comparable prior year period, was primarily due to the recognition of $21.1 million in revenues from the termination of our Genoptera collaboration. The increase is also attributable to $7.1 million recognized related to revenue from a milestone achieved in May 2005 and increased research and development funding from our GlaxoSmithKline collaboration. These increases were partially offset by the loss of upfront payments and milestone revenues in the amount of $3.5 million from our collaboration with Bristol-Myers Squibb, which terminated in July 2004 and a $1.4 million loss of revenues related to the termination of our combinatorial chemistry collaborations effective as of December 31, 2004.

Research and Development Expenses

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2005	2004	2005	2004
Research and development expenses	$ 36.6	$ 34.4	$ 69.9	$ 68.6
Dollar increase	$ 2.2		$ 1.2	
Percentage increase	6%		2%	

Research and development expenses consist primarily of staffing costs, laboratory supplies, consulting and facilities costs. The increase for the three months ended June 30, 2005, as compared to the comparable period in 2004, resulted primarily from the following:

- Licenses and Royalties – License and royalty expense increased by $1.6 million, or 181%, primarily due to royalties payable by us to a third party licensor as a result of the Genentech collaboration we entered into in May 2005.
- Consulting and Professional – Consulting and professional expense, which includes services performed by third-party contract research organizations and other vendors, increased by $1.6 million, or 31%, primarily due to an increase in activities associated with advancing our clinical and preclinical development programs. These activities included Phase 3 clinical trial activity for XL119, Phase 1 clinical trial activity for XL647 and XL999, initiation of a Phase 1 clinical trial for XL880 and moving XL844, XL820 and XL184 through preclinical testing.
- Facilities – Facilities expense increased by $0.7 million, or 21%, primarily due to our expansion into an additional building in South San Francisco, California in July 2004 as a result of our expanding development operations.
- Lab Supplies – Lab supplies expense decreased by $2.1 million, or 36%, primarily due to the termination of most of our combinatorial chemistry collaborations.

The increase for the six months ended June 30, 2005, as compared to the equivalent period in 2004, resulted primarily from the following:

- Licenses and Royalties – License and royalty expense increased by $1.4 million, or 77%, primarily due to royalties payable as a result of the Genentech collaboration we entered into in May 2005.
- Consulting and professional – Consulting and professional expense increased by $2.4 million, or 29%, primarily due to an increase in activities associated with advancing our clinical and preclinical development programs. These activities included Phase 3 clinical trial activity for XL119, Phase 1 clinical trial activity for XL647 and XL999, initiation of a Phase 1 clinical trial for XL880 and moving XL844, XL820 and XL184 through preclinical testing.
- Facilities – Facilities expense increased by $1.1 million, or 18%, primarily due to our expansion into an additional building in South San Francisco, California in July 2004 as a result of our expanding development operations.
- Lab Supplies – Lab supplies expense decreased by $4.0 million, or 32%, primarily due to the termination of most of our combinatorial chemistry collaborations.

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

Program	Clinical Status
XL119	We have granted an exclusive license to Helsinn Healthcare S.A. and the Phase 3 clinical trial is ongoing
XL784	Completed a Phase 1 clinical trial as an anticancer compound, and we anticipate initiating additional clinical studies in 2005 for renal disease
XL647	Phase 1 clinical trial is ongoing
XL999	Phase 1 clinical trial is ongoing
XL880	Phase 1 clinical trial is ongoing
XL820	Filed IND in April 2005 and initiated Phase 1 clinical trial in July 2005
XL844	Filed IND in May 2005
XL184	Filed IND in June 2005
XL228	Potential IND filing in 2006
XL281	Potential IND filing in 2006
XL418	Potential IND filing in 2006

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 may vary substantially according to factors relating to the clinical trial, such as the type and intended use of the product candidate, the clinical trial design and ability to enroll suitable patients. We expect that research and development expenses will continue to increase as we continue to 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, as compared to the prior year period, were as follows (dollar amounts are presented in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2005	2004	2005	2004
General and administrative expenses	$ 7.1	$ 4.7	$ 13.4	$ 10.3
Dollar increase	$ 2.4		$ 3.1	
Percentage increase	51%		30%	

General and administrative expenses consist primarily of staffing costs to support our research activities, facility costs and professional expenses, such as legal and accounting fees. The increase for the three months ended June 30, 2005, as compared to the equivalent period in 2004, and for the six months ended June 30, 2005, as compared to the equivalent period in 2004, resulted primarily from an increase in staffing costs to support research and development activities, legal expenses, as well as facility and equipment rental expenses.

Amortization of Intangibles

Total amortization of intangible assets, as compared to the prior year, was as follows (dollar amounts are presented in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2005	2004	2005	2004
Amortization of intangible assets	$ 0.3	$ 0.2	$ 0.5	$ 0.3
Dollar increase	$ 0.1		$ 0.2	
Percentage increase	63%		63%	

Intangible assets result from our acquisitions of X-Ceptor, Genomica, Artemis and Agritope (renamed Exelixis Plant Sciences). The increases for the three months ended June 30, 2005, as compared to the equivalent period in 2004, and for the six months ended June 30, 2005, as compared to the equivalent period in 2004, were due to the increases in amortization expenses for the assembled workforce related to our acquisition of X-Ceptor that occurred in October 2004. For the three- and six-month periods ended June 30, 2005, amortization expenses increased $0.1 million and $0.2 million, respectively.

Restructuring Charge

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.

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*.

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 $0.5 million, intangible assets of $0.1 million and expense associated with the purchase of in-process research and development of $0.4 million, 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.

Total Other Income (Expense)

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2005	2004	2005	2004
Total other income (expense), net	$ (0.5)	$ (0.4)	$ (0.9)	$ (0.7)
Dollar increase	$ 0.1		$ 0.3	
Percentage increase	12%		41%	

Total other income (expense) consists primarily of interest income earned on cash, cash equivalents and short-term investments, offset by interest expense incurred on our notes payable, bank obligations, capital lease obligations and convertible notes and loans. The increases in other expense for the three months ended June 30, 2005, as compared to the equivalent period in 2004, and for the six months ended June 30, 2005, as compared to the equivalent period in 2004, were primarily due to increases in our convertible loan with GlaxoSmithKline and an overall decline in our investment balances.

Noncontrolling Interest in Symphony Evolution, Inc.

Pursuant to our agreements with SEI, we have consolidated SEI's financial condition and results of operations in accordance with FIN 46R. Accordingly, we have deducted the losses borne by the noncontrolling interest from the consolidated entity's net loss, and we reduced the noncontrolling interest holders' investment balance by SEI's losses. For the three-month period ended June 30, 2005, the losses attributed to the noncontrolling interest were $0.4 million.

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. We have also financed certain of our research and development activities under our agreements with SEI. In addition, we acquired Genomica in December 2001, including its $109.6 million in cash and investments. As of June 30, 2005, we had approximately $202.3 million in cash and cash equivalents and short-term investments, which includes restricted cash and investments of $14.8 million and investments held by SEI of $40.0 million.

We have incurred net losses since inception, including a net loss of approximately $37.1 million for the six months ended June 30, 2005, 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, 2005, we anticipate that our cash and cash equivalents, short-term investments, investments held by Symphony Evolution, Inc. and funding that we expect to receive from collaborators will enable us to maintain our operations for at least the next 12 months. We may seek additional funding within this timeframe through collaborative relationships, private or public financing 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;
- the timing and progress of the clinical development of our outlicensed product candidates XL647, XL999 and XL784, which will determine if and when we exercise our options to reacquire these product candidates;

- future clinical trial results;
- our need to expand our product and clinical development efforts;
- our ability to share the costs of our clinical development efforts with third parties;
- the cost and timing of regulatory approvals;
- the cost of establishing clinical and research supplies of our product candidates;
- our ability to remain in compliance with, or amend or cause to be waived, financial covenants contained in loan and lease agreements with third parties;
- the effect of competing technological and market developments;
- the filing, maintenance, 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 currently have a shelf registration statement on file with the SEC that allows us to offer common stock for sale from time to time. In addition, we have a universal shelf registration statement on file with the SEC that allows us to offer for sale from time to time common stock, preferred stock, debt securities and warrants, either individually or in units. However, we may be unable to raise sufficient additional capital when we need it, on favorable terms or at all. The sale of equity or convertible debt securities in the future may be dilutive to our stockholders, and debt-financing arrangements may require us to pledge certain assets and enter into covenants that would restrict certain business activities or our ability to incur further indebtedness and may contain other terms that are not favorable to our stockholders or us. If we are unable to obtain adequate funds on reasonable terms, we may be required to curtail operations significantly or obtain funds by entering into financing, supply or collaboration agreements on unattractive terms.

Sources and Uses of Cash

Our operating activities used cash of approximately $7.5 million and $63.2 million for the six months ended June 30, 2005 and 2004, respectively. Cash used in operating activities relates primarily to funding net losses and changes in accounts payable and other accrued expenses, partially offset by changes in deferred revenue from collaborators and non-cash charges related to depreciation and amortization. The decrease of $55.6 million of cash used in operating activities for the 2005 period, as compared to the 2004 period, was primarily driven by a decrease in our net loss and an increase in deferred revenue. Our net loss decreased primarily due to the recognition of $21.1 million in revenues, which includes an early termination fee paid in April 2005, and accelerated recognition of deferred revenues related to upfront payments and milestones as a result of the termination of our Genoptera collaboration. Deferred revenue increased primarily due to the receipts of $35.0 million related to milestones achieved in May 2005 under our GlaxoKlineSmith collaboration. 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 $13.2 million and $9.1 million for the six months ended June 30, 2005 and 2004, respectively. Changes in cash from investing activities are primarily due to purchases of investments held by SEI, purchases and proceeds from maturities of short-term investments and purchases of property and equipment. In the six months ended June 30, 2005 and 2004, we made purchases of $8.3 million and $7.1 million, respectively, 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 clinical and preclinical development operations.

Our financing activities provided cash of approximately $47.6 million and used cash of approximately $0.6 million for the six months ended June 30, 2005 and 2004, respectively. Changes in cash from financing activities are primarily due to proceeds from the purchase of noncontrolling interest by preferred shareholders in SEI and the purchase of 1.0 million shares of our common stock by GlaxoSmithKline at an aggregate purchase price of approximately $11.1 million, of which $2.2 million

was a premium. 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, bank obligations, loans from collaborators and notes, including a $30.0 million convertible note due in May 2006.

We believe there have been no significant changes during the six-month period ended June 30, 2005 to the items that we disclosed as our contractual obligations under Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” in our Annual Report on Form 10-K for the year ended December 31, 2004, except for the operating lease we entered into in May 2005 and the draw on a loan facility in June 2005. The following chart details our contractual obligations as of December 31, 2004, with the addition of the operating lease we entered into in May 2005 and the draw on a loan facility in June 2005 (in thousands):

	Payments Due by Period				
Contractual Obligations	**Total**	**Less than 1 year (1)**	**1-3 years**	**4-5 years**	**After 5 years**
Minimum purchase obligations	$ 2,000	$ 1,000	$ 1,000	$ —	$ —
Notes payable and bank obligations (2)	36,944	9,690	17,924	9,091	239
Licensing agreements	3,846	1,423	1,761	662	—
Capital lease obligations	2,029	1,931	98	—	—
Convertible promissory note and loan	115,000	—	30,000	56,100	28,900
Operating leases (3)	179,275	17,435	29,025	27,435	105,380
Total contractual cash obligations	$ 339,094	$ 31,479	$ 79,808	$ 93,288	$ 134,519

(1) These amounts represent our contractual obligations for the twelve-month period ending December 31, 2004.

(2) These amounts include an increase of $6.6 million due to a draw made in June 2005 under our existing $20.0 million equipment loan facility.

(3) These amounts include the operating lease we entered into in May 2005 to lease approximately 48,000 square feet of office and laboratory facilities in South San Francisco, California. The lease term is from July 2005 to July 2018 and the future minimum payments under this operating lease are $21.2 million. We have the right to terminate this lease effective December 31, 2006, upon three months’ written notice in exchange for a termination payment of $0.5 million.

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

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

We will need to raise additional capital to:

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

As of June 30, 2005, we had approximately $202.3 million in cash and cash equivalents and short-term investments, which includes restricted cash and investments of $14.8 million and investments held by SEI of $40.0 million. As of June 30, 2005, we anticipate that our cash and cash equivalents, short-term investments, investments in Symphony Evolution, Inc. and funding that we expect to receive from collaborators will enable us to maintain our operations for at least the next 12 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;
- the timing and progress of the clinical development of our outlicensed product candidates XL647, XL999 and XL784, which will determine if and when we exercise our options to reacquire these product candidates;
- future clinical trial results;
- our need to expand our product and clinical development efforts;
- our ability to share the costs of our clinical development efforts with third parties;
- the cost and timing of regulatory approvals;
- the cost of establishing clinical and research supplies of our product candidates;
- our ability to remain in compliance with, or amend or cause to be waived, financial covenants contained in loan and lease agreements with third parties;
- the effect of competing technological and market developments;
- the filing, maintenance, 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 unfavorable 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. If we raise additional funds through collaboration arrangements with third parties, it will be necessary to relinquish some rights to our technologies or product candidates, or we may be required to grant licenses on terms that are unfavorable to us.

Our capital needs will also increase in 2006 if we have to repay a $30.0 million convertible promissory note that we issued in May 2001 to Protein Design Labs, Inc. in connection with a collaboration agreement. The note matures in May 2006 and is convertible into our common stock at Protein Design Labs' option any time after the first anniversary of the note. The note is convertible into our common stock at a conversion price per share equal to the lower of (i) $28.175 or (ii) 110% of the fair market value (as defined in the note) of a share of our common stock at the time of conversion. If the note is not converted by Protein Design Labs, we will have to repay the entire note in May 2006.

In addition, we must raise additional capital in order to stay in compliance with financial covenants contained in agreements with third parties. For example, as part of our collaboration with GlaxoSmithKline, we entered into a loan and security agreement, dated October 28, 2002, which, as amended, contains financial covenants pursuant to which our working capital (the amount by which our current assets exceed our current liabilities) must not be less than $25.0 million and our cash and investments (total cash, cash equivalents and investments) must not be less than $50.0 million. As of June 30, 2005, our working capital was $106.0 million and our cash and investments were $202.3 million, which includes restricted cash and investments of $14.8 million and investments held by SEI of $40.0 million. If we were to default on the financial covenants under the loan and security agreement, GlaxoSmithKline may, among other remedies, declare immediately due and payable all obligations under the loan and security agreement. In addition, in connection with an equipment lease financing transaction with General Electric Capital Corporation, we entered into a lease agreement pursuant to which we are required to maintain minimum unrestricted cash, which is defined as cash on hand, including investments in marketable securities with maturities of less than 24 months, less cash pledged to other parties, of $35.0 million. As of June 30, 2005, we had unrestricted cash of $118.0 million. If we were to default on this financial covenant, we may be required to pay as liquidated damages the stipulated loss value of the equipment and all rents and other sums then due under the agreement. If we cannot

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

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

We have incurred net losses each year since our inception, including a net loss of approximately $37.1 million for the six months ended June 30, 2005. As of that date, we had an accumulated deficit of approximately $556.5 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 technologies and undertake product development. We currently have numerous product candidates in various stages of clinical development and we anticipate filing IND applications for additional product candidates during the next 12 months. As a result, we expect that our operating expenses will increase significantly, and, consequently, we will need to generate significant additional revenues to achieve profitability. Because of the numerous risks and uncertainties associated with developing drugs, we are unable to predict the extent of any future losses or when we will become profitable, if at all. Even if we do increase our revenues and achieve profitability, we may not be able to maintain or increase profitability.

We have licensed the intellectual property, including commercialization rights, to our product candidates XL647, XL999 and XL784 to SEI and will not receive any future royalties or revenues with respect to these product candidates unless we exercise our options to acquire one or all of these product candidates in the future. We may not have the financial resources to exercise these options or sufficient clinical data in order to determine whether we should exercise these options.

We have licensed to SEI our intellectual property rights, including commercialization rights, to our product candidates XL647, XL999 and XL784 in exchange for SEI's investment of up to $80.0 million to advance the clinical development of XL647, XL999 and XL784. In exchange for this investment and for five-year warrants to purchase shares of our common stock, we received an exclusive purchase option to acquire all of the equity of SEI, thereby allowing us to reacquire XL647, XL999 and XL784. We may, at our discretion, exercise this purchase option at any time beginning on June 9, 2006 and ending on the earlier of June 9, 2009 or the 90th day after the date that SEI provides us with financial statements showing cash and cash equivalents of less than $5.0 million. The purchase option exercise price is equal to the sum of (i) the total amount of capital invested in SEI by its investors and (ii) an amount equal to 25% per year on such funded capital, subject to specified adjustments. The exercise price will also be subject to a premium if we exercise the purchase option between June 9, 2006 and December 11, 2006. The option exercise price may be paid in cash or a combination of cash and our common stock, at our sole discretion, provided that the common stock portion may not exceed 33% of the purchase option exercise price.

We have also received an exclusive program option from SEI allowing us under certain conditions to separately reacquire from SEI one of the three product candidates licensed to SEI. The program option is exercisable at any time, at our sole discretion, during a period beginning on June 9, 2005 and ending on December 9, 2006 at an exercise price equal to that portion of the funded capital expended on the development of the applicable product candidate being repurchased, plus a specified premium. The program option exercise price may be paid in cash only.

If we elect to exercise either one of the options, we will be required to make a substantial cash payment and/or to issue a substantial number of shares of our common stock, or enter into a financing arrangement or license arrangement with one or more third parties, or some combination of the foregoing. A payment in cash would reduce our capital resources. A payment in shares of our common stock could result in dilution to our stockholders at that time. Other financing or licensing alternatives may be expensive or impossible to obtain. If we do not exercise the purchase options prior to their expiration, our rights in and to SEI with respect to XL647, XL999 and XL784 will terminate. We may not have the financial resources to exercise the options, which may result in our loss of these rights. Additionally, we may not have sufficient clinical data in order to determine whether we should exercise the options.

In addition, under our collaboration with GlaxoSmithKline, GlaxoSmithKline may continue to select at proof-of-concept for further development one or more of the programs licensed to SEI, in which case we would have to repurchase the selected program or programs through the exercise of our purchase option or program option. If we do not have sufficient resources to exercise the purchase option or program option following a compound selection by GlaxoSmithKline, we could be in breach of our collaboration agreement with GlaxoSmithKline. In the event of such breach, GlaxoSmithKline could terminate the collaboration and, among other remedies, declare all amounts under our loan facility with GlaxoSmithKline immediately due and payable.

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

We may experience numerous unforeseen events during, or as a result of, clinical testing that could delay or prevent commercialization of 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 had expected 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 from the affected product candidates 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.

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 clinical trial, including, among others:

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

Our research and clinical testing may be delayed or abandoned if we or our competitors subsequently discovered other compounds that we believe show significantly improved safety or efficacy compared to our product candidates, which could limit our ability to generate revenues, cause us to incur additional expense and cause the market price of our common stock to decline significantly.

Risks Related to Our Relationships With Third Parties

We depend on our exclusive licensee, Helsinn, for the completion of the XL119 clinical program and for the commercialization of XL119.

Under our exclusive license agreement with Helsinn, Helsinn is responsible for all aspects of clinical development of XL119 upon completion of the transfer of the IND for XL119 and all of its foreign equivalents. If XL119 receives regulatory approval, Helsinn will be responsible for the marketing and sale of the commercial product worldwide, unless and to the extent we reaquire the commercialization rights for North America. Because Helsinn is responsible for these functions after the IND has been transferred, we have no control over the development schedule or, if XL119 receives regulatory approval, the marketing plan for XL119. If the clinical trials for XL119 are not successful, XL119 will not be commercialized. Moreover, beginning June 10, 2006, Helsinn may relinquish all rights and the license granted to it under the license agreement and thereby terminate the license agreement on at least six months' prior written notice, if in Helsinn's reasonable business judgment based on scientific or economic evidence, it is impossible for Helsinn to carry out further development or marketing of XL119. In that event, the rights to develop and market XL119 will revert to us. If these rights revert to us, we will have to fund the clinical programs for XL119 on our own, seek a strategic partner or licensee for clinical development or abandon XL119.

Our reliance on Helsinn poses a number of risks, including the following:

- if Helsinn fails to successfully advance XL119 in clinical development or fails to obtain regulatory approvals for XL119, we will not be able to generate revenue from milestones or the commercialization of XL119;
- we cannot control whether Helsinn will devote sufficient resources to the clinical program and, if XL119 is approved by the FDA or other regulatory agencies, the marketing plan for the commercial drug product in countries where we do not hold commercialization rights;
- although we have no history of royalty payment disputes, even if XL119 is approved and commercialized, disputes may arise in the future with respect to the calculation of royalty payments based on net sales related to XL119; and
- if Helsinn perceives that the market opportunity for XL119 or its profit margin from the sale of XL119 is too small to justify commercialization, the interests and motivations of Helsinn may not be, or may not remain, aligned with ours.

If we are unable to deliver certain clinical trial materials to Helsinn for the ongoing Phase 3 clinical trial of XL119, milestone payments under our license agreement with Helsinn would be reduced and Helsinn could under certain conditions terminate the license agreement or continue the agreement at reduced royalty rates.

Under our license agreement with Helsinn, we are required to supply to Helsinn certain clinical trial materials (at Helsinn's expense) by April 30, 2006 for the ongoing Phase 3 clinical trials of XL119. Our primary supplier of clinical materials for the ongoing XL119 trial previously informed us of an internal restructuring that impacted our ability to obtain drug substance from them. While we expect that we will be able to obtain clinical trial materials when necessary to satisfy our obligation to deliver the required materials to Helsinn, we cannot be certain that we will be able to obtain additional supplies in a timely manner. Our inability to obtain clinical trial materials would result in reduced milestone payments under the license agreement. Furthermore, if we fail to supply these materials and such failure prevents Helsinn from enrolling additional patients or from maintaining the then-current enrollment in the Phase 3 trials, then Helsinn may terminate the license agreement or elect to continue the agreement at a reduced royalty rate. If the license agreement is terminated, the rights to develop and market XL119 will revert to us and we would have to fund the clinical development of XL119 on our own. If Helsinn chooses to continue the agreement at a reduced royalty rate, potential future royalty payments by Helsinn will be reduced.

Disagreements between SEI and us regarding the development of our product candidates XL647, XL999 and XL784 may cause significant delays and other impediments in the development of these product candidates, which could negatively affect the value of these product candidates.

We have licensed to SEI our intellectual property rights, including commercialization rights, to our product candidates XL647, XL999 and XL784 in exchange for SEI's investment of up to $80.0 million to advance the clinical development of XL647, XL999 and XL784. We will be responsible for developing XL647, XL999 and XL784 in accordance with a specified development plan and related development budget. Our development activities will be supervised by SEI's development committee, which is comprised of an equal number of representatives from Exelixis and SEI. If the development committee cannot resolve a particular development issue, the issue will be referred to the chief executive officers of Exelixis and Symphony. Any disagreements between SEI and us regarding a development decision may cause significant delays in the development and commercialization of our product candidates XL647, XL999 and XL784 as well as

lead to development decisions that do not reflect our interests. Any such delays or development decisions not in our interest could negatively affect the value of XL647, XL999 and XL784.

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.

We have derived substantially all of our revenues to date from collaborative research and development agreements. Revenues from research and development collaborations depend upon continuation of the collaborations, the achievement of milestones and royalties we earn from any future products developed from 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.

If these agreements or agreements with other partners are not renewed or are terminated early, whether unilaterally or by mutual agreement, or if we are unable to enter into new collaborative agreements on commercially acceptable terms, our revenues and product development efforts could suffer. 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. Similarly, our collaboration with GlaxoSmithKline is scheduled to expire in October 2008 but is subject to earlier termination at the discretion of GlaxoSmithKline starting in 2005 if we fail to meet certain diligence requirements. In addition, from time to time we review and assess certain aspects of our collaborations, partnerships and agreements and may amend or terminate, either by mutual agreement or pursuant to any applicable early termination provisions, such collaborations, partnerships or agreements if we deem them to be no longer in our economic or strategic interests. For example, in March 2005 we agreed with Bayer CropScience LP to terminate the research term under our collaboration with Bayer CropScience in order to allow us to focus on our key business. We may not be able to enter into new collaborative agreements on similar or superior financial terms to offset the loss of revenue from the termination or expiration of any of 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 objectives.

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 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. If our collaborators fail to develop or commercialize any of our compounds or product candidates, we would 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. Also, our collaboration agreements may be subject to early termination on the mutual agreement between us and our collaborators. 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.

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

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 enable us to produce materials for clinical trials, including the trials for XL784, XL647, XL999, XL880 as well as XL119 for which we have a remaining obligation under our license agreement with Helsinn to deliver certain clinical trial materials to Helsinn for the ongoing Phase 3 clinical trials of XL119 by April 30, 2006. We rely on collaborators and third-party contractors to produce our compounds for preclinical and clinical testing. These suppliers must comply with applicable regulatory requirements, including the FDA's current Good Manufacturing Practices, or GMP. Our current and anticipated future dependence upon these third-party manufacturers may adversely affect our future profit margins and our ability to develop and commercialize product 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 clinical trials may be delayed. Delays in preclinical or clinical testing could delay the filing of our INDs 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.

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.

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. For example, the FDA could determine that the design of a clinical trial is inadequate to produce reliable results. The regulatory process also requires preclinical testing, and data obtained from preclinical and clinical activities are susceptible to varying interpretations, 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, could delay any product launch, and we may never be able to develop this capacity. To the extent that we enter into arrangements to perform sales, marketing and distribution services with third parties, 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.

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 themselves for some or all of the products that we may develop 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, thereby 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 kinase-targeted therapies is a rapidly evolving and competitive 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. The failure to achieve and maintain these high manufacturing standards, including the incidence of manufacturing errors, could result in patient injury or death, product recalls or withdrawals, delays or failures in product testing or delivery, cost overruns or other problems that could seriously hurt our business.

Risks Related to Our Intellectual Property

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

Our success will depend in part 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 obtain licenses from third parties, which may not be available

on commercially reasonable terms, or at all, and may require us to pay substantial royalties, grant a cross-license to some of our patents to another patent holder or redesign the formulation of a product candidate so that we do not infringe third-party patents, which may be impossible 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, our employees or independent contractors have wrongfully used or disclosed alleged trade secrets of their former employers.

Many of our employees and independent contractors were previously employed at universities, other biotechnology or pharmaceutical companies, including our competitors or potential competitors. We may be subject to claims that these employees, independent contractors or we have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of their former employers. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and 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 that 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 advisors and collaborators are not our employees and may have other commitments that limit their availability to us. Although they 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, if insurance coverage becomes more expensive, we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect us against losses due to liability. If we obtain marketing approval for any of our product candidates, 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. 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 have banned 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 as we move more compounds into clinical development. Accordingly, if our revenues decline or do not grow as anticipated due to the expiration or termination 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;
- financing transactions;
- developments in the biotechnology or pharmaceutical industry;
- sales of large blocks of our common stock or sales of our common stock by our executive officers, directors and significant stockholders;
- departures of key personnel;
- developments concerning current or future collaborations;
- FDA or international regulatory actions;
- third-party reimbursement policies;
- acquisitions of other companies or technologies;
- disposition of any of our subsidiaries, technologies or compounds; and
- general market conditions and other factors, including factors unrelated to our operating performance or the operating performance of our competitors.

These factors 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 inability of our stockholders to call special meetings of stockholders;
- the ability of our Board of Directors to issue preferred stock without stockholder approval, which could be used to institute a "poison pill" that would work to dilute the stock ownership of a potential hostile acquirer, effectively preventing acquisitions that have not been approved by our Board of Directors; 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 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our market risks at June 30, 2005 have not changed significantly from those discussed in Item 7A of our Form 10-K for the year ended December 31, 2004 on file with the Securities and Exchange Commission. Our exposure to market risk for changes in interest rates relates primarily to our investment portfolio and our long-term debt. We have estimated the effects on our interest rate sensitive assets and liabilities based on a one percentage point hypothetical adverse change in interest rates as of June 30, 2005 and December 31, 2004. As of June 30, 2005 and December 31, 2004, a decrease in the interest rates of one percentage point would have had a net adverse change in the fair value of interest rate sensitive assets and liabilities of approximately $3.9 million and $4.3 million, respectively.

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' 2005 annual meeting of stockholders held on April 22, 2005, the stockholders were asked to vote upon:

1. the election of four Class III directors for a three-year term. The nominees for election to these positions were Stelios Papadopoulos, Ph.D., George A. Scangos, Ph.D., Frank McCormick, Ph.D. and Lance Willsey, M.D.;
2. the ratification of the selection of Ernst & Young LLP to serve as the Company's independent auditors for the fiscal year ending December 31, 2005; and
3. the approval of an amendment to the Company's 2000 Employee Stock Purchase Plan to increase the number of shares of common stock reserved for issuance under the plan by 1,850,000 shares, from 1,800,000 shares to 3,650,000 shares.

The results of the matters presented at the annual meeting, based on the presence in person or by proxy of holders of 66,299,999 shares of the 76,150,092 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
Stelios Papadopoulos, Ph.D.	55,521,348	10,778,651
George A. Scangos, Ph.D.	55,798,918	10,501,081
Frank McCormick, Ph.D.	34,209,305	32,090,694
Lance Willsey, M.D.	65,389,445	910,554

Exelixis' Class I directors, Charles Cohen, Ph.D., George Poste, D.V.M., Ph.D. and Jack L. 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 qualified, or until his earlier death, resignation or removal. Exelixis' Class II directors, Jean-Francois Formela, M.D., Alan M. Garber, M.D., Ph.D. and Vincent T. Marchesi, M.D., Ph.D. will each continue to serve on the Board of Directors until the 2007 annual meeting of stockholders and until his successor is elected and 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, 2005 was approved as follows:

For	Against	Abstain	Broker Non-Vote
66,060,416	224,035	15,548	0

3. The approval of an amendment to the Company's 2000 Employee Stock Purchase Plan to increase the number of shares of common stock reserved for issuance under the plan by 1,850,000 shares, from 1,800,000 shares to 3,650,000 shares was approved as follows:

For	Against	Abstain	Broker Non-Vote
42,120,181	10,995,650	728,209	12,455,959

ITEM 6. EXHIBITS

(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.

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 8, 2005

/s/ Frank Karbe

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

EXHIBIT INDEX

Number	Exhibit Description
4.1	Form of Warrant, dated June 9, 2005, to purchase 750,000 shares of Exelixis, Inc. common stock in favor of Symphony Evolution Holdings LLC
10.1	Lease agreement, dated May 27, 2005, between Exelixis, Inc. and Britannia Pointe Grand Limited Partnership (1)
10.2*	Collaboration Agreement, dated May 31, 2005, between Exelixis, Inc. and Genentech, Inc.
10.3*	License agreement, dated June 10, 2005, between Exelixis, Inc. and Helsinn Healthcare S.A.
10.4*	Novated and Restated Technology License Agreement, dated June 9, 2005, between Exelixis, Inc. and Symphony Evolution, Inc.
10.5*	Amended and Restated Research and Development Agreement, dated June 9, 2005, among Exelixis, Inc., Symphony Evolution, Inc. and Symphony Evolution Holdings LLC
10.6*	Purchase Option Agreement, dated June 9, 2005, among Exelixis, Inc., Symphony Evolution Holdings LLC and Symphony Evolution, Inc.
10.7*	Registration Rights Agreement, dated June 9, 2005, between Exelixis, Inc. and Symphony Evolution Holdings LLC
10.8*	Warrant Purchase Agreement, dated June 9, 2005, between Exelixis, Inc. and Symphony Evolution Holdings LLC
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).

* Confidential treatment requested for certain portions of this exhibit.

** 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.

(1) Filed as an Exhibit to Exelixis, Inc.'s Current Report on Form 8-K, as filed with the Securities and Exchange Commission on May 27, 2005 and incorporated herein by reference.

Exhibit 4.1

NEITHER THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE HEREOF HAVE BEEN THE SUBJECT OF REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE, AND THE SAME HAVE BEEN (OR WILL BE, WITH RESPECT TO THE SECURITIES ISSUABLE UPON EXERCISE HEREOF) ISSUED IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. NEITHER THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE HEREOF MAY BE SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT AS PERMITTED UNDER SUCH SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.

THE WARRANT EVIDENCED BY THIS CERTIFICATE IS SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE WARRANT PURCHASE AGREEMENT, DATED AS OF JUNE 9, 2005, COPIES OF WHICH ARE ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF THE ISSUER. NO REGISTRATION OF TRANSFER OF THIS WARRANT WILL BE MADE ON THE BOOKS OF THE ISSUER UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH.

EXELIXIS, INC.

WARRANT TO PURCHASE COMMON STOCK

June 9, 2005

Void After June 9, 2010

THIS CERTIFIES THAT, for value received, **SYMPHONY EVOLUTION HOLDINGS LLC**, a Delaware limited liability company, with its principal office at 7361 Calhoun Place, Suite 325, Rockville, MD 20850, or its assigns (the "Holder"), is entitled to subscribe for and purchase at the Exercise Price (as defined below) from **EXELIXIS, INC.**, a Delaware corporation, with its principal office at 170 Harbor Way, P.O. Box 511, South San Francisco, CA 94083 (the "Company"), up to Seven Hundred Fifty Thousand (750,000) shares of Common Stock, par value $0.001 per share, of the Company (the "Common Stock").

This Warrant is being issued pursuant to the terms of the Warrant Purchase Agreement, dated as of June 9, 2005, between the Company and Holder (the "Warrant Purchase Agreement").

1. DEFINITIONS. As used herein, the following terms shall have the following respective meanings:

(a) "Exercise Period" shall mean the period commencing on the date hereof and ending on June 9, 2010.

(b) "Exercise Price" shall mean $8.90 per share, subject to adjustment pursuant to Section 4 below.

(c) "Exercise Shares" shall mean the shares of Common Stock issuable upon exercise of this Warrant, subject to adjustment pursuant to the terms herein, including but not limited to adjustment pursuant to Section 4 below.

2. EXERCISE OF WARRANT.

2.1 Generally. The rights represented by this Warrant may be exercised in whole or in part at any time during the Exercise Period, by delivery of the following to the Company at its address set forth above (or at such other address as it may designate pursuant to Section 12 hereof):

(a) an executed Notice of Exercise in the form attached hereto;

(b) payment of the Exercise Price of the shares thereby subscribed for by wire transfer or cashier's check drawn on a United States bank to the Company, or by means of a cashless exercise pursuant to Section 2.2; and

(c) this Warrant.

Upon the exercise of the rights represented by this Warrant, a certificate or certificates for the Exercise Shares so purchased, registered in the name of the Holder or persons affiliated with the Holder, if the Holder so designates, shall be issued and delivered to the Holder as soon as practicable, but in no event longer than 30 days, after the rights represented by this Warrant shall have been so exercised. The Company shall, upon request of the Holder, if available and if allowed under applicable securities laws, use its commercially reasonable efforts to deliver any certificate or certificates required to be delivered by the Company under this section electronically through the Depository Trust Corporation or another established clearing corporation performing similar functions. If this Warrant shall have been exercised in part, the Company shall, at the time of delivery of the certificate or certificates representing Exercise Shares, deliver to Holder a new Warrant evidencing the rights of Holder to purchase the unpurchased Exercise Shares called for by this Warrant, which new Warrant shall in all other respects be identical to this Warrant.

The person in whose name any certificate or certificates for Exercise Shares are to be issued upon exercise of this Warrant shall be deemed to have become the holder of record of such shares on the date on which this Warrant was surrendered and payment of the Exercise Price and all taxes required to be paid by the Holder, if any, was made, irrespective of the date of delivery of such certificate or certificates, except that, if the date of such surrender and payment is a date when the stock transfer books of the Company are closed, such person shall be deemed to have become the holder of such shares at the close of business on the next succeeding date on which the stock transfer books are open.

2.2 Cashless Exercise. Notwithstanding any provisions herein to the contrary, if the fair market value of one share of Common Stock is greater than the Exercise Price (at the date of calculation as set forth below), in lieu of exercising this Warrant by payment

of cash, the Holder may elect to receive shares equal to the value (as determined below) of this Warrant (or the portion thereof being exercised) by surrender of this Warrant together with the properly endorsed Notice of Exercise, in which event the Company shall issue to the Holder a number of shares of Common Stock computed using the following formula:

$$X = \frac{Y\,(A-B)}{A}$$

Where X = the number of shares of Common Stock to be issued to the Holder

Y = the number of shares of Common Stock purchasable under the Warrant or, if only a portion of the Warrant is being exercised, the portion of the Warrant being exercised (at the date of such calculation)

A = the fair market value of one share of Common Stock (at the date of such calculation)

B = Exercise Price (as adjusted to the date of such calculation)

For purposes of the above calculation, the fair market value of one share of Common Stock shall equal the average closing price of the Common Stock, as reported in the *Wall Street Journal*, on the NASDAQ National Market, or other national exchange that is then the primary exchange on which the Common Stock is listed (the "the Principal Market"), for the 30 trading days immediately preceding the second trading day prior to the date on which the Holder delivers to the Company an executed Notice of Exercise in the form attached hereto. If the Common Stock is not quoted on the NASDAQ National Market, or listed on another national exchange, the fair market value of one share of Common Stock shall be determined by the Company's Board of Directors in good faith.

2.3 Legend. All certificates evidencing the shares to be issued to the Holder may bear the following legends:

"THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE, AND THE SAME HAVE BEEN ISSUED IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. SUCH SHARES MAY NOT BE SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT AS PERMITTED UNDER SUCH SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.**"**

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE WARRANT PURCHASE AGREEMENT, DATED AS OF JUNE 9, 2005, COPIES OF WHICH ARE ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF THE ISSUER. NO REGISTRATION OF TRANSFER OF THESE SHARES WILL BE MADE ON THE BOOKS OF THE ISSUER UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH."

2.4 Charges, Taxes and Expenses. Issuance of certificates for Exercise Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event certificates for Exercise Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder; and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto.

3. COVENANTS OF THE COMPANY.

3.1 No Impairment. Except and to the extent as waived or consented to by the Holder, the Company will at all times in good faith assist in the carrying out of all the provisions of this Warrant and in the taking of all such action as may be necessary or appropriate in order to protect the exercise rights of the Holder against impairment.

3.2 Notices of Record Date. If at any time:

(a) the Company shall take a record of the holders of Common Stock for the purpose of entitling them to receive a dividend or other distribution, or any right to subscribe for or purchase any evidences of its indebtedness, any shares of stock of any class or any other securities or property, or to receive any other right (other than with respect to any equity or equity equivalent security issued pursuant to a rights plan adopted by the Company's Board of Directors);

(b) there shall be any capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company or any consolidation or merger of the Company, or any sale, transfer or other disposition of all or substantially all the property, assets or business of the Company; or

(c) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Company;

then, in any one or more of such cases, the Company shall give to Holder (i) at least 10 days' prior written notice of the date on which a record date shall be selected for such dividend, distribution or right or for determining rights to vote in respect of any such reorganization, reclassification, recapitalization, consolidation, merger, sale, transfer, disposition, dissolution, liquidation or winding up and (ii) in the case of any such reorganization, reclassification, recapitalization, consolidation, merger, sale, transfer, disposition, dissolution, liquidation or winding up, at least 10 days' prior written notice of the date on which the same shall take place. Such notice in accordance with the foregoing clause also shall specify the date on which the holders of Common Stock shall be entitled to any such dividend, distribution or right, and the amount and character thereof.

4. ADJUSTMENT OF EXERCISE PRICE. In the event of changes in the outstanding Common Stock by reason of stock dividends, split-ups, recapitalizations, reclassifications,

combinations or exchanges of shares, separations, reorganizations, liquidations or the like, the number and class of shares available under this Warrant in the aggregate and the Exercise Price shall be correspondingly adjusted to give the Holder of this Warrant, on exercise for the same aggregate Exercise Price, the total number, class and kind of shares as the Holder would have owned had the Warrant been exercised prior to the event and had the Holder continued to hold such shares until after the event requiring adjustment. The form of this Warrant need not be changed because of any adjustment in the number of Exercise Shares subject to this Warrant.

5. FRACTIONAL SHARES. No fractional shares shall be issued upon the exercise of this Warrant, including as a consequence of any adjustment pursuant hereto. If the exercise would result in the issuance of a fractional share, the Company shall, in lieu of issuance of any fractional share, pay the Holder otherwise entitled to such fraction a sum in cash equal to the product resulting from multiplying the then current fair market value of an Exercise Share (determined as provided in Section 2.2 hereof) by such fraction; provided, however, that the Company may elect in its sole discretion to issue the next higher number of full shares of Common Stock by issuing a full share with respect to such fractional share.

6. CORPORATE TRANSACTIONS. In case the Company shall reorganize its capital, reclassify its capital stock, consolidate or merge with or into another corporation (where the Company is not the surviving corporation or where there is a change in or distribution with respect to the Common Stock), or sell, transfer or otherwise dispose of all or substantially all its property, assets or business and, pursuant to the terms of such reorganization, reclassification, merger, consolidation or disposition of assets, shares of common stock of the successor or acquiring corporation, or any cash, shares of stock or other securities or property of any nature whatsoever (including warrants or other subscription or purchase rights) in addition to or in lieu of common stock of the successor or acquiring corporation ("Other Property"), are to be received by or distributed to the holders of the Common Stock, then the Holder shall have the right thereafter to receive, upon exercise of this Warrant, the number of shares of common stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and Other Property receivable upon or as a result of such reorganization, reclassification, merger, consolidation or disposition of assets by a Holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such event. For purposes of this Section 6, "common stock of the successor or acquiring corporation" shall include stock of such corporation of any class which is not preferred as to dividends or assets over any other class of stock of such corporation and which is not subject to redemption and shall also include any evidences of indebtedness, shares of stock or other securities which are convertible into or exchangeable for any such stock, either immediately or upon the arrival of a specified date or the happening of a specified event and any warrants or other rights to subscribe for or purchase any such stock. The foregoing provisions of this Section 6 shall similarly apply to successive reorganizations, reclassifications, mergers, consolidations or disposition of assets.

7. NOTICE OF ADJUSTMENT. Whenever the number of Exercise Shares or number or kind of securities or other property purchasable upon the exercise of this Warrant or the Exercise Price is adjusted, as herein provided, the Company shall give notice thereof to the Holder at the address of such Holder appearing on the books of the Company, which notice shall state the number of Exercise Shares (and other securities or property) purchasable upon the exercise of this Warrant and the Exercise Price of such Exercise Shares (and other securities or property) after such adjustment, setting forth a brief statement of the facts requiring such adjustment and setting forth the computation by which such adjustment was made.

8. ORDERLY SALE. This Warrant and the Exercise Shares are subject to the provisions of Section 6.05 of the Warrant Purchase Agreement.

9. NO STOCKHOLDER RIGHTS. This Warrant does not entitle the Holder to any voting rights or other rights as a stockholder of the Company prior to the exercise hereof. Upon the exercise of this Warrant in accordance with Section 2, the Exercise Shares so purchased shall be and be deemed to be issued to such Holder as the record owner of such shares as of the close of business on the date of such exercise.

10. TRANSFER OF WARRANT. Subject to applicable laws, the restriction on transfer set forth on the first page of this Warrant and the provisions of Article VI of the Warrant Purchase Agreement, this Warrant and all rights hereunder are transferable by the Holder, in person or by duly authorized attorney, upon delivery of this Warrant, the Assignment Form attached hereto and funds sufficient to pay any transfer taxes payable upon the making of such transfer, to any transferee designated by Holder. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. A Warrant, if properly assigned, may be exercised by a new holder for the purchase of Exercise Shares without having a new Warrant issued. The Company may require, as a condition of allowing a transfer (i) that the Holder or transferee of this Warrant, as the case may be, furnish to the Company a written opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that such transfer may be made without registration under the Securities Act and under applicable state securities or blue sky laws, (ii) that the holder or transferee execute and deliver to the Company an investment letter in form and substance acceptable to the Company, (iii) that the transferee be an "accredited investor" as defined in Rule 501(a) promulgated under the Securities Act and (iv) the transferee agree in writing to be bound by the terms of this Warrant and the Warrant Purchase Agreement as if an original signatory thereto.

11. LOST, STOLEN, MUTILATED OR DESTROYED WARRANT. If this Warrant is lost, stolen, mutilated or destroyed, the Company may, on such terms as to indemnity or otherwise as it may reasonably impose (which shall, in the case of a mutilated Warrant, include the surrender thereof), issue a new Warrant of like denomination and tenor as the Warrant so lost, stolen, mutilated or destroyed.

12. NOTICES, ETC. Any notice, request, demand, waiver, consent, approval or other communication that is required or permitted to be given hereto shall be in writing and shall be deemed given only if delivered to the applicable party personally or sent to the party by facsimile transmission (promptly followed by a hard-copy delivered in accordance with this Section 12), by next business day delivery by a nationally recognized courier service, or by registered or certified mail (return receipt requested), with postage and registration or certification fees thereon prepaid, addressed to the party at its address set forth in the Warrant Purchase Agreement, or at such other address as the Company or Holder may designate by ten (10) days advance written notice to the other party hereto.

13. ACCEPTANCE. Receipt of this Warrant by the Holder shall constitute acceptance of and agreement to all of the terms and conditions contained herein.

14. GOVERNING LAW. This Warrant and all rights, obligations and liabilities hereunder shall be governed by the laws of the State of New York.

15. SATURDAYS, SUNDAYS, HOLIDAYS, ETC. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall be a Saturday, Sunday or a legal holiday, then such action may be taken or such right may be exercised on the next succeeding day not a Saturday, Sunday or legal holiday.

16. AMENDMENT. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

17. SUCCESSORS AND ASSIGNS. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors of the Company and the successors and permitted assigns of Holder.

18. HEADINGS. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its duly authorized officer as of June 9, 2005.

EXELIXIS, INC.

By: /s/ Christoph Pereira

Name: Christoph Pereira
Title: Vice President, Legal Affairs and Secretary

NOTICE OF EXERCISE

TO: EXELIXIS, INC.

(1) ☐ The undersigned hereby elects to purchase _____ shares of Common Stock of **EXELIXIS, INC.** (the "Company") pursuant to the terms of the attached Warrant, and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

☐ The undersigned hereby elects to purchase _____ shares of Common Stock of **EXELIXIS, INC.** (the "Company") pursuant to the terms of the net exercise provisions set forth in Section 2.2 of the attached Warrant, and shall tender payment of all applicable transfer taxes, if any.

(2) Please issue a certificate or certificates representing said shares of Common Stock in the name of the undersigned or in such other name as is specified below:

_____

(Name)

_____

_____

(Address)

(3) The undersigned represents that:

(A) It is an "accredited investor" within the meaning of Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act").

(B) It has relied completely on the advice of, or has consulted with or has had the opportunity to consult with, its own personal tax, investment, legal or other advisors and has not relied on the Company or any of its affiliates for advice.

(C) It has been advised and understands that the offer and sale of the attached Warrant and the shares of Common Stock issued upon exercise of the Warrant (the "Warrant Shares") have not been registered under the Securities Act. It is able to bear the economic risk of such investment for an indefinite period and to afford a complete loss thereof.

(D) It is acquiring the Warrant Shares solely for its own account for investment purposes as a principal and not with a view to the resale of all or any part thereof. It agrees that the Warrant Shares may not be resold (1) without registration thereof under the Securities Act (unless an exemption from such registration is available), or (2) in violation of any law. It acknowledges that the Company is not required to register the Warrant Shares under the Securities Act.

It is not and will not be an underwriter within the meaning of Section 2(11) of the Securities Act with respect to the Warrant Shares.

(E) No person or entity acting on behalf of, or under the authority of, the undersigned is or will be entitled to any broker's, finder's, or similar fees or commission payable by the Company or any of its affiliates.

(Date)

(Signature)

(Print name)

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form
and supply required information. Do not use this
form to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____

(Please Print)

Address: _____

(Please Print)

Dated: _____, 2____

Holder's
Signature: _____

Holder's
Address: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatever. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

COLLABORATION AGREEMENT

THIS COLLABORATION AGREEMENT (this "**Agreement**") is made and entered into as of May 31, 2005 (the "**Effective Date**") by and between **EXELIXIS, INC.**, a Delaware corporation having its principal place of business at 170 Harbor Way, P.O. Box 511, South San Francisco, California 94083-0511 ("**Exelixis**"), and **GENENTECH, INC.,** a Delaware corporation having its principal place of business at 1 DNA Way, South San Francisco, California 94080 ("**Genentech**"). Exelixis and Genentech are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. Genentech is a health care company that has expertise and capability in developing and marketing human biopharmaceuticals and has research and development programs.

B. Exelixis is a drug discovery company that has expertise and proprietary technology relating to the Notch signaling pathway.

C. Genentech and Exelixis desire to establish a collaboration to apply each Party's technology and expertise as part of a program for the generation, screening and validation of therapeutics directed against certain targets in the Notch signaling pathway, and to provide for the development and commercialization of such therapeutics.

NOW, THEREFORE, the Parties agree as follows:

1. DEFINITIONS

Capitalized terms used in this Agreement (other than the headings of the Sections or Articles) shall have the following meaning set forth in this Article 1, or, if not listed in this Article 1, the meaning as designated in the text of this Agreement.

1.1 "**Adam-10**" means the gene Adam-10 (for any species) and the protein (or fragment or epitope thereof) encoded by such gene, including the protein encoded by the nucleic acid sequence set forth in REFSEQ accession No. NM 001110 and NP 001101, and naturally occurring variants and fragments thereof.

1.2 "**Affiliate**" means any person, corporation, partnership or other entity that directly or indirectly controls or is controlled by or is under common control with a Party. For purposes of this definition, "control" or "controlled" means ownership directly or through one or more Affiliates, of fifty percent (50%) or more of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or fifty percent (50%) or more of the equity interest in the case of any other type of legal entity, status as a general partner in any partnership, or any other

arrangement whereby a Party controls or has the right to control the Board of Directors or equivalent governing body of a corporation or other entity, or the ability to cause the direction of the management or policies of a corporation or other entity. Notwithstanding the foregoing, for Genentech, "Affiliate" excludes any parent entity that controls Genentech, including F. Hoffman La Roche, Ltd. and its successors ("**Roche**"), and entities that control, are under common control (as defined in this Section) with, such parent entity, and entities that are controlled by such parent entity, other than entities controlled through Genentech.

1.3 "**BLA**" means a Biologics License Application filed pursuant to the requirements of the FDA, or the equivalent application or filing in another country (as applicable). "**sBLA**" means a supplemental BLA.

1.4 "**Class I Claim**" means a Valid Claim of **[*]** which Valid Claim either: (a) **[*]** or (b) **[*]**.

1.5 "**Class II Claim**" means a Valid Claim (other than a Class I Claim) of **[*]** which Valid Claim claims **[*]**.

1.6 "**Collaboration Assay**" means any assay that is created during or improved during the Research Term pursuant to the Research Plan by or on behalf of either Party, and that **[*]** or **[*]**.

1.7 "**Collaboration Invention**" means any Information, machine, manufacture, process, design, formulation, or composition of matter, or any new and useful improvement thereof, which is made pursuant to the Research Plan, whether jointly by or on behalf of the Parties or solely by or on behalf of one Party. Collaboration Inventions include but are not limited to Collaboration Assays and Collaboration Reagents.

1.8 "**Collaboration IP**" means: (a) any and all Collaboration Patents; and (b) proprietary and confidential Information (including intellectual property and proprietary rights other than Patents in and to such Information), or other intellectual property rights (excluding Patents that Cover a Collaboration Invention), but for both (a) and (b), only to the extent such rights were created pursuant to the Research Plan.

1.9 "**Collaboration Patent**" means any Patent that: (a) **[*]**; and (b) **[*]**.

1.10 "**Collaboration Reagent**" means any **[*]** reagents that are created or made by or on behalf of a Party (or the Parties jointly) during the Research Term pursuant to the Research Plan, excluding: (a) Collaboration Assays; (b) any Licensed Products; and (c) **[*]**.

1.11 "**Collaboration Target**" means: (a) **[*]**; and (b) any other target added to Exhibit A pursuant to Section 2.4.

1.12 "**Collaboration Target Activity**" of any product is the same as that of a Licensed Product if the other product **[*]** and **[*]** (e.g., if the Licensed Product is **[*]**, then the other product also is **[*]**, if the Licensed Product is **[*]**, then the other product also is **[*]**, and if the Licensed Product is **[*]**, then the other product also is **[*]**).

1.13 "**Commercializing Party**" means that Party commercializing a particular product under this Agreement: (a) Exelixis with respect to an Exelixis Reagent Product or Exelixis Screening Product, and (b) Genentech with respect to a Licensed Product or a Genentech Screening Product.

1.14 "**Competing Product**" means, with respect to a Licensed Product in a country, any product that is **[*]** and that: (a) **[*]**; and (b) **[*]**. If a Licensed Product is **[*]**, then a Competing Product could be **[*]**.

1.15 "**Confidential Information**" has the meaning set forth in Section 9.1.

1.16 "**Control**" means ownership or other legal authority or right of a Party or any of its Affiliates, to grant a license or sublicense of intellectual property rights to another Party or its Affiliates, without the grant or such license or sublicense alone constituting a breach of an agreement between that Party (or its Affiliates) and a Third Party.

1.17 "**Cost Sharing Ratio**" means, for each Licensed Product designated by Exelixis as a Profit Share Product under Section 4.2**[*]** for each such Profit Share Product.

1.18 "**Covered**" or "**Covers**" means:

(a) with respect to a Patent (and a given product will be deemed "Covered" by that Patent), if the **[*]** would, in the country of sale and at the time of sale, infringe a Valid Claim in that country; and

(b) with respect to proprietary and confidential Information, know-how (either Genentech Know-How or Exelixis Know-How) or any other intellectual property rights other than Patents (and a given product will be deemed "Covered" by such proprietary and confidential Information, know-how or other non-Patent intellectual property rights), if the **[*]**, or if the **[*]**.

1.19 "**Development Costs**" has the meaning set forth in the Financial Appendix.

1.20 "**Diagnostic**" means a product intended and designed for use solely or primarily for the purpose of testing recipients or potential recipients: (a) **[*]**; (b) **[*]**; or (c) **[*]**.

1.21 "**Diligent Efforts**" means, as applied to a Party or Parties, those efforts and diligence (including the deployment of resources) that **[*]**. Where "Diligent Efforts" is to be applied to development of a Licensed Product, **[*]** is considered not to be using Diligent Efforts.

1.22 [*].

1.23 "**Exelixis Know-How**" means all proprietary and confidential Information (including intellectual property and proprietary rights other than Patents in and to such Information) Controlled by Exelixis or its Affiliates, **[*]** and **[*]**. Exelixis Know-How excludes: (a) Information (and intellectual property and proprietary rights other than Patents in and to such Information) regarding **[*]**; (b) Collaboration IP; and (c) Yale Know-How.

1.24 "**Exelixis Reagent Product**" means any product discovered, identified, developed or commercialized by or on behalf of Exelixis: (a) **[*]**; or (b) **[*]**; or (c) **[*]**. For clarity, a product will not be **[*]** if those Collaboration Assays or Collaboration Reagents are **[*]**. "Exelixis Reagent Product" excludes any Licensed Product.

1.25 "**Exelixis Research IP**" means the Exelixis Know-How and the Exelixis Research Patents.

1.26 "**Exelixis Research Patents**" means any and all Patents that are Controlled by Exelixis or its Affiliates, **[*]**, and that **[*]**. Exelixis Research Patents excludes: (a) Patents Covering **[*]**; (b) Yale Patents; and (c) Collaboration Patents.

1.27 "**Exelixis Screening Product**" means any **[*]** product, other than an Exelixis Reagent Product, that **[*]** and that **[*]**, where the **[*]** are, at the time of such **[*]**, Covered by **[*]**.

1.28 "**FDA**" means the U.S. Food and Drug Administration, or any successor entity thereto.

1.29 "**Field**" means the diagnosis, treatment or prevention of human diseases and conditions.

1.30 "**Financial Appendix**" means Exhibit E to this Agreement, which sets forth certain financial terms and conditions.

1.31 "**First Commercial Sale**" means, for any product, and on a country-by-country basis in each country in which that product is sold, the first arm's-length sale to a Third Party for use or consumption by an end-user (e.g., a physician) of that product in that country, after obtaining Regulatory Approval of that product in that country. A First Commercial Sale shall not include a sale of any product for use in clinical trials, for research or for other non-commercial uses, or supply of a product as part of a compassionate use or similar program. For purposes of this Agreement, "**Regulatory Approval**" means all necessary approvals (including supplements, amendments, pre- and post-approvals, pricing and reimbursement approvals), licenses, registrations or authorizations of any national, supra-national (e.g., the European Medicines Evaluation Agency), regional, state or local regulatory agency, department, bureau, commission, council or other governmental entity, have been obtained for the manufacture, distribution, use or sale of that product in a regulatory jurisdiction.

1.32 "**Follow-On Exelixis Inventions**" means any **[*]** which is made **[*]**.

1.33 "**Follow-On Exelixis IP**" means: (a) any and all Patents that Cover the Follow-On Exelixis Inventions and that **[*]**; and (b) any other intellectual property rights (including know-how, rights in and to Information, but excluding Patents) that Cover a Follow-On Exelixis Invention and that **[*]**.

1.34 "**FTE**" means the equivalent of a full-time scientist's work time over a twelve (12) month period (including normal vacations, sick days and holidays). **[*]**.

1.35 "**GAAP**" means United States generally accepted accounting principles, consistently applied.

1.36 "**Genentech Excluded IP**" means: (a) all rights in and to any of the following, each of which is defined on **Exhibit C**: (i) **[*]**; (ii) **[*]**; (iii) **[*]**; (iv) **[*]**; (v) **[*]**; or (b) Patents Covering **[*]**.

1.37 "**Genentech Know-How**" means all proprietary and confidential Information (including intellectual property and proprietary rights other than Patents in and to such Information) Controlled by Genentech or its Affiliates, **[*]**, and **[*]**. Genentech Know-How excludes: (a) Information (and intellectual property and proprietary rights other than Patents in and to such Information) regarding **[*]**; and (b) Collaboration IP.

1.38 "**Genentech Licensed IP**" means the Genentech Know-How and the Genentech Licensed Patents.

1.39 "**Genentech Licensed Patents**" means any and all Patents Controlled by Genentech or its Affiliates, **[*]**, that **[*]**. Genentech Licensed Patents excludes: (a) the Genentech Excluded IP; and (b) Collaboration Patents.

1.40 "**Genentech Screening Product**" means any **[*]** product that **[*]** and that: (a) **[*]**, where the **[*]** are, at the time of such **[*]**, Covered by **[*]**; and (b) **[*]**.

1.41 "**IND**" means an Investigational New Drug Application filed with the FDA or the equivalent application in any country outside the U.S. where a regulatory filing is required or obtained to conduct a clinical trial.

1.42 "**Inflammatory Disease**" means: (a) **[*]**; and (b) **[*]**; and (c) **[*]**. Inflammatory Disease excludes **[*]**.

1.43 "**Information**" means information (including results and data) or material of any type, in any tangible or intangible form, including without limitation, inventions, databases, methods, techniques, assays, processes, specifications, formulations, formulae, cell lines, cell media, skills, experience, manufacturing materials, financial data, test data including pharmacological, biological, models, designs, chemical, biochemical, toxicological and clinical test data, analytical and quality control data, quality assurance data, stability data, studies and procedures, and legal information or descriptions.

1.44 "**Interest Rate**" means a rate equal to **[*]** on the last business day of the applicable quarter prior to the date on which such payment is due, calculated daily on the basis of a 365-day year, or, if lower, the highest rate permitted under applicable law

1.45 [*].

1.46 [*].

1.47 "**Joint Collaboration IP**" means a Joint Collaboration Patent or other Collaboration IP owned jointly by the Parties pursuant to Section 8.2.

1.48 "**Joint Collaboration Patent**" means a Collaboration Patent owned jointly by the Parties pursuant to Section 8.2.

1.49 "**Joint Research Committee**" or "**JRC**" means the committee described in Section 2.2(a).

1.50 "**Licensed Product**" means any **[*]** product: (a) **[*]**; (b) **[*]**; or (c) **[*]**, but in any case excluding (x) Adam-10 and (y) **[*]**. Each Licensed Product that is **[*]** will be considered **[*]**.

1.51 "**Marketing Approval Application**" or "**MAA**" means an NDA, an sNDA, a BLA or an sBLA.

1.52 "**NDA**" means a New Drug Application filed pursuant to the requirements of the FDA, or the equivalent application or filing in country other than the United States (as applicable). "**sNDA**" means a supplemental NDA.

1.53 "**Net Sales**" means, with respect to a particular time period, the gross amount invoiced by a Commercializing Party and its Sublicensees (or by a distributor on behalf of either of such Commercializing Party or its Sublicensees) for sales of a product exploited pursuant to the licenses under this Agreement and subject to a potential royalty on Net Sales, including a Royalty Product, a Genentech Screening Product, an Exelixis Reagent Product, or an Exelixis Screening Product (each or all, a "**Commercial Product**" for purposes of this Section 1.53) (such Commercial Product being in final form intended for use by the end user) in arms length transactions between the Commercializing Party and a Third Party during such time period, less **[*]**, to the extent each is actually incurred and included in the invoiced gross sales price: (a) trade, cash and quantity discounts or rebates actually allowed or taken; (b) credits or allowances given or made for rejection or return of, and for uncollectible amounts on, previously sold products or for retroactive price reductions (including rebates similar to Medicare and/or Medicaid); (c) sales tax, VAT taxes, and other taxes, duties or other governmental charges levied on or measured by the billing amount, as adjusted for rebates or refunds, that are borne by the seller thereof and that are not refundable and to the extent noncreditable; (d) charges for freight and insurance directly related to the distribution of Commercial Products (to the extent not paid by the Third Party customer); and (e) credits or allowances given or made for wastage replacement, indigent patient and similar programs. The specific deductions taken under, and the general provisions of, (a) through (e) above shall be adjusted periodically as necessary to reflect amounts actually incurred. Sales between a Commercializing Party and its Sublicensees (or distributors of such Commercializing Party or its Sublicensees) shall be disregarded for purposes of calculating Net Sales. Notwithstanding anything herein to the contrary, in all cases Net Sales shall be determined in accordance with GAAP. In the event a Commercial Product is sold in combination with one or more other active pharmaceutical ingredients (as used in this definition of Net Sales, a "**Combination**"), then Net Sales for that Commercial Product shall be calculated by multiplying the Net Sales of such Combination by the fraction A/B, where A is the gross selling price of the Commercial Product sold separately and B is the gross selling price of the Combination. In the event that no such separate sales are made, Net Sales for royalty determination shall be calculated by multiplying Net Sales of the Combination by the fraction

C/(C+D), where C is the fully allocated cost of the Commercial Product and D is the fully allocated cost of the other active pharmaceutical ingredient(s) in the Combination.

Genentech and Exelixis agree that for purposes of this definition, **[*]** shall not be deemed to be "**active pharmaceutical ingredients**", the presence of which in a product sold by a Commercializing Party hereunder would be deemed to create a Combination subject to the terms of the preceding paragraph.

If a product sold by a Commercializing Party hereunder is sold under a bundled or capitated arrangement with other products of a Party and its Sublicensees, then, solely for the purpose of calculating Net Sales, any **[*]** shall be **[*]**, than **[*]**.

1.54 [*].

1.55 [*].

1.56 [*].

1.57 [*].

1.58 "**Oncology**" means **[*]**.

1.59 "**Operating Profits (Losses)**" has the meaning set forth in the Financial Appendix.

1.60 "**Other Target**" means a target within the Notch signaling pathway that is not a Collaboration Target and is listed on **Exhibit D**.

1.61 "**Patents**" means all: (a) U.S. issued patents, re-examinations, reissues, renewals, extensions and term restorations, inventors' certificates and foreign counterparts thereof; (b) pending applications for U.S. patents, including provisional applications, continuations, continuations-in-part, continued prosecution, divisional and substitute applications; and (c) non-U.S. counterparts or equivalents of the foregoing in subsection (a) and (b).

1.62 "**Phase I Clinical Trial**" means a human clinical trial with a principal purpose of preliminarily determining the safety of a pharmaceutical product in healthy individuals or patients as required in 21 C.F.R. §312.21(a), or similar clinical study in a country other than the United States, and for which there are no primary endpoints related to efficacy.

1.63 "**Phase II Clinical Trial**" means a human clinical trial with a principal purpose of determining efficacy and dosing of a pharmaceutical products in patients with the disease being studied as described in 21 C.F.R. §312.21(b), or similar clinical study in a country other than the United States.

1.64 "**Phase III Clinical Trial**" means a human clinical trial with a principal purpose of establishing safety and efficacy of a pharmaceutical product in patients with the disease being studied as required in 21 C.F.R. §312.21(c) or similar clinical study in a country other than the United States. A Phase III Clinical Trial shall also include any other human clinical trial

intended as a pivotal trial for Regulatory Approval purposes, or that results in data actually used to support the filing of a Marketing Approval Application, whether or not such trial is a traditional Phase III Clinical Trial.

1.65 "**Profit Share Field**" means either the field of Inflammatory Disease or the field of TGR, as selected by Exelixis pursuant to Section 4.1.

1.66 "**Profit Share Product**" means any Licensed Product designated as a Profit Share Product under Section 4.2.

1.67 "**Research Funding**" means the payments made by Genentech to Exelixis for purposes of funding research under the Research Plan, as described in Section 7.2.

1.68 "**Research Plan**" has the meaning set forth in Section 2.1.

1.69 "**Research Term**" means the period beginning on the Effective Date and ending on its third (3rd) anniversary, as may be extended under Section 2.5.

1.70 "**Royalty Product**" means a Licensed Product that is not then subject to a designation as a Profit Share Product. For clarity, although sales of a Genentech Screening Product may be subject to royalty obligations, it is not a Royalty Product.

1.71 "**Royalty Term**" means:

(a) in the case of payments under Section 7.4(a) (i.e., for each Royalty Product Covered by a Class I Claim), on a country-by-country and Royalty Product by Royalty Product basis, the period beginning with **[*]** and ending on the earlier of the date on which (i) **[*]**, or (ii) **[*]**;

(b) in the case of payments under Section 7.4(b) (i.e., for each Royalty Product Covered by a Class II Claim), on a country-by-country basis, the period beginning with **[*]** and ending on the earlier of the date on which (i) **[*]**, or (ii) **[*]**;

(c) in the case of payments under Section 7.4(c) (i.e., for each Royalty Product Covered by **[*]**, on a country-by-country basis, the period beginning with **[*]** and ending on **[*]**; and

(d) in the case of payments under Section 7.5 by Genentech for each Genentech Screening Product on a country-by-country basis, or payments under Section 7.6 or Section 7.7 by Exelixis for each Exelixis Screening Product or Exelixis Reagent Product on a country-by-country basis, the period beginning with **[*]** and ending **[*]**.

1.72 "**Small Molecule Compound**" means any molecule that has a molecular weight **[*]**.

1.73 "**Sole Collaboration IP**" means Collaboration IP invented solely by one Party: "**Genentech's Sole Collaboration IP**" refers to Collaboration IP owned solely by Genentech and "**Exelixis' Sole Collaboration IP**" refers to Collaboration IP owned solely by Exelixis.

1.74 "**Sole Collaboration Patents**" means Patents within a Party's Sole Collaboration IP.

1.75 "**Sublicensee**" means any Third Party or Affiliate to whom Genentech or Exelixis grants a sublicense (or license, as applicable) under any portion of the rights licensed to the respective Party under this Agreement, but excluding any Third Party authorized only to make a product (and not use or sell that product), only to use a product, or only to sell a product.

1.76 "**Third Party**" means any entity other than a Party or a Party's Affiliate that is its wholly-owned subsidiary.

1.77 "**Tissue Growth and Repair**" or "**TGR**" means **[*]** of disease by means of: (a) **[*]**; (b) **[*]**; or (c) **[*]**. Tissue Growth and Repair excludes **[*]**, and excludes **[*]**.

1.78 "**Valid Claim**" means any claim in **[*]** that has not expired, lapsed, been withdrawn, been canceled, been declared invalid or unenforceable in a decision from which no appeal can be taken, or been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise.

1.79 "**Yale Agreement**" means the License Agreement, dated August 27, 1996, among Exelixis, Yale University and Indiana University Foundation, as amended.

1.80 "Yale Know-How" means all proprietary and confidential Information (including any proprietary rights therein or thereto, but excluding any Patents) or know-how that is licensed to Exelixis under the Yale Agreement.

1.81 "Yale Licensed IP" means the Yale Patents and the Yale Know-How.

1.82 "**Yale Patents**" means any and all Patents licensed to Exelixis under the Yale Agreement, including but not limited to those listed on **Exhibit G**.

2. RESEARCH PROGRAM

2.1 General. The Parties have agreed on a detailed plan and budget for the research to be carried out by the Parties during the Research Term, which research plan is attached as **Exhibit F** and incorporated herein by reference, as may be amended pursuant to Article 2 in accordance with this Agreement (the "**Research Plan**").

2.2 Joint Research Committee.

(a) *Membership*. Promptly after the Effective Date, the Parties shall establish a JRC to manage, plan and coordinate the research activities of the Parties under the Research Plan. The JRC shall be composed of an equal number of representatives from each Party, but in no event to exceed four (4) representatives from each Party. Each Party may replace its appointed JRC representatives at any time upon reasonable written notice to the other Party. For the first year of the Research Term, Genentech shall designate one (1) of its representatives as chairperson of the JRC. Thereafter, the Parties shall alternately designate a chairperson of the JRC for each subsequent year of the Research Term.

(b) *Responsibilities*. During the Research Term, the JRC shall: (i) implement the research objectives for the Research Plan in accordance with this Agreement; (ii) evaluate the data generated by the Parties in the course of conducting the Research Plan; (iii) allocate Exelixis or Third Party resources for the work under the Research Plan in accordance with this Agreement and the Research Plan; (iv) review and amend the Research Plan (subject to Sections 2.4(b) and 2.4(c)); (v) review annual progress against the goals of the Research Plan; and (vi) determine standards (based on scientifically reasonable principles) for evaluating the molecules generated by the Parties under the Research Plan. The JRC shall not have the right to amend this Agreement.

(c) *Decision Making*. The JRC shall make decisions unanimously, and each Party's representatives shall collectively have one (1) vote. In the event of a deadlock regarding a decision within the JRC's authority, decisions will be escalated to **[*]** and **[*]**, or their designees when appropriate. For decisions within the JRC's authority that are **[*]**, **[*]** may make the final determinations in the event of a deadlock in the JRC. Consistent with Section 2.4(c) below, however, neither Party has a deciding vote with respect to adding new Collaboration Targets or Other Targets.

2.3 JRC Meetings. JRC meetings shall be held quarterly on an alternating basis in each Party's facilities. With the consent of the representatives of each Party serving on the JRC, other representatives of each Party may attend meetings as nonvoting observers (provided such nonvoting observers have confidentiality obligations to such Party that are at least as stringent as those set forth in this Agreement). A JRC meeting may be held by audio, video or internet teleconference with the consent of each Party, but at least half (1/2) of the minimum number of meetings in each year shall be held in person. Meetings of the JRC shall be effective only if at least one (1) representative of each Party is present or participating. Each Party shall be responsible for all of its own expenses of participating in the JRC meetings.

2.4 Research Plan Review; Other Targets and Adding Collaboration Targets.

(a) *Research Plan Review.* At least on an annual basis, the JRC shall review the Research Plan in light of the Parties' actual progress.

(b) *Work on Other Targets*. During the Research Term, either Party may propose that the Research Plan be expanded to include the performance of work on one or more Other Targets. The JRC shall review each such proposal in good faith and determine if such work on such Other Target(s) should be added. If the JRC unanimously determines that such work should be added, the Research Plan will be revised accordingly. Notwithstanding anything to the contrary, determinations under this Section 2.4(b) are not subject to a deciding vote under Section 2.2 or to dispute resolution under Section 13.3.

(c) *Additional Collaboration Targets and Other Targets*. During the Research Term, either Party may propose that the Research Plan be expanded by the inclusion of additional Collaboration Targets or Other Targets. The JRC shall review each such proposal in good faith and determine if such targets should be added as Collaboration Targets or Other Targets. If the JRC unanimously determines that such a target should be added, the JRC shall expand the scope of the Research Plan by adding such additional Collaboration Targets to

Exhibit A or additional Other Targets to **Exhibit D**. Notwithstanding anything to the contrary, determinations under this Section 2.4(c) are not subject to a deciding vote under Section 2.2 or to dispute resolution under Section 13.3.

2.5 Research Term Extension. The Parties may extend the Research Term by additional **[*]** periods upon their mutual written agreement executed at least **[*]** days prior to the expiration of the then-current Research Term. At the last JRC meeting prior to the expiration of the Research Term, the JRC shall make a determination whether **[*]**. The Parties may agree in writing to attempt to complete such **[*]**; neither Party is, however, required to so **[*]**. If the Parties do agree to **[*]**, then **[*]** shall **[*]**. In the event of an extension, Exelixis shall continue such research during the extended Research Term, subject to the standards in Section 2.1 above and Section 2.7 below. Upon completion of the extended Research Term, Exelixis shall have no obligation to complete any further research under this Agreement.

2.6 Obligations of Parties. During the Research Term, Exelixis and Genentech shall provide the JRC and its authorized representatives with reasonable access during regular business hours to all Information the JRC may reasonably require in order to perform its obligations hereunder.

2.7 Conduct of Research. The Parties shall use Diligent Efforts to conduct their respective tasks under the Research Plan in good scientific manner, and in compliance in all material respects with the requirements of all applicable laws, rules and regulations and all applicable good laboratory practices to attempt to achieve their objectives as efficiently and expeditiously as reasonably practicable. Each Party shall use Diligent Efforts to complete its assigned activities under the Research Plan. Exelixis will not be required to incur any financial costs in excess of the Research Funding.

2.8 Expenses. Except as otherwise set forth in Section 7.2, each Party shall bear its own costs and expenses associated with performing the activities assigned to it in the Research Plan.

2.9 Right to Engage Third Parties for Collaboration Efforts. Either Party may use its Affiliates or subcontractors, contract manufacturers, services providers or other Third Parties to complete its research responsibilities under the Research Plan, as it deems necessary or advisable; provided, however, that such Party shall assure, and hereby guarantees, that any intellectual property developed by such Affiliate or Third Party shall be governed by the provisions of this Agreement (and subject to the licenses set forth in Article 5) as if such intellectual property had been developed by such Party, and provided further that no Third Party may undertake to provide a majority of the work required to be undertaken by a Party to this Agreement. Any agreement with such an Affiliate or Third Party relating to the conduct of work under the Research Plan shall provide for terms that are consistent with this Agreement. Notwithstanding any delegation of obligations under this Agreement by a Party to any of its Affiliates or to a Third Party, each Party shall remain primarily liable and responsible for the performance of all of its obligations under this Agreement and for causing its Affiliates and/or Third Parties to act in a manner consistent herewith.

2.10 Records and Reports. During the Research Term, each Party shall use commercially reasonable efforts to keep the other Party informed of its research and development activities hereunder, and shall provide the other Party's JRC representatives with regular summary updates at JRC meetings. (Those updates are the providing Party's Confidential Information.) Each Party also shall maintain records of progress in research and development hereunder (or cause such records to be maintained) in sufficient detail and in good scientific manner as will properly reflect all work done and results achieved by or on behalf of such Party therewith. If reasonably necessary for a Party to perform its work under the Research Plan or to exercise its rights under this Agreement, that Party may request that the other Party provide more detailed information and data regarding the updates it earlier provided, and the recording Party shall promptly provide the requesting Party with information and data as is reasonably available and reasonably related to the work under the Research Plan. Neither Party is required to generate additional data or prepare additional reports to comply with the foregoing obligation. All such reports, information and data provided by a Party shall be considered the providing Party's Confidential Information.

2.11 Delivery of Information and Collaboration Inventions. At the completion of the Research Plan under this Agreement, at Genentech's request from time to time during the Research Term and for **[*]**, Exelixis shall deliver to Genentech any materials, documentation and other Information created or discovered pursuant to the Research Plan, including but not limited to any Collaboration Reagents, any Collaboration Assays and/or descriptions thereof, and any other Collaboration Inventions (in tangible form if existing and otherwise in the form of a full description). Except as set forth in this Section 2.11, as set forth in Article 8, or as required by the Research Plan, neither Party is required to deliver to the other Party any materials or other tangible items.

3. DEVELOPMENT AND COMMERCIALIZATION OF PRODUCTS

3.1 Genentech Development and Commercialization. As between the Parties, Genentech or its Affiliates or Sublicensees have sole authority to conduct all commercial research, clinical development, manufacturing and commercialization activities, including without limitation all regulatory activities, with respect to any Licensed Products in the Field (whether those Licensed Products are Profit Share Products or Royalty Products). All regulatory applications with respect to the Licensed Products will be owned by Genentech and/or its Affiliates or Sublicensee(s), as applicable. Upon Genentech's or its Sublicensees' or Affiliates' reasonable written request (and at the requesting entity's expense), Exelixis shall **[*]**. Genentech shall have sole control and responsibility for, and shall bear all of its costs and expenses associated with, the development, manufacture (including formulation) and commercialization of all Licensed Products as applicable, except to the extent that Genentech receives reimbursement from Exelixis for any Profit Share Product.

3.2 Genentech Diligence. Genentech shall use Diligent Efforts to develop and commercialize one or more Licensed Products during the term of this Agreement. **[*]**. Exelixis may **[*]**. Exelixis may **[*]**. If Genentech has not **[*]** within **[*]**, then Genentech shall **[*]**. **[*]** fully satisfies **[*]**. If Genentech **[*]** Genentech has **[*]**.

3.3 Engaging Third Parties for Development, Manufacture and/or Commercialization. It is understood that when Genentech engages its Affiliates or any Third Parties with respect to the development, manufacture and commercialization of any Licensed Products, that engagement may require a license or sublicense of rights obtained from Exelixis under this Agreement. In addition to Genentech's rights to sublicense under Article 5, Genentech may disclose Confidential Information of Exelixis solely as necessary to fulfill the business purposes of the engagement, and then only pursuant to terms and conditions that are substantially as protective of that Confidential Information as are the terms and conditions of this Agreement. Notwithstanding any delegation of obligations under this Agreement by Genentech to its Affiliates or a Third Party, Genentech shall remain primarily liable and responsible for the performance of all of its obligations under this Agreement and for causing such Affiliates or Third Parties to act in a manner consistent herewith.

3.4 Development, Manufacturing and Commercialization Records. Genentech shall maintain complete and accurate records of all development, manufacturing and commercialization conducted by it or on its behalf related to each Licensed Product. Genentech shall maintain such records until the later of: (a) **[*]** after such records are created, or (b) **[*]** after the First Commercial Sale of the Licensed Product to which such records pertain. Such records shall be at a level of detail appropriate for patent and regulatory purposes.

3.5 [*].

4. DESIGNATION OF PROFIT SHARE FIELD AND PROFIT SHARE PRODUCTS

4.1 Election of Profit Share Field. Within **[** * **]** after the end of the Research Term, Exelixis shall notify Genentech in writing whether it desires to elect a Profit Share Field and, if so, whether the Profit Share Field is Inflammatory Disease or TGR. Exelixis may not elect a Profit Share Field after the expiration of the foregoing time period, and once elected, the Profit Share Field may not be modified. If Exelixis does not elect a Profit Share Field, then it may not elect any Profit Share Products, and all Licensed Products will be designated Royalty Products for the remainder of the term of the Agreement.

4.2 Designation by Exelixis of Licensed Products as Profit Share Products.

(a) *Generally*. All Licensed Products are Royalty Products unless designated as Profit Share Products in accordance with this Section 4.2. Designation is on a Licensed Product-by-Licensed Product basis, and worldwide for any Licensed Product so designated. No Licensed Product simultaneously will be a Royalty Product and a Profit Share Product.

(b) *Genentech Notices to Exelixis*. If Genentech intends to develop a Licensed Product Covered by **[*]**, for an indication in the Profit Share Field (where for purposes of this Agreement Genentech's intention to develop is conclusively determined by **[*]**), then Genentech shall provide written notice to Exelixis within **[*]** days after the date of **[*]**. That notice must include all of the following: (i) the identity of the Licensed Product; (ii) the relevant Collaboration Target to which that Licensed Product **[*]**; (iii) whether that Licensed Product is **[*]**; and (iv) the indication(s) for which the Licensed Product is then being developed. After Exelixis' receipt of the notice, Exelixis may request additional information,

and Genentech shall make available to Exelixis, in a reasonable manner and at a convenient location: (w) **[*]**; (x) **[*]**; (y) **[*]**; and (z) **[*]**. In addition to the foregoing information, during the **[*]** days after Exelixis receives that notice, Genentech shall respond promptly to Exelixis' reasonable inquiries regarding that Licensed Product.

(c) *Designation by Exelixis*. Exelixis may designate a Licensed Product that was the subject of a notice in Section 4.2(b) as a Profit Share Product by providing written notice of that designation to Genentech. If Exelixis declines to designate a Licensed Product as a Profit Share Product within **[*]** days after receipt of Genentech's notice, then that Licensed Product, **[*]** are not subject to further election or designation as Profit Share Products, and will be Royalty Products for the remainder of the term of this Agreement.

(d) *Notification Limits*. Genentech has no obligation to provide notice to Exelixis or permit Exelixis to make a designation for a Licensed Product that was **[*]** and that was subsequently **[*]**. In addition, Genentech's obligation to provide notice under Section 4.2(b) and Exelixis' right to designate a Licensed Product as a Profit Share Product under Section 4.2(c) extends **[*]**.

(e) *Future Profit Share Products*. Where a Licensed Product has been designated as a Profit Share Product, all future Licensed Products that have the same Collaboration Target Activity also are Profit Share Products.

4.3 Terms for Profit Share Products. The financial terms for Profit Share Products, including the relevant Cost Sharing Ratio and Operating Profits (Losses), are set forth in Section 7.11 and in the Financial Appendix.

4.4 Exelixis One-Time Right to Designate Profit Share Product as Royalty Product. At any time prior to **[*]**, Exelixis may (re-)designate that Profit Share Product as a Royalty Product, by providing written notice to Genentech of that designation. That designation will become effective within the longer of **[*]**. The foregoing right is one-time only for any Licensed Product; in other words, once (re-)designated under this Section 4.4, the Licensed Product **[*]** remains a Royalty Product for the remainder of the term of this Agreement. Exelixis and Genentech shall continue to share Operating Profits (Losses) in accordance with the Cost Sharing Ratio and the Financial Appendix until the date on which the new designation is effective (as described above in this Section 4.4); thereafter, the Licensed Product is a Royalty Product **[*]** subject to Genentech's milestone obligations in Section 7.3 (only with respect to milestones not already achieved at the time of designation as a Royalty Product under this Section 4.4) and subject to Genentech's royalty obligations in Section 7.4.

5. LICENSES

5.1 Licenses to Genentech. Subject to the terms of this Agreement:

(a) *Exelixis Research IP*. Exelixis agrees to grant and hereby grants (on behalf of itself and its Affiliates) Genentech a worldwide, co-exclusive license (with the right to grant and authorize sublicenses) (i) under the Exelixis Research IP to perform its obligations and carry out any tasks or activities pursuant to the Research Plan, and (ii) under the Exelixis Know-

How to research, develop, make (and have made), use, sell, offer for sale, and import Licensed Products in the Field, in each case including the right to practice any methods or processes. With respect to any given Licensed Product, Genentech's license in this Section 5.1(a) shall be royalty-bearing if, and to the extent, set forth in Section 7.4 and revenue-bearing if, and to the extent, set forth in Section 7.11.

(b) *Yale Licensed IP*. Exelixis agrees to grant and hereby grants (on behalf of itself and its Affiliates) Genentech a worldwide, exclusive (subject to the license back from Genentech to Exelixis in Section 5.2(c) (Screening License)) license (with the right to grant and authorize sublicenses) under the Yale Licensed IP, (i) to perform its obligations and carry out any tasks or activities pursuant to the Research Plan, and (ii) to research, develop, make (and have made), use, sell, offer for sale, and import Licensed Products in the Field, in each case including the right to practice any methods or processes. With respect to any given Licensed Product, Genentech's license in this Section 5.1(b) shall be royalty-bearing if, and to the extent, set forth in Section 7.4 and revenue-bearing if, and to the extent, set forth in Section 7.11.

(c) *Collaboration IP*. Exelixis agrees to grant and hereby grants (on behalf of itself and its Affiliates) Genentech a worldwide, exclusive (subject to the licenses back from Genentech to Exelixis under Section 5.2(a) and Section 5.2(b)) license (with the right to grant and authorize sublicenses) under Exelixis' interest in and to any Collaboration IP (whether Joint Collaboration IP or Exelixis' Sole Collaboration IP), (i) to perform its obligations and carry out tasks and activities pursuant to the Research Plan, and (ii) to research, develop, make (and have made), use, sell, offer for sale, and import Licensed Products in the Field, in each case including the right to practice any methods or processes. With respect to a given Licensed Product, Genentech's license in this Section 5.1(c) shall be royalty-bearing if, and to the extent, set forth in Section 7.4 and revenue-bearing if, and to the extent, set forth in Section 7.11.

(d) *Screening License*. Exelixis agrees to grant and hereby grants (on behalf of itself and its Affiliates) Genentech a worldwide, non-exclusive, royalty-bearing license, under the Yale Patents, to screen Small Molecule Compounds against targets that are not Collaboration Targets but are within the Notch signaling pathway. The foregoing license does not include the right to grant or authorize sublicenses; however, Genentech may have any of the foregoing performed on its behalf, where the benefit of that performance accrues primarily or exclusively to Genentech.

(e) *Collaboration Reagents and Collaboration Assays*. Exelixis agrees to grant and hereby grants (on behalf of itself and its Affiliates) Genentech a worldwide, royalty-free license to make and use Collaboration Reagents and Collaboration Assays for any purpose, which license is (i) exclusive (subject to the licenses back from Genentech to Exelixis under Section 5.2(a) and Section 5.2(b)) under the Yale Licensed IP and Collaboration IP, and (ii) non-exclusive under the Exelixis Know-How. The foregoing license includes the right to grant and authorize sublicenses, but only (x) where the Sublicensee either is an Affiliate of Genentech or is also a Sublicensee with respect to Licensed Products or (y) in connection with a Diagnostic.

(f) *Collaboration Inventions*. Exelixis agrees to grant and hereby grants (on behalf of itself and its Affiliates) Genentech a worldwide, royalty-free license (including the right to grant and authorize sublicenses) to Collaboration Inventions (other than Collaboration

Reagents, Collaboration Assays, or Licensed Products), including making (and having made), using and selling any such Collaboration Inventions, which license is (i) exclusive under the Yale Licensed IP and Collaboration IP, and (ii) non-exclusive under the Exelixis Know-How.

(g) *Follow-On Exelixis IP*. Exelixis agrees to grant and hereby grants (on behalf of itself and its Affiliates) Genentech a worldwide, non-exclusive, royalty-free, fully paid up license (with the right to grant and authorize sublicenses) under the Follow-On Exelixis IP, to research, develop, make (and have made), use, sell, offer for sale, and import Licensed Products in the Field, in each case including the right to practice any methods or processes.

(h) *Sublicensing*. For those licenses granted under this Section 5.1 that grant Genentech the right to grant and authorize sublicenses, sublicenses must not be inconsistent with, or cause Genentech to be in breach of, with the terms and conditions of this Agreement. Genentech shall also provide to Exelixis the name of each Sublicensee and a copy of the sublicense agreement (which may be redacted to remove highly confidential information), except where the Sublicensee is an Affiliate of Genentech. Genentech shall remain responsible for each permitted Sublicensee's compliance with the material and applicable terms and conditions of this Agreement. Except when the sublicense is to an Affiliate of Genentech, Genentech's rights to sublicense do not include rights to **[*]**; in other words, sublicenses shall not include any right **[*]** except in connection with a Diagnostic.

5.2 Licenses to Exelixis. Subject to the terms of this Agreement:

(a) *Research License*. Genentech agrees to grant and hereby grants (on behalf of itself and its Affiliates) Exelixis a worldwide, non-exclusive license (with the right to grant and authorize sublicenses) under the Genentech Licensed IP, under Genentech's Sole Collaboration IP, and under other Collaboration IP and the Yale Licensed IP to the extent exclusively licensed to Genentech under Section 5.1 above, during the Research Term, to perform its obligations and carry out any tasks or activities pursuant to the Research Plan, including the right to practice any methods or processes.

(b) *Collaboration Reagents and Collaboration Assays*. **[*]**.

(c) *Screening License*. Genentech agrees to grant and hereby grants (on behalf of itself and its Affiliates) Exelixis a worldwide, non-exclusive, royalty-bearing license, under the Yale Patents to the extent exclusively licensed to Genentech under Section 5.1 above, to screen Small Molecule Compounds against the Collaboration Targets. The foregoing license does not include the right to grant or authorize sublicenses, or to have any screening activities performed on its behalf.

5.3 Information and Know-How. The Parties understand and agree that neither Party is required to provide the other with any Information other than Information either expressly required to be provided, Information to which access is expressly provided or required, or Information created pursuant to the Research Plan. Without limiting the foregoing, neither Party is required to provide to the other any Information regarding **[*]**.

5.4 No Additional Licenses. Except as expressly provided in Sections 5.1 and 5.2, nothing shall grant either Party any right, title or interest in and to the intellectual property rights of the other Party (either expressly or by implication or estoppel).

6. GENENTECH AND EXELIXIS NEGOTIATION RIGHTS

6.1 Exelixis [*]. Notwithstanding the limitations on Exelixis' license under Section 5.2(b), Exelixis may **[*]**, but only (a) **[*]**, or (b) **[*]**. Whether or not Exelixis has an obligation or Genentech has a right under Section 6.2 below, **[*]** is subject to the conditions in Section 6.3 below.

6.2 Genentech Right to Negotiate.

(a) *Notice by Exelixis*. If Exelixis intends to work with a Third Party to develop or commercialize an Exelixis Reagent Product, then unless Exelixis already has **[*]**, Exelixis first shall offer such opportunity to Genentech by providing written notice to Genentech. That notice must include all of the following: (i) the identity of the Exelixis Reagent Product; (ii) **[*]**; and (iii) the indication(s) for which the Exelixis Reagent Product is being developed. After Genentech's receipt of the notice, Genentech may request additional information, and Exelixis shall make available to Genentech, in a reasonable manner and at a convenient location: (x) **[*]** then a copy of all such items; (y) **[*]**; and (z) **[*]**. In addition to the foregoing information, during the **[*]** days after Genentech receives that notice, Exelixis shall respond promptly to Genentech's reasonable inquiries regarding that Exelixis Reagent Product.

(b) *Designation by Genentech*. At any time during the **[*]** days after Exelixis provides notice to Genentech under Section 6.2(a) above, Genentech may inform Exelixis, in writing, that it wishes to negotiate the terms on which Exelixis and Genentech would work together to develop and commercialize any Exelixis Reagent Product. If Genentech declines in writing to negotiate such terms, then Exelixis is free to work with a Third Party to further develop and to commercialize that Exelixis Reagent Product, but subject to the terms of Section 6.3. If Genentech does not decline in writing to negotiate such terms, then the Parties shall negotiate in good faith exclusively for **[*]** days the terms on which Exelixis and Genentech would work together to develop and commercialize that Exelixis Reagent Product. If the Parties are unable to agree on terms prior to the end of the **[*]**-day negotiation period, then Exelixis is free to work with a Third Party to develop and commercialize that Exelixis Reagent Product, but subject to the terms of Section 6.3. In addition, Exelixis' obligation to provide notice under Section 6.2(a) and Genentech's right to negotiate the terms on which Exelixis and Genentech would work together to develop and commercialize any Exelixis Reagent Product under this Section 6.2(b) extends **[*]**.

6.3 Terms for Third Party Partner for Exelixis Reagent Products. Exelixis may work with a Third Party with respect to any particular Exelixis Reagent Product no longer subject to either the notice requirements of Section 6.2(a) or Genentech's rights under Section 6.2(b), and further may disclose to that Third Party Confidential Information of Genentech related to Collaboration Assays and Collaboration Reagents, solely as necessary to further develop and to commercialize that Exelixis Reagent Product, subject to the following three (3) conditions: (a) Exelixis' agreement with that Third Party must include **[*]**; (b) Exelixis shall **[*]**; and (c) **[*]**.

6.4 Exelixis Right to Negotiate.

(a) *Notice by Genentech*. If Genentech intends to sublicense to a Third Party Genentech's rights to develop or commercialize a Profit Share Product in the United States, then Genentech first shall offer such opportunity to Exelixis by providing written notice to Exelixis. That notice must include all of the following: (i) the identity of the Profit Share Product; (ii) **[*]**; and (iii) if Genentech is developing that Profit Share Product for **[*]**, then the **[*]**. After Exelixis' receipt of the notice, Exelixis may request additional information, and Genentech shall make available to Exelixis, in a reasonable manner and at a convenient location, the following information to the extent it relates to the United States: (x) **[*]**; (y) **[*]**; and (z) **[*]**. In addition to the foregoing information, during the **[*]** days after Exelixis receives that notice, Genentech shall respond promptly to Exelixis' reasonable inquiries regarding that Profit Share Product.

(b) *Designation by Exelixis*. At any time during the **[*]** days after Genentech provides notice to Exelixis under Section 6.4(a) above, Exelixis may inform Genentech, in writing, that it wishes to negotiate the terms on which Genentech would sublicense to Exelixis Genentech's rights to develop or commercialize that Profit Share Product in the United States. If Exelixis declines in writing to negotiate such terms, then Genentech is free to offer a Third Party the opportunity to negotiate the terms of a sublicense to Genentech's rights to develop or commercialize that Profit Share Product in the United States. If Exelixis does not decline in writing to negotiate such terms, then the Parties shall negotiate in good faith exclusively for **[*]** days the terms on which Exelixis would sublicense Genentech's rights to develop or commercialize that Profit Share Product in the United States. If the Parties are unable to agree on terms prior to the end of the **[*]**-day negotiation period, then Genentech is free to offer a Third Party the opportunity to negotiate the terms of a sublicense to Genentech's rights to develop or commercialize that Profit Share Product in the United States. In addition, Genentech's obligation to provide notice under Section 6.4(a) and Exelixis' right to negotiate the terms on which Exelixis would acquire a sublicense to Genentech's rights to develop or commercialize a Profit Share Product under this Section 6.4(b) extends **[*]**.

7. COMPENSATION

7.1 Upfront Fee. Genentech shall pay Exelixis a one-time fee of **[*]** within thirty (30) days after the Effective Date. Such fee shall be noncreditable and nonrefundable.

7.2 Research Support for the Research Plan. Genentech shall provide Exelixis with a guaranteed **[*]** in Research Funding for each twelve (12) month period during the Research Term. Genentech has no obligation to provide any Research Funding in excess of the foregoing. The foregoing Research Funding is to be used for (a) FTEs to the extent working on the Research Plan and for (b) the costs of work performed by Third Parties under the Research Plan on behalf of Exelixis, all as determined by the JRC pursuant to Section 2.2. The rate for Exelixis FTEs assigned to the Research Plan is a fully-burdened annual rate of **[*]** in the first year, to increase in subsequent years of the Research Term by no more than the **[*]**.

Genentech shall pay to Exelixis the Research Funding in equal quarterly payments, **[*]**. Within **[*]** days after the Effective Date, Genentech will make the first such quarterly payment (which, if prorated to coincide with a calendar quarter, will cause the final quarterly payment also to be prorated). **[*]**. All Research Funding paid by Genentech to Exelixis pursuant to this Section 7.2 shall be noncreditable and nonrefundable.

7.3 Milestone Payments for Royalty Products. Genentech shall pay Exelixis the milestone payments set forth in the table below within **[*]** days of each occurrence (by Genentech, or by its Affiliates or Sublicensees) of the milestone events described in subsection (a) – (g) of the table below for each Licensed Product that, at the time the milestone occurs, **[*]**. Such milestone payments are payable **[*]**. Milestones are not payable for Licensed Products that are **[*]**. All milestone payments shall be nonrefundable and noncreditable.

Milestone Events	Amounts
(a) **[*]**	**[*]**
(b) **[*]**	**[*]**
(c) **[*]**	**[*]**
(d) **[*]**	**[*]**
(e) **[*]**	**[*]**
(f) **[*]**	**[*]**
(g) **[*]**	**[*]**

* A European Major Market Country is the **[*]**.

7.4 Royalties for Royalty Products. The following royalties are payable on Royalty Products. In no event are such royalties payable for [*], and in no event shall a Licensed Product be [*]

(a) *Class I Claims.* Subject to Section 7.8, on a Royalty Product-by-Royalty Product and a country-by-country basis, Genentech shall pay Exelixis royalties equal to **[*]** of

the Net Sales that occur during the Royalty Term for each sale of a Royalty Product Covered by any Class I Claim in the country of sale.

(b) *Class II Claims.* Subject to Section 7.8, on a Royalty Product-by-Royalty Product and a country-by-country basis, Genentech shall pay Exelixis royalties equal to **[*]** of the Net Sales that occur during the Royalty Term for each sale of a Royalty Product Covered by any Class II Claim in the country of sale.

(c) [*]. Subject to Section 7.8, on a Royalty Product-by-Royalty Product and country-by-country basis, Genentech shall pay Exelixis royalties equal to **[*]** of the Net Sales that occur during the Royalty Term for each Royalty Product Covered by **[*]**.

(d) *Generally.* **[*]**.

7.5 Royalties Paid by Genentech for Genentech Screening Products. On a Genentech Screening Product-by-Genentech Screening Product and country-by-country basis, Genentech shall pay Exelixis royalties equal to [*] of the Net Sales of such Genentech Screening Product in that country during the Royalty Term.

7.6 Royalties Paid by Exelixis for Exelixis Screening Products. On an Exelixis Screening Product-by-Exelixis Screening Product and country-by-country basis, Exelixis shall pay Genentech royalties equal to [*] of the Net Sales of such Exelixis Screening Product in that country during the Royalty Term.

7.7 Royalties Paid by Exelixis for Exelixis Reagent Products. On an Exelixis Reagent Product-by-Exelixis Reagent Product and country-by-country basis, Exelixis shall pay Genentech royalties equal to [*] of the Net Sales of such Exelixis Reagent Product in that country during the Royalty Term.

7.8 Third Party Patent Payments.

(a) *Genentech Reduction for Third Party Patents*. During **[*]** if **[*]** determines that **[*]** requires a license to a Third Party's Patents that Cover **[*]**, then Genentech may deduct up to **[*]** of the amount of any royalties or other fees paid to such Third Party from the amounts otherwise due to Exelixis under Section 7.4 of this Agreement, to the extent such fees are paid by Genentech for a license of the foregoing scope; *provided, however*, in no event shall such deduction reduce the royalty rate otherwise payable to Exelixis below the greater of: (i) **[*]**; or (ii) **[*]**.

(b) *Genentech Reduction for* **[*]** *Additional Patents*. During **[*]**, if **[*]** determine that a license under any Patents **[*]** ("**[*] Additional Patents**"), then, to the extent Genentech pays royalties or other fees **[*]** for a license of the foregoing scope under the **[*]** Additional Patents, Genentech may deduct up to **[*]** of the amount of such royalties or other fees paid **[*]** from the amounts otherwise due to Exelixis under Section 7.4; *provided*, *however*, in no event shall such deduction reduce the royalty rate otherwise payable to Exelixis below the greater of: (i) **[*]**; or (ii) **[*]**.

7.9 Sublicenses. If a Commercializing Party is authorized to grant and does grant licenses or sublicenses to its Sublicensees, then the Commercializing Party or its Affiliates shall pay to the non-Commercializing Party, with respect to sales of royalty-bearing products, royalties as if such sales of the Sublicensee were Net Sales of the Commercializing Party or its Affiliates; provided that the Commercializing Party shall use Diligent Efforts to ensure that the definition of "Net Sales" set forth in the agreement between the Commercializing Party and that Sublicensee is consistent with Net Sales as defined in this Agreement, and in any event "Net Sales" will be the amount reported to the Commercializing Party by its Sublicensee.

7.10 Royalty Reports. Within **[*]** days after the end of the calendar quarter in which the First Commercial Sale of a royalty-bearing product in any country occurs, and within **[*]** days after the end of each calendar quarter thereafter, the Commercializing Party shall send to the other Party: (i) a payment of all royalties owed for such quarter; and (ii) a report of Net Sales of any products for which a royalty is payable, in sufficient detail to permit confirmation of the accuracy of the royalty payment made, including the number of such products sold, Net Sales, the royalties payable (in dollars), the method used to calculate the royalty, and the exchange rates used. The Commercializing Party shall keep for **[*]** years from the date of each payment of royalties complete and accurate records of sales of each product for which a royalty is payable, in sufficient detail to allow the royalties accruing to be determined accurately. The Commercializing Party shall maintain all records as reasonably required for GAAP. All royalty payments shall be nonrefundable and noncreditable (except to the extent provided in Section 7.14).

7.11 Profit and Loss Sharing for Profit Share Products.

(a) *Generally.* For all Licensed Products that are Profit Share Products, in lieu of milestone and royalty payments under the terms of Sections 7.3 - 7.8 above, Genentech and Exelixis will share Operating Profits (Losses) in accordance with the Cost Sharing Ratio, and as further detailed in the Financial Appendix. Reporting obligations for Profit Share Products also are set forth in the Financial Appendix; however, Section 7.13 and Section 7.14 of this Agreement apply equally to Profit Share Products and Royalty Products (and, if applicable, Genentech Screening Products).

(b) *Financial Appendix*. Terms describing calculations and reporting of Operating Profits (Losses) are set forth in the Financial Appendix. The Financial Appendix is applicable to revenues and expenses by a Party in the United States. For revenues and expenses by a Sublicensee, the definitions may need to be modified to comply with changes to GAAP or to comply with ex-U.S. financial accounting standards. Any such modification, however, will be consistent with the agreed Cost Sharing Ratio and with the material concepts in the existing Financial Appendix.

(c) *Payment on Initial Designation*. Where initial designation of a Profit Share Product requires reimbursement of Development Costs, Genentech will provide a written request with appropriate supporting documents, and Exelixis shall pay amounts owed within **[*]** days after receipt of that request.

7.12 Invoices for Research Funding. For the Research Funding to be paid by Genentech, Exelixis shall provide an invoice to Genentech, no more than **[*]** days in advance of the date such amount is due. Genentech shall pay the amount of the invoice within **[*]** days after receipt. For clarity, invoices are not required for royalties or for milestone payments.

7.13 Additional Financial Terms Applicable to a Commercializing Party.

(a) *Currency.* All references to "**dollars**" or "**$**" means the legal currency of the United States. All amounts due by one Party to the other under this Agreement shall be paid in U.S. dollars by wire transfer in immediately available funds, or by check if requested by the payee, and shall be made where directed by that payee. With respect to amounts invoiced in a currency other than dollars, all such amounts shall be expressed both in the currency in which the amount was invoiced and in the dollar equivalent. The dollar equivalent shall be calculated using, where Genentech is the payor, **[*]** using the exchange rate in effect on the last day of business for a given calendar quarter in which the Net Sales are made or the Operating Profits (Losses) incurred, as published by Reuters. The dollar equivalent shall be calculated using, where Exelixis is the payor, **[*]** using the exchange rate in effect on the last day of business for a given calendar quarter in which the Net Sales are made, as published by Reuters.

(b) *Withholding of Taxes.* The Commercializing Party (or Genentech in the case of Research Funding) may withhold from payments due to the other Party amounts for payment of any withholding tax that is required by law to be paid to any taxing authority with respect to such payments. The Party that has withheld that tax shall provide to the other Party all relevant documents and correspondence, and shall also provide to the Party from whose payment that tax was withheld any other cooperation or assistance on a reasonable basis as may be necessary to enable that Party subject to withholding to claim exemption from such withholding taxes and to receive a full refund of such withholding tax or claim a foreign tax credit. The Party that has withheld the tax shall give proper evidence from time to time as to the payment of such tax. The Parties agree to cooperate with each other, in the event a Party seeks deductions under any double taxation or other similar treaty or agreement from time to time in force.

(c) *Late Payments.* Any amounts **[*]** shall be subject to interest from the foregoing date through and including the date upon which payment is received, calculated at the Interest Rate.

(d) *Blocked Currency.* If, at any time, legal restrictions prevent the prompt remittance of part or all royalties with respect to any country where the relevant product is sold, payment shall be made through such lawful means or methods as the Party paying may determine. When in any country, the law or regulations prohibit both the transmittal and deposit of royalties or other payments for Net Sales, or for a share of Operating Profits (Losses) in such country; amounts shall continue to be reported but payment will be suspended for as long as such prohibition is in effect. As soon as such prohibition ceases to be in effect, all amounts that would have been obligated to be transmitted or deposited, but for the prohibition, shall forthwith be deposited or transmitted promptly.

7.14 Records and Audit. The Commercializing Party shall keep full, true and accurate books of account containing all particulars that may be necessary for the purpose of

showing Net Sales and demonstrating the calculation of royalties or, for Profit Share Products, for the purpose of showing Operating Profits (Losses) and demonstrating the calculation of amounts under the Cost Sharing Ratio. Such books of account and the supporting data and other records shall be kept at the principal place of business of the Commercializing Party. The non-Commercializing Party shall have the right, for a period of **[*]** years after receiving any report or statement with respect to amounts due and payable, to appoint an internationally-recognized independent accounting firm reasonably acceptable to the Commercializing Party to inspect the relevant records of the Commercializing Party (as to its own accounts or to those of the Commercializing Party's Affiliates) to verify such reports, statements, records or books of accounts, as applicable. Such accounting firm (and any individuals, if applicable) must execute a confidential disclosure agreement with the Commercializing Party (i.e., the Party being audited), or be subject to terms governing non-use and non-disclosure that the Commercializing Party has agreed in writing are acceptable. The Commercializing Party or its Affiliates shall make its records available for inspection by the auditor during regular business hours at such place or places where such records are customarily kept, upon receipt at least **[*]** days written advance notice from the non-Commercializing Party, solely to verify the accuracy of the Commercializing Party's reports provided under this Agreement. Such inspection right shall not be exercised more than **[*]** nor more frequently than **[*]**. The independent accountant will be instructed to provide an audit report containing the conclusions of such independent accountant regarding the audit, and specifying whether the amounts paid were correct, and, if incorrect, the amount of any underpayment or overpayment. The independent accountant further will be instructed to provide that audit report first to the Commercializing Party (i.e., the Party being audited), and will be further instructed to **[*]**. Such audit report shall be deemed to be Confidential Information of the Party subject to the audit. If such report shows any underpayment, then, within **[*]** days after the audited Party's receipt of such report, the audited Party shall remit to the other Party the amount of the undisputed underpayment plus any applicable interest pursuant to Section 7.13(c). If the audit report shows an overpayment, then the audited Party may **[*]**. Audit reports are **[*]**. If the total amount of any underpayment **[*]** exceeds **[*]** of the amount previously paid by the audited Party to the other Party for the period subject to audit, then the audited Party shall pay the reasonable costs for the audit.

8. INTELLECTUAL PROPERTY

8.1 Costs for Yale Licensed IP. During **[*]**, **[*]** shall be responsible for paying any costs associated with the Yale Licensed IP, including, without limitation, costs due under the Yale Agreement, which costs include but are not limited to royalties, milestone payments, sublicensing fees, and patent costs (as applicable).

8.2 Ownership. Inventorship of any Collaboration Invention (and the associated Collaboration IP) will be determined in accordance with rules of inventorship under U.S. patent laws, and any other federal laws consistent with U.S. patent laws. Except as otherwise described herein, and subject to the licenses granted under this Agreement, each Party shall own the entire right, title and interest in and to any and all Collaboration Inventions (and the associated Collaboration IP) for which the inventors are solely its employees or agents. Subject to the licenses granted under this Agreement, Genentech and Exelixis shall each own an undivided one-half (1/2) interest, without duty of accounting, in and to any and all Collaboration Inventions and associated Collaboration IP for which employees or agents of both Parties are inventors.

The Parties shall co-operate with each other to prepare and execute all affidavits, assignments or documents required to effect the ownership rights described in this Section 8.2.

8.3 Disclosure. During the period beginning on the start of the Research Term and ending **[*]**, Exelixis shall inform Genentech (through the JRC if existing, otherwise in accordance with the notice provisions of the Agreement) within **[*]** days after the end of each quarter describing any Collaboration Invention of which it became aware during the prior quarter that it believes may be patentable.

8.4 Patent Prosecution and Maintenance.

(a) *Genentech Licensed Patents and Genentech's Sole Collaboration Patents*. Genentech shall control the preparation, filing, prosecution, extension and maintenance of any Genentech Licensed Patents and Genentech's Sole Collaboration Patents, at **[*]**.

(b) *Exelixis Research Patents*. Exelixis shall control the preparation, filing, prosecution, extension and maintenance of any Exelixis Research Patents, at **[*]**.

(c) *Yale Patents*. Using **[*]**, Exelixis shall control the preparation, filing, prosecution, extension and maintenance of all Yale Patents, at **[*]**. Exelixis shall: (i) keep Genentech promptly informed as to the filing, prosecution, maintenance and extension of those Yale Patents, such that Genentech has reasonable time to review and comment upon any documents intended for submission to any patent office; (ii) furnish to Genentech (subject to reimbursement by Genentech of Exelixis' out of pocket costs for copying) copies of documents relevant to any such filing, prosecution, maintenance and extension, including copies of any Patent Office, foreign associate, and outside counsel correspondence, where appropriate; and (iii) consider incorporating reasonable comments of Genentech on documents filed with any patent office which would affect Genentech's rights hereunder. With respect to only those Yale Patents that **[*]** ("**Relevant Yale Patents**"), if Exelixis elects not to file, prosecute, maintain or extend any Relevant Yale Patent in any country, not to pay any fee related thereto, or not to incorporate Genentech's reasonable comments, for such a Relevant Yale Patent, then Exelixis shall promptly notify Genentech in writing of such election (but in no case later than **[*]** days prior to any required action relating to the filing, prosecution, maintenance or extension of such Relevant Yale Patent). In that event, Genentech may elect in writing, subject to the terms of the Yale Agreement, to take over from Exelixis and thereafter control (as between Exelixis and Genentech), the filing, prosecution, maintenance or extension of any such Relevant Yale Patents, at **[*]**. If Genentech makes the foregoing election, then **[*]** Exelixis shall have no right to file, prosecute, maintain or extend those Relevant Yale Patents, and Exelixis shall not exercise any rights it may have with respect to the foregoing under the Yale Agreement, unless so directed by Genentech. Genentech shall keep Exelixis reasonably informed as to the filing, prosecution, maintenance and extension of any such Relevant Yale Patent, and as between Genentech and Exelixis, Genentech shall have the sole right to enforce, and Exelixis shall no longer have the right to enforce, such Relevant Yale Patent under Section 8.5.

(d) *Joint Collaboration Patents and Exelixis' Sole Collaboration Patents*. Using **[*]**, Genentech shall control the preparation, filing, prosecution, extension and maintenance of any Joint Collaboration Patents or Exelixis' Sole Collaboration Patents. The

foregoing is at **[*]**; however, to the extent the expenses are related to a Profit Share Product, then **[*]** reserves the right to include such expense as a cost within Operating Profits (Losses) for that Profit Share Product. Genentech shall: (i) keep Exelixis promptly informed as to the filing, prosecution, maintenance and extension of such Joint Collaboration Patents or Exelixis' Sole Collaboration Patents, such that Exelixis has reasonable time to review and comment upon any documents intended for submission to any patent office; (ii) furnish to Exelixis (subject to reimbursement by Exelixis of Genentech's out of pocket costs) copies of documents relevant to any such filing, prosecution, maintenance and extension including copies of any Patent Office, foreign associate, and outside counsel correspondence, where appropriate; and (iii) reasonably consider incorporating comments of Exelixis on documents filed with any patent office which would affect Exelixis' rights hereunder. If Genentech elects not to file, prosecute, maintain or extend any Joint Collaboration Patent or Exelixis' Sole Collaboration Patent in any country, or pay any fee related thereto, then Genentech shall promptly notify Exelixis in writing of such election (but in no case later than **[*]** days prior to any required action relating to the filing, prosecution, maintenance or extension of such Patent). In that event, Exelixis may elect in writing to take over from Genentech, and thereafter control the filing, prosecution, maintenance or extension of any such Patent, at **[*]**. If Exelixis makes the foregoing election, then for those Patents subject to the election, Exelixis shall control the preparation, filing, prosecution, extension and maintenance of such Patents at its own expense. In that circumstance, Exelixis shall keep Genentech reasonably informed as to the filing, prosecution, maintenance and extension of each such Patent, and Genentech shall no longer have the right to enforce such Joint Collaboration Patent or such Exelixis' Sole Collaboration Patent (as applicable) under Section 8.5.

8.5 Enforcement.

(a) *Enforcement by Genentech of Genentech Licensed IP and Genentech's Sole Collaboration Patents*. As between Genentech and Exelixis, Genentech has the sole right to take actions to terminate infringement without litigation, to institute an action or proceeding for enforcement, and to settle or continue prosecution of that action or proceeding with respect to Genentech Licensed IP or Genentech's Sole Collaboration Patents. Any amounts obtained by Genentech as damages or settlement of such action or proceeding **[*]**.

(b) *Enforcement by Exelixis of Exelixis Research IP*. As between Genentech and Exelixis, Exelixis has the sole right to take actions to terminate infringement without litigation, to institute an action or proceeding for enforcement, and to settle or continue prosecution of that action or proceeding with respect to Exelixis Research IP. Any amounts obtained by Exelixis as damages or settlement of such action or proceeding **[*]**.

(c) *Notices and Consultation*. Subject to the Parties executing a joint defense agreement or agreeing that no such agreement is required, the Parties shall consult in good faith as to potential strategy or strategies to manage infringement by Third Parties of the Yale Patents, Joint Collaboration Patents and Exelixis' Sole Collaboration Patents.

(d) *Enforcement by Genentech of Yale Licensed IP*. If there is any infringement, suspected infringement or alleged infringement by a Third Party of the Yale Licensed IP **[*]** ("**Yale Product Infringement**"), then each Party may provide notification to

the other and engage in consultations pursuant to Section 8.5(c). Subject to the terms of Section 8.5(c) and this Section 8.5(d), as between Exelixis and Genentech, Genentech has the sole right to institute, maintain, prosecute or settle an action or proceeding for enforcement of the Yale Licensed IP **[*]**, to take actions to terminate infringement of the Yale Licensed IP without litigation, or to otherwise defend the Yale Licensed IP against infringement or interference by Third Parties ("**Yale Infringement Action**"). To the extent Exelixis has rights under the Yale Agreement to undertake any Yale Infringement Action, Exelixis hereby authorizes Genentech to exercise those rights, and shall not itself exercise such rights without advance written authorization from Genentech. Exelixis promptly shall provide to Genentech any communication Exelixis may receive from the entities identified as "Licensors" in the Yale Agreement if such communication regards a Yale Infringement Action. If Genentech undertakes any Yale Infringement Action, then, as between Genentech and Exelixis: (i) Genentech will bear the costs and expenses of that Yale Infringement Action; (ii) Genentech will solely control the conduct and strategy of that Yale Infringement Action; (iii) Exelixis will execute all papers and perform such other acts as may be reasonably required (including consent to be joined as a nominal Party plaintiff in a legal action or proceeding) for Genentech to undertake and maintain such Yale Infringement Action; and **[*]**. In addition to the foregoing, if the Yale Infringement Action undertaken includes a legal action or proceeding, then: (x) Genentech shall inform the entities identified as "Licensors" under the Yale Agreement or, at Genentech's option and request, Exelixis shall provide to the Licensors information provided by Genentech for that purpose; and (y) Exelixis may, at its option and at its own expense, be represented in an such action or proceeding by counsel of its choice. Any damages or other recovery from a Yale Infringement Action undertaken by Genentech pursuant to this Section 8.5(d) **[*]**. Any remainder shall be allocated as follows: **[*]**; and (B) if the Yale Product Infringement is with respect to a Profit Share Product, such amount will be shared between the Parties according to the applicable Cost Sharing Ratio.

(e) *Enforcement by Genentech of Joint Collaboration IP and Exelixis' Sole Collaboration IP*. If there is any infringement, suspected infringement or alleged infringement by a Third Party of the Joint Collaboration IP or Exelixis' Sole Collaboration IP, then each Party may provide notification to the other and engage in consultations pursuant to Section 8.5(c). Subject to the terms of Section 8.5(c) and this Section 8.5(e), Genentech has the sole right to institute, maintain, prosecute or settle an action or proceeding for enforcement of the Joint Collaboration IP or Exelixis' Sole Collaboration IP, to take actions to terminate infringement of such Joint Collaboration IP or Exelixis' Sole Collaboration IP without litigation, or to otherwise defend such Joint Collaboration IP or Exelixis' Sole Collaboration IP against infringement or interference by Third Parties ("**Collaboration IP Infringement Action**"). If Genentech undertakes any Collaboration IP Infringement Action, then: (i) Genentech will bear the costs and expenses of that Collaboration IP Infringement Action; (ii) Genentech will solely control the conduct and strategy of that Collaboration IP Infringement Action; (iii) Exelixis will execute all papers and perform such other acts as may be reasonably required (including consent to be joined as a nominal Party plaintiff in a legal action or proceeding) for Genentech to undertake and maintain such Collaboration IP Infringement Action; and (iv) Genentech shall reimburse Exelixis for its out-of-pocket expenses for providing assistance pursuant to (iii). In addition to the foregoing, if the Collaboration IP Infringement Action undertaken includes a legal action or proceeding, then: (x) Genentech shall so inform Exelixis; and (y) Exelixis may, at its option and

at its own expense, be represented in such an action or proceeding by counsel of its choice. Any damages or other recovery from a Collaboration IP Infringement Action undertaken by Genentech pursuant to this Section 8.5(e) **[*]**. Any remainder shall be allocated as follows: (A) if the Collaboration IP Infringement Action is with respect to a Royalty Product, **[*]**; and (B) if the Collaboration IP Infringement Action is with respect to a Profit Share Product, such amount will be shared between the Parties according to the applicable Cost Sharing Ratio.

8.6 Trademarks. Genentech and its Affiliates will be responsible for, and shall have sole discretion in, selecting trademarks for the use on or in connection with the Licensed Products. Genentech and its Affiliates will be responsible for registration of such trademarks and will be the sole owner of such trademarks. For the avoidance of doubt, trademarks, including those created hereunder, are not included in the definition of Information.

8.7 Marking. Each Commercializing Party shall use reasonable efforts to ascertain whether, in any country, the failure to apply patent marking notices, whether for Exelixis Screening Products, Exelixis Reagent Products, Genentech Screening Products or Licensed Products, as applicable, would itself be a violation of law for that country. If such failure would be a violation of the applicable law, then the Commercializing Party shall, to the extent feasible and practical, apply patent marking notices as necessary to avoid such violation in the country where such product are made, sold or used.

8.8 Non-Assert. Exelixis shall not assert against Genentech, and shall not [*], any infringement claims or actions for [*], where such infringement claim or action is based on the Subject Claim, except to the extent Exelixis is obligated to do so by a Third Party obligation existing as of the Effective Date. For purposes of this Section 8.8, "**Subject Claim**" means [*].

9. CONFIDENTIALITY

9.1 Nondisclosure of Confidential Information. All Information disclosed by one Party to the other Party pursuant to this Agreement shall be "Confidential Information" for all purposes hereunder. The Parties agree that for a period of **[*]** years after the expiration or earlier termination of this Agreement, a Party receiving Confidential Information of the other Party will: (a) hold such Confidential Information in strict trust and confidence and not disclose such Confidential Information to any Third Party without prior written consent of the other Party, except for disclosures made in confidence to any Third Party under terms consistent with this Agreement and made in furtherance of this Agreement or of rights granted to a Party hereunder; and (b) not use such other Party's Confidential Information for any purpose except those permitted by this Agreement, including, when Confidential Information constitutes intellectual property licensed to a Party under this Agreement, the use of such Confidential Information to the extent of that license.

9.2 Exceptions. The obligations in Section 9.1 shall not apply with respect to any portion of the Confidential Information that the receiving Party can show by competent written proof:

(a) Is publicly disclosed by the disclosing Party, either before or after it is disclosed to the receiving Party hereunder;

(b) Was known to the receiving Party, without obligation to keep it confidential, prior to disclosure by the disclosing Party;

(c) Is subsequently disclosed to the receiving Party by a Third Party lawfully in possession thereof and without obligation to keep it confidential;

(d) Is published by a Third Party or otherwise becomes publicly available or enters the public domain, without breach of this Agreement or any agreement between a Party and such Third Party, either before or after it is disclosed to the receiving Party; or

(e) Has been independently developed by employees or contractors of the receiving Party without use of Confidential Information.

9.3 Authorized Disclosure.

(a) *Non-Financial Information; Information Other Than Agreement.* Each Party may disclose the Confidential Information belonging to the other Party (other than the terms of this Agreement, which are subject to Section 9.4 and other than financial information, which is subject to Section 9.3(b)) to the extent such disclosure is reasonably necessary in the following instances:

(i) Filing or prosecuting Patents relating to Collaboration Inventions or Licensed Products;

(ii) Sales literature or regulatory filings by a Commercializing Party, as related to products for which licenses are granted under this Agreement;

(iii) Prosecuting or defending litigation;

(iv) As required for performance under this Agreement, to such Party's Affiliates, employees, and consultants whose tasks are related to performance of this Agreement, each of whom prior to disclosure must be bound by obligations of confidentiality and non-use at least equivalent in scope to those set forth in this Article 9; and

(v) As required for performance under this Agreement, upon receipt of permission from the disclosing Party, to potential collaborators and licensees (including potential co-marketing and co-promotion contractors), and research collaborators.

(b) *Financial Information.* Each Party may disclose the other Party's Confidential Information that is financial information: (i) to such Party's employees and consultants whose have a need to know such information for performance under this Agreement and exercise of rights, each of whom prior to disclosure must be bound by obligations of confidentiality and non-use at least equivalent in scope to those set forth in this Article 9; and (ii) to potential lenders or potential investment bankers only as necessary, and only subject to written authorization by the Party whose information is being disclosed. The foregoing sentence of this Section 9.3(b) shall not apply to any financial information related to the terms of this Agreement, which information is subject to Section 9.4.

9.4 Terms of this Agreement. The Parties acknowledge that the terms of this Agreement shall be treated as Confidential Information of both Parties. Such terms may be disclosed by a Party to potential collaborators and licensees (including potential co-marketing and co-promotion contractors), research collaborators, employees, and consultants whose tasks are related to performance of this Agreement, each of whom prior to disclosure must be bound by similar obligations of confidentiality and non-use at least equivalent in scope to those set forth in this Article 9; provided that the Party disclosing such information must obtain prior written consent of the Party whose information is being disclosed, which consent may be conditioned upon redacting certain terms prior to disclosure. Without obtaining prior written consent of the other Party, a Party may disclose the terms of this Agreement to its potential investment bankers and to lenders in connection with obtaining financing for its business, where each such potential investment banker or lender prior to disclosure must be bound by obligations of confidentiality that prohibit any further disclosure (except to lawyers acting on behalf of such investment bankers or lenders), and by obligations of non-use that permit use only for purposes of providing financing to the disclosing Party. In addition, filing a copy of this Agreement by either Party with the SEC is subject to the provisions of Section 9.6.

9.5 Termination of Prior Confidentiality Agreements. This Agreement supersedes the Mutual Confidentiality Agreement between Exelixis and Genentech effective December 6, 2004. All Information (as such term is defined in such Mutual Confidentiality Agreement) exchanged between the Parties under such earlier agreement shall be deemed Confidential Information of the Party that disclosed such Information and shall be subject to the terms of this Article 9.

9.6 Publicity. If a Party wishes to release any publication (except to the extent subject to Section 9.7), press release other public statement, or announcement about the Parties' relationship under this Agreement, performance of this Agreement, or research conducted under this Agreement ("**Release"**), that Party shall first obtain the other Party's written approval of the proposed Release. A Party need not obtain the other Party's approval for a Release to the extent it discusses a Product for which it is the Commercializing Party and that Release does not include mention of the non-Commercializing Party or the relationships of the Parties under this Agreement. Where prior approval is required, approval will not be unreasonably withheld to the extent the Release includes information previously disclosed; such approval is not required, however, for a disclosure of previously approved text in any filing with the Securities and Exchange Commission or in an offering circular for an unregistered securities offering, but only where the underlying facts disclosed in that previously approved text are still true, and where the circumstances surrounding the disclosure have not changed. If one Party reasonably concludes that a Release must be made, or that all or any portion of this Agreement must be disclosed, pursuant to the requirements of the Securities and Exchange Commission or the national securities exchange or other stock market on which such Party's securities are traded (**"Exchange**"), and the other Party would prefer that such Release not be made, that the information within the Release be modified or limited, or that disclosure of the Agreement be limited, then the Party seeking disclosure shall modify or limit such disclosure to address the concerns of the other Party (which limitation may include seeking confidential treatment of such

disclosure); provided that the Party seeking disclosure may provide to the reviewing Party a written statement of why each particular modification or limit under dispute would be contrary to the requirements of applicable law. Where a Party's approval is required for a proposed Release, each Party agrees that the other Party will have no less than **[*]** days to review and provide comment regarding any proposed Release, except (i) to the extent a shorter review time is agreed to by both Parties or (ii) to the extent an applicable law requires disclosure of an event in a period shorter than **[*]** days after the event. With respect to complying with the disclosure requirements of the SEC or other Exchange in connection with any required filing of this Agreement, the filing Party shall seek confidential treatment of portions of this Agreement from the SEC or other Exchange and shall provide the other Party with the opportunity, at least **[*]** days to review any such proposed filing. Each Party agrees that it will obtain its own legal advice with regard to its compliance with securities laws and regulations, and will not rely on any statements made by the other Party relating to such securities laws and regulations.

9.7 Publications. Neither Party shall publish or present the results of research carried out under this Agreement without the opportunity for prior review by the other Party pursuant to this Section 9.7. Each Party agrees to provide the other Party the opportunity to review any such proposed publication or presentation (including abstracts, manuscripts or verbal presentations) at least **[*]** days prior to its intended submission for publication or presentation and agrees, upon request, not to submit any such publication or presentation until the other Party is given a reasonable period of time to secure patent protection for any material in such publication or presentation which it believes to be patentable. Both Parties understand that a reasonable commercial strategy may require delay of publication or presentation of information or of filing of patent applications. The Parties agree to review and consider delay of publication or presentation and filing of patent applications under certain circumstances. Neither Party shall have the right to publish or present Confidential Information of the other Party that is subject to Section 9.1, unless it receives the prior written consent of the other Party.

10. TERM AND TERMINATION

10.1 Term. This Agreement shall become effective on the Effective Date and shall remain in effect (a) until terminated in accordance with Section 10.2 or Section 10.3, (b) until terminated by mutual written agreement, or (c) until the expiration of the last payment obligation with respect to all Licensed Products, Genentech Screening Products, Exelixis Screening Products, and Exelixis Reagent Products hereunder. Expiration or early termination of the Research Term shall not constitute termination or expiration of this Agreement.

10.2 Termination by Genentech for Convenience; Termination by Either Party for Material Breach.

(a) *By Genentech for Convenience.* After **[*]**, Genentech may terminate this Agreement on a Licensed Product-by-Licensed Product, Collaboration Target-by-Collaboration Target, and country-by-country basis upon **[*]** days prior written notice to Exelixis.

(b) *Dispute/Cure Period.* If either Party believes that the other is in material breach of this Agreement, then the non-breaching Party may deliver notice of such breach to the

other Party. For all breaches other than a failure to make a payment set forth in this Agreement, the allegedly breaching Party shall have **[*]** days to cure such breach from the receipt of the notice or to dispute subject to Section 10.2(c). For any breach arising from a failure to make a payment set forth in this Agreement, the allegedly breaching Party shall have **[*]** days from the receipt of the notice to dispute or cure such breach.

(c) *Termination for Breach*. If the allegedly breaching Party has cured the breach within the period in Section 10.2(b), the other Party will have no right to terminate for that breach. If the allegedly breaching Party disputes the alleged breach within the period in Section 10.2(b), then the matter will be submitted to arbitration under Section 13.3. If the allegedly breaching Party fails to dispute or cure an alleged breach within the applicable period in Section 10.2(b), then the notifying Party may terminate this Agreement upon an additional **[*]** days advance written notice, except that the allegedly breaching Party may, within **[*]** days after the notice of termination, dispute that it has failed to cure or remedy such breach, in which case the matter will be submitted to arbitration under Section 13.3. The notifying Party **[*]**. To the extent a material breach applies only to a particular product, the non-breaching Party may only terminate the breaching Party's rights only with respect to that particular product.

10.3 Termination for Bankruptcy. If at any time during the term of this Agreement, an Event of Bankruptcy (as defined below) relating to either Party (the "**Bankrupt Party**") occurs, the other Party (the "**Other Party**") shall have, in addition to all other legal and equitable rights and remedies available hereunder, the option to terminate this Agreement upon **[*]** days' written notice to the Bankrupt Party. It is agreed and understood that if the Other Party does not elect to terminate this Agreement upon the occurrence of an Event of Bankruptcy, except as may otherwise be agreed with the trustee or receiver appointed to manage the affairs of the Bankrupt Party, the Other Party shall continue to make all payments required of it under this Agreement as if the Event of Bankruptcy had not occurred, the Bankrupt Party shall not have the right to terminate any license granted herein, and in the event that Exelixis is the Bankrupt Party, the operation of the JRC shall immediately cease. The term "**Event of Bankruptcy**" means: (a) filing in any court or agency pursuant to any statute or regulation of any state or country, a petition in bankruptcy or insolvency or for reorganization or for an arrangement or for the appointment of a receiver or trustee of the Bankrupt Party or of its assets; (b) proposing a written agreement of composition or extension of a Bankrupt Party's debts; (c) being served with an involuntary petition against the Bankrupt Party, filed in any insolvency proceeding, and such petition shall not be dismissed within **[*]** days after the filing thereof; (d) proposing or being a party to any dissolution or liquidation when insolvent; or (e) making an assignment for the benefit of creditors. Without limitation, the Bankrupt Party's rights under this Agreement shall include those rights afforded by 11 U.S.C. § 365(n) of the United States Bankruptcy Code (the "**USBC**") and any successor thereto. If the bankruptcy trustee of a Bankrupt Party as a debtor or debtor-in-possession rejects this Agreement under 11 U.S.C. § 365(o) of the USBC, the Other Party may elect to retain its rights licensed from the Bankrupt Party hereunder (and any other supplementary agreements hereto) for the duration of this Agreement and avail itself of all rights and remedies to the full extent contemplated by this Agreement and 11 U.S.C. § 365(n) of the USBC, and any other relevant laws.

10.4 Effect of Termination.

(a) *Accrued Obligations Survive.* In any event, termination of this Agreement shall not, in and of itself, relieve the Parties of any liability which accrued hereunder prior to the effective date of such termination nor preclude either Party from pursuing all rights and remedies it may have hereunder or at law or in equity with respect to any breach of this Agreement nor prejudice either Party's right to obtain performance of any obligation.

(b) *Effect on Licenses of Termination for Convenience.* In the event of termination of this Agreement by Genentech with respect to a particular Licensed Product or Genentech Screening Product in a particular country pursuant to Section 10.2(a), all licenses granted to Genentech under Article 5 with respect to such Licensed Product in such country shall terminate as of the effective date of such termination.

(c) *Effect on Licenses of Termination for Breach.* In the event of termination of this Agreement by a Party pursuant to Section 10.2(c), all licenses granted to such breaching Party terminate as of the effective date of such termination, and the non-breaching Party retains its licenses, subject to its continued payment obligations under Article 7.

(d) *Return of Confidential Information.* Upon any termination of this entire Agreement, each Party shall promptly return (or destroy and provide written certification thereof) to the other Party all Confidential Information received from the other Party, including any copies thereof (except copies retained solely for legal archival purposes).

10.5 Termination of the Yale Agreement. If the Yale Agreement is terminated during the term of this Agreement, then the LICENSORS (as defined in the Yale Agreement) shall be automatically substituted for Exelixis as the licensor solely with respect to any licenses granted in this Agreement by Exelixis to Genentech under the Yale Agreement. In that event, Genentech may reduce amounts to be paid to Exelixis under this Agreement by any amounts paid to Yale pursuant to the Yale Agreement.

10.6 Survival. If this Agreement is terminated in part pursuant to Section 10.2(a) or Section 10.2(c), then all other portions of the Agreement remain in effect with respect to any Licensed Product, Collaboration Target or other product that was not the subject of such termination in part. If the Agreement is terminated in its entirety, then the following survive expiration or termination for any reason: (a) **[*]**; (b) **[*]**; and (c) **[*]**

11. REPRESENTATIONS AND WARRANTIES

11.1 Mutual Authority. Exelixis and Genentech each represents and warrants to the other as of the Effective Date that: (a) it has the authority and right to enter into and perform this Agreement; (b) this Agreement is a legal and valid obligation binding upon it and is enforceable in accordance with its terms, subject to applicable limitations on such enforcement based on bankruptcy laws and other debtors' rights; and (c) its execution, delivery and performance of this Agreement will not conflict in any material fashion with the terms of any other agreement or instrument to which it is or becomes a party or by which it is or becomes bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having authority over it.

11.2 Rights in Technology. During the term of this Agreement, each Party will **[*]**. Each Party agrees to provide promptly the other Party with notice of any **[*]**. As of the Effective Date, each Party is **[*]**.

11.3 Right to Grant Licenses. Exelixis represents and warrants that, **[*]**, it owns or possesses adequate licenses or other rights to use all Exelixis Research IP and Yale Licensed IP, and all rights to grant the licenses and perform the obligations contemplated herein. Without limiting the foregoing, Exelixis represents and warrants that, **[*]**, it **[*]**. Genentech warrants and represents that **[*]**, it owns or possesses adequate licenses to grant the licenses and perform the obligations herein.

11.4 No Other Relevant IP. Exelixis represents and warrants that, [*], Exelixis is not the owner or the licensee of any Patents or other intellectual property [*], other than the [*] listed on **Exhibit H**.

11.5 Third Party Rights. Each Party represents and warrants to the other Party that, to its knowledge as of the Effective Date, performing its obligations under this Agreement will not in itself constitute a violation of a contractual or fiduciary obligation owed to any Third Party (including without limitation misappropriation of trade secrets).

11.6 Third Party Agreements. Exelixis warrants, represents and covenants as follows:

(a) *No Material Amendment.* The act of entering into this Agreement and granting the licenses hereunder will not give rise to any material amendment of the Yale Agreement, or any right by Yale University or the Indiana University Foundation to amend the Yale Agreement.

(b) *Yale Agreement.* Exelixis has not amended the Yale Agreement (other than as disclosed to Genentech by Exelixis prior to the Effective Date), and **[*]**, in a manner that would **[*]**. Exelixis has not waived or exercised any rights it may have with respect to the Yale Agreement **[*]** in a manner that would **[*]**.

(c) *No Breach.* As of the Effective Date, Exelixis is not aware of any acts or omissions that would result in any material breach of the Yale Agreement.

(d) *Relevant Third Party Collaborations*. The list of agreements on **Exhibit B** is a complete list of the agreements between Exelixis and a Third Party that **[*]**.

11.7 Notice of Infringement or Misappropriation. Each Party represents and warrants to the other Party that, as of the Effective Date, it has received no notice of infringement or misappropriation of any alleged rights asserted by any Third Party for any technology to be used in connection with the conduct of the Research Plan, or any use thereof.

12. INDEMNIFICATION

12.1 Mutual Indemnification. Subject to Sections 12.3 and 12.4, each Party hereby agrees to indemnify, defend and hold the other Party, its Affiliates, and its and their officers, directors, and employees (collectively, the "**Indemnitees**") harmless from and against any and all damages or other amounts payable to a Third Party claimant, as well as any reasonable attorneys' fees and costs of litigation incurred by such Indemnitees (collectively, "**Damages**"), all to the extent resulting from claims, suits, proceedings or causes of action brought by such Third Party ("**Claims**") against such Indemnitee based on: (a) **[*]**; (b) **[*]**; or (c) **[*]**.

12.2 Indemnification by Commercializing Party. Subject to Section 12.3, each Party, as a Commercializing Party, hereby agrees to indemnify, defend and hold harmless the non-Commercializing Party and its officers, directors and employees from and against any and all Damages resulting from Claims based on **[*]** and/or **[*]**; except in either (a) or (b) to the extent any such Claims result from: (i) **[*]**; (ii) **[*]**; (iii) **[*]**; or (iv) **[*]**. For any Claim in which Exelixis is the non-Commercializing Party, then the LICENSORS and their respective directors, trustees, fellows, agents and employees shall be included within the scope of Exelixis' right to be indemnified, defended and held harmless under this Section 12.2.

12.3 Third Party Claims Related to Profit Share Products.

(a) *Third Party Claims*. Damages from Third Party claims relating to the manufacture, use, handling, storage, sale or other disposition of any Profit Share Product, including without limitation Damages from claims of infringement of Third Party Patent rights, shall be **[*]**, except that (i) **[*]**, (ii) **[*]**. If either Party receives notice of a Third Party claim with respect to any Profit Share Product, such Party shall inform the other Party in writing as soon as reasonably practicable. However, Genentech shall have sole control over the defense and settlement of any such Third Party claim.

(b) *Indemnification*. Each Party (as an indemnifying Party) hereby agrees to indemnify, defend and hold harmless the other Party and its officers, directors and employees from and against any Damages from Third Party claims that are related to a Profit Share Product and that are a result of the negligence or willful misconduct of the indemnifying Party. For any Claim in which Exelixis is the non-Commercializing Party, then the LICENSORS and their respective directors, trustees, fellows, agents and employees shall be included within the scope of Exelixis' right to be indemnified, defended and held harmless under this Section 12.3(b).

12.4 Conditions to Indemnification. As used herein, "**Indemnitee**" means a party entitled to indemnification under the terms of Section 12.1, 12.2 or 12.3(b). It shall be a

condition precedent to an Indemnitee's right to seek indemnification under such Section 12.1, 12.2 or 12.3(b) that the Indemnitee: (a) informs the indemnifying Party of a Claim as soon as reasonably practicable after it receives notice of the Claim; (b) if the indemnifying Party acknowledges that such Claim falls within the scope of its indemnification obligations hereunder, permits the indemnifying Party to assume direction and control of the defense, litigation, settlement, appeal or other disposition of the Claim (including the right to settle the Claim solely for monetary consideration); provided, however, that the indemnifying Party shall seek the prior written consent (not to be unreasonably withheld or delayed) of any such Indemnitee as to any settlement which would require any payment by such Indemnitee, would require an admission of legal wrongdoing in any way on the part of an Indemnitee, or would effect an amendment of this Agreement; and (c) fully cooperates (including providing access to and copies of pertinent records and making available for testimony relevant individuals subject to its control) as reasonably requested by, and at the expense of, the indemnifying Party in the defense of the Claim. Provided that an Indemnitee has complied with the foregoing, the indemnifying Party shall provide attorneys reasonably acceptable to the Indemnitee to defend against any such Claim. Subject to the foregoing, an Indemnitee may participate in any proceedings involving such Claim using attorneys of its/his/her choice and at its/his/her expense. In no event may an Indemnitee settle or compromise any Claim for which it/he/she intends to seek indemnification from the indemnifying Party hereunder without the prior written consent of the indemnifying Party, or the indemnification provided under such Section 12.1, 12.2 or 12.3(b) as to such Claim shall be null and void.

12.5 Limitation of Liability. EXCEPT FOR (A) AMOUNTS PAYABLE TO THIRD PARTIES BY A PARTY FOR WHICH IT SEEKS REIMBURSEMENT OR INDEMNIFICATION PROTECTION FROM THE OTHER PARTY PURSUANT TO SECTIONS 12.1 OR 12.2, OR (B) AMOUNTS OF DAMAGES ARISING FROM A BREACH OF ANY REPRESENTATION OR WARRANTY HEREUNDER OR FROM A BREACH OF SECTION 9 HEREOF (CONFIDENTIALITY), IN NO EVENT SHALL EITHER PARTY, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR AFFILIATES BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER BASED UPON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE, ARISING OUT OF THIS AGREEMENT, UNLESS SUCH DAMAGES ARE DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE LIABLE PARTY.

12.6 Collaboration Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN ARTICLE 11 ABOVE, EACH PARTY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES WITH RESPECT TO ANY RESEARCH RESULTS, TARGETS, ASSAYS, MOLECULES, DATA, OR INVENTIONS (AND ANY PATENT RIGHTS OBTAINED THEREON) IDENTIFIED, MADE OR GENERATED BY SUCH PARTY AS PART OF THE COLLABORATION OR OTHERWISE MADE AVAILABLE TO THE OTHER PARTY PURSUANT TO THE TERMS OF THIS AGREEMENT.

12.7 Insurance.

(a) *Coverages*. Each Party shall maintain, at its own cost, the insurance coverages set forth in this Section 12.7; *provided, however*, Genentech has the right, in its sole discretion, to self-insure in part or in whole for any such coverages.

(i) Commencing as of the Effective Date, and thereafter for the period of time required under Section 12.7(b), each Party shall obtain and maintain on an ongoing basis, Commercial General Liability insurance, including contractual liability, in the minimum amount of **[*]** per occurrence, combined single limit for bodily injury and property damage liability.

(ii) Commencing **[*]**, and thereafter for the period of time required under Section 12.7(b), each Party shall obtain and maintain on an ongoing basis, Products Liability insurance, including contractual liability, in the minimum amount of **[*]** per occurrence, combined single limit for bodily injury and property damage liability.

(b) *Additional Requirements*. Except to the extent that Genentech self-insures under Section 12.7(a), the following provisions shall apply.

(i) All insurance coverages shall be primary insurance with respect to each Party's own participation under this Agreement, and shall be maintained with an insurance company or companies having an A.M. Best's rating (or its equivalent) of A-XII or better, in the case of Genentech, and A-VII or better, in the case of Exelixis.

(ii) Each Party shall name the other Party as an additional insured by endorsement under its Commercial General Liability and Products Liability insurance policies.

(iii) The insurance policies shall be under an occurrence form, but if only a claims-made form is available to a Party, then in such a case, such Party shall maintain the insurance coverage for at least **[*]**.

(iv) Each Party's aggregate deductibles under its Commercial General Liability and Products Liability and other insurance policies shall be reasonably satisfactory to the other Party, taking into account the deductibles that are prudent and customary with respect to the activities in which it is engaged under this Agreement.

(v) Each Party shall provide to the other Party its respective certificates of insurance evidencing the insurance coverages set forth in Section 12.7(a), as applicable. Each Party shall provide to the other Party at least **[*]** days prior written notice of any cancellation, nonrenewal or material change in any of the insurance coverages. Each Party shall, upon receipt of written request from the other Party, provide renewal certificates to the other Party for as long as such Party is required to maintain insurance coverages hereunder.

13. MISCELLANEOUS

13.1 Complete Agreement; Modification. This Agreement constitutes the entire agreement, both written and oral, between the Parties with respect to the subject matter hereof, and all prior agreements respecting the subject matter hereof, either written or oral, expressed or implied, are superseded hereby, merged and canceled, and are null and void and of no effect. No amendment or change hereof or addition hereto shall be effective or binding on either of the Parties hereto unless reduced to writing and duly executed on behalf of both Parties.

13.2 Governing Law. Resolution of all disputes arising out of or related to this Agreement or the performance, enforcement, breach or termination of this Agreement and any remedies relating thereto, shall be governed by and construed under the substantive laws of the State of California, without regard to conflicts of law rules requiring the application of different law.

13.3 Dispute Resolution.

(a) *Internal Resolution*. Except as otherwise expressly provided herein (including, without limitation, under Section 2.2(c)), in the event of any controversy, claim or other dispute arising out of or relating to any provision of this Agreement or the interpretation, enforceability, performance, breach, termination or validity hereof (a "**Dispute**"), such Dispute shall be first referred to a **[*]** for resolution, prior to proceeding under the following provisions of this Section 13.3. A Dispute shall be referred to such executives upon any Party providing the other Party with written notice that such Dispute exists, and such executives, or their designees, shall attempt to resolve such Dispute through good faith discussions. In the event that such Dispute is not resolved within **[*]** days of such other Party's receipt of such written notice, either Party may initiate the dispute resolution procedures set forth in Section 13.3(b).

(b) *Arbitration*. Except as otherwise expressly provided in this Agreement, the Parties agree that any Dispute not resolved internally by the Parties pursuant to Section 13.3(a) must be finally resolved through binding arbitration by JAMS in accordance with its Comprehensive Arbitration Rules and Procedures in effect at the time the Dispute arises, except as modified in this Agreement, applying the substantive law specified in Section 13.2. A Party may initiate an arbitration by written notice to the other Party of its intention to arbitrate, and such demand notice shall specify in reasonable detail the nature of the Dispute. Each Party shall select one (1) arbitrator, and the two (2) arbitrators so selected shall choose a third arbitrator (and all such arbitrators shall be experienced in the development and commercialization of biotechnology/pharmaceutical products) to resolve the Dispute, and all three (3) shall serve as neutrals. If a Party fails to nominate its arbitrator, or if the Parties' arbitrators cannot agree on the third arbitrator, the necessary appointments shall be made in accordance with the then prevailing Comprehensive Arbitration Rules and Procedures. Within **[*]** months of the conclusion of an arbitration proceeding, the arbitration decision shall be rendered in writing and shall specify the basis on which the decision was made. The award of the arbitration tribunal shall be final and judgment upon such an award may be entered in any competent court or application may be made to any competent court for judicial acceptance of such an award and order of enforcement. The arbitration proceedings shall be conducted in San Francisco, California. The Parties agree that they shall share equally the cost of the arbitration filing and hearing fees, and the cost of the arbitrator, except as expressly otherwise set forth in the Agreement. Each Party shall bear its own attorneys' fees and associated costs and expenses, unless attorney's fees are provided for under governing law as part of the damage award.

(c) *Patent Validity; Equitable Relief*. Notwithstanding the other provisions of this Section 13.3, any Dispute that involves the validity, infringement or claim interpretation of a Patent: (i) that is issued in the United States, shall be subject to actions before the United States Patent and Trademark Office and/or submitted exclusively to the federal court located in the jurisdiction of the district where any of the defendants resides; and (ii) that is issued in any other country, shall be brought before an appropriate regulatory or administrative body or court in that country, and the Parties hereby consent to the jurisdiction and venue of such courts and bodies. For the sake of clarity, such patent disputes shall not be subject to the provisions of Section 13.3(b). Notwithstanding the other provisions of this Section 13.3, any Dispute that involves the need to seek preliminary or injunctive measures or other equitable relief (e.g., in the event of a potential (or actual) breach of the confidentiality and non-use provisions in Article 9) need not be resolved through the procedure described in Sections 13.3(a) or (b) but may be immediately brought in a court of competent jurisdiction.

13.4 Consents Not Unreasonably Withheld or Delayed. Whenever provision is made in this Agreement for either Party to secure the consent or approval of the other, that consent or approval shall not unreasonably be withheld or delayed, and whenever in this Agreement provisions are made for one Party to object to or disapprove a matter, such objection or disapproval shall not unreasonably be exercised.

13.5 Assignment. Neither Party may assign or otherwise transfer this Agreement or any of its rights or obligations under this Agreement without the prior written consent of the other Party, except, that either Party may assign this Agreement, without the consent of the other Party: (a) to any of its Affiliates; or (b) to any Third Party in connection with the transfer or sale of all or substantially all of the business of such Party to which this Agreement relates, whether by merger, sale of stock, sale of assets or otherwise. Any purported assignment in contravention of this Section 13.5 shall be null and void and of no effect. No assignment shall release either Party from responsibility for the performance of any accrued obligation of such Party hereunder. This Agreement shall be binding upon and enforceable against the successor to or any permitted assignees from either of the Parties.

13.6 Notices. Any notices given under this Agreement shall be in writing, addressed to the Parties at the following addresses, and delivered by person, by facsimile (with receipt confirmation), or by FedEx or other reputable courier service. Any such notice shall be deemed to have been given as of the day of personal delivery, one (1) day after the date sent by facsimile service, or on the day of successful delivery to the other Party confirmed by the courier service.

For Exelixis:	Exelixis, Inc. 170 Harbor Way P.O. Box 511 South San Francisco, CA 94083 Attention: SVP, Patents and Licensing Phone: +1 650-837-7000 Fax: +1 650-837-8300
With a copy to:	Cooley Godward LLP Five Palo Alto Square 3000 El Camino Real Palo Alto, CA 94306 Attention: Robert L. Jones, Esq. Phone: +1 650-843-5000 Fax: +1 650-849-7400
For Genentech:	Corporate Secretary Genentech, Inc. 1 DNA Way South San Francisco, CA 94080 Phone: +1 650-225-1672 Fax: +1 650-952-9881
With a copy to:	Vice President of Business Development Genentech, Inc. 1 DNA Way South San Francisco, CA 94080 Phone: +1 650-225-5000 Fax: +1 650-225-3009

13.7 Force Majeure. Each Party shall be excused from the performance of its obligations (other than payment obligations) under this Agreement to the extent that such performance is prevented by force majeure and the nonperforming Party promptly provides notice of the prevention to the other Party. Such excuse shall be continued so long as the condition constituting force majeure continues and the nonperforming Party takes reasonable efforts to remove the condition. For purposes of this Agreement, "**force majeure**" shall include conditions beyond the control of the Parties, including without limitation, an act of God, voluntary or involuntary compliance with any regulation, law or order of any government, war, act of terrorism, civil commotion, labor strike or lock-out, epidemic, failure or default of public utilities or common carriers, destruction of production facilities or materials by fire, earthquake, storm or like catastrophe.

13.8 Further Assurances. Each Party agrees to execute, acknowledge and deliver such further instruments, and to do all such other acts, as may be necessary or appropriate in order to carry out the purposes and intent of this Agreement.

13.9 Severability. In the event that any provision of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect without said provision. In such event, the Parties shall in good faith negotiate a substitute clause for any provision declared invalid or unenforceable, which shall most nearly approximate the intent of the Parties in entering this Agreement.

13.10 Waiver. The failure of a Party to insist upon strict performance of any provision of this Agreement or to exercise any right arising out of this Agreement shall neither impair that provision or right nor constitute a waiver of that provision or right, in whole or in part, in that instance or in any other instance. Any waiver by a Party of a particular provision or right shall be in writing, shall be as to a particular matter and, if applicable, for a particular period of time and shall be signed by such Party.

13.11 Cumulative Rights. The rights, powers and remedies hereunder shall be in addition to, and not in limitation of, all rights, powers and remedies provided at law or in equity, or under any other agreement between the Parties. All of such rights, powers and remedies shall be cumulative, and may be exercised successively or cumulatively.

13.12 Use of Name. Except as required by law, neither Party shall use the name or trademarks of the other Party for any advertising or promotional purposes without the prior written consent of such other Party.

13.13 Construction of this Agreement. Except where the context otherwise requires, wherever used, the singular will include the plural, the plural the singular, the use of any gender will be applicable to all genders, and the word "**or**" are used in the inclusive sense. When used in this Agreement, "**including**" means "**including without limitation**". References to either Party include the successors and permitted assigns of that Party. The headings of this Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement. The Parties have each consulted counsel of their choice regarding this Agreement, and, accordingly, no provisions of this Agreement will be construed against either Party on the basis that the Party drafted this Agreement or any provision thereof. If the terms of this Agreement conflict with the terms of any Exhibit or the Research Plan, then the terms of this Agreement shall govern. The official text of this Agreement and any Exhibits hereto, any notice given or accounts or statements required by this Agreement, and any dispute proceeding related to or arising hereunder, shall be in English. In the event of any dispute concerning the construction or meaning of this Agreement, reference shall be made only to this Agreement as written in English and not to any other translation into any other language.

13.14 Export Control. This Agreement is made subject to any restrictions concerning the export of products or technical information from the United States of America or other countries which may be imposed upon or related to Exelixis or Genentech from time to time. Each Party agrees that it will not export, directly or indirectly, any technical information acquired from the other Party under this Agreement or any products using such technical information to a location or in a manner that at the time of export requires an export license or other governmental approval, without first obtaining the written consent to do so from the appropriate agency or other governmental entity.

13.15 Independent Contractors. Subject to the terms of this Agreement, the activities and resources of each Party shall be managed by such Party, acting independently and in its individual capacity. The relationship between Exelixis and Genentech is that of independent contractors. The relationship between the Parties under this Agreement is not, and is not intended to be, a joint venture, an agency relationship, or a fiduciary or trust relationship. Neither Party shall have the power to bind or obligate the other Party in any manner.

13.16 Affiliates.

(a) *Affiliates Bound.* Each Party agrees that it will prohibit each of its Affiliates from taking any action that the Party itself is prohibited from taking under this Agreement. All Affiliates of a Party that perform one or more obligations of that Party under this Agreement, or that Control any intellectual property licensed under this Agreement, are bound by all relevant provisions of this Agreement that employ the terms “Exelixis”. “Genentech”, “Party” or “Parties”. In addition, the Affiliates of a Party that receive any Confidential Information of the other Party pursuant to this Agreement are bound by all obligations set forth in Article 9.

(b) *Breach by Affiliates.* Each Party acknowledges and agrees that a breach by any of its Affiliates under this Agreement will be treated as a breach by that Party. In that circumstance, each Party expressly waives any requirement that the other Party exhaust any right, power or remedy, or proceed directly against its Affiliate, for any obligation or performance under this Agreement.

13.17 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be an original and all of which shall constitute together the same document. Counterparts may be signed and delivered by facsimile, each of which shall be binding when sent.

Signature Page Follows.

IN WITNESS WHEREOF, Exelixis and Genentech have executed this Agreement by their respective duly authorized representatives as of the Effective Date.

EXELIXIS, INC.	**GENENTECH, INC.**
By: /s/ George Scangos	By: /s/ David Ebersman
Name: George Scangos	Name: David Ebersman
Title: President and CEO	Title: Senior Vice President and Chief Financial Officer
Date: May 31, 2005	Date: May 31, 2005

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

Exhibit A

Additional Collaboration Targets

As of the Effective Date, there are no additional Collaboration Targets.

Exhibit B

Relevant Third Party Collaborations

[*]

Exhibit C

Genentech Excluded IP

[*]

Exhibit D

Other Targets

[*]

Exhibit E

Financial Appendix

Principles of Reporting.

Determination of Operating Profits (Losses), for a Profit Sharing Product will be based on each Party's respective financial information. If the Parties have determined the terms for ex-U.S. Operating Profits (Losses), the Commercializing Party may choose to provide a consolidated worldwide pro forma financial statement for itself and its Sublicensees rather than separate financial statements for itself and its Sublicensees) in the following reporting format. The interpretation of the defined terms in such report shall be in accordance with GAAP and this Agreement.

Gross Sales
less Sales Returns and Allowances
= Net Sales
less Cost of Sales
= Gross Profits
less Marketing Costs
less Sales Costs
less Development Costs
less Other Operating Income/Expense
less Distribution Costs
less General and Administrative Costs
= Operating Profits or Losses

If necessary, a Party will make the appropriate adjustments to the financial information it supplies under the Agreement to conform to the above format of reporting results of operations. Without limiting the foregoing, prior to the time that Gross Sales are obtained and if there are no incurred and mutually agreed costs related to sales or sales support, the Parties may eliminate the above line items related to sales and the support of sales, and the costs thereof, and use only those terms relevant to the sharing of Development Costs.

Frequency of Reporting.

The fiscal year for the Agreement will be a calendar year.

Reporting will be at the times set forth in the following Report Table, with submissions due on the date indicated or the next business day if such date is a weekend or U.S. holiday:

Report	Frequency	Timing of Submission
Actuals	Quarterly	Q1-Q4: [*]
Forecasts	Quarterly	Q1-Q3: [*]
Draft Consolidation & Variances	Quarterly	Quarter end [*]
Final Consolidation & Variances	Quarterly	Quarter end [*]
Budgets	Annually	December 15 [*]
Long Range Plan	Annually	December 15 [*]

The Parties may agree to modify the foregoing reporting cycles and deadlines. In the event that a Party substantially or materially changes its internal reporting cycles and deadlines generally, then the Parties shall discuss, in good faith, appropriate revisions to the foregoing reporting cycles and deadlines to reasonably accommodate such change.

Unless otherwise agreed by the Parties consistent with their responsibilities for sales and marketing, the Commercializing Party shall record sales. On a monthly basis, the Commercializing Party will supply the other Party with each month's Gross Sales and Net Sales of Profit Share Products, including the basis for calculation of such amounts, in units and U.S. dollars in the United States and in local currency (which may be converted to U.S. dollars) outside of the United States. Each such report shall be provided as early as possible, but no later than **[*]** days after the last day of the month in question, and shall provide monthly and year-to-date cumulative figures.

Each Party will make available a financial representative to discuss the following, at the request of the other Party:

Development Costs
Results
Forecasts
Budgets
Long Range Plans
Gross Sales
Sales Returns and Allowances
Inventory Levels
Sales and Marketing Costs other financial matters as appropriate, including methodologies for determining costs, actual amounts, forecasts, budgets and long range plans and the results of applying such methodologies

Budgets.

Budgets will be prepared annually by the Commercializing Party.

Budgets under this **Exhibit E** will be supplemented with more detailed budgets for U.S. (or ex-U.S., as appropriate) clinical trials and drug approval applications, as determined by the Commercializing Party in accordance with the Agreement. Budgets are provided for information and planning purposes; sharing of Operating Profits (Losses) are based on actual amounts.

Responsibility for Reporting.

The Commercializing Party is responsible for reporting, although the non-Commercializing Party will cooperate as appropriate. The Commercializing Party shall provide the other Party with a copy of the consolidated reporting and other calculations that form the basis of determining payments between the Parties for Operating Profits (Losses) for Profit Share Products. The Parties may agree in writing, on a case by case and product by product basis, on circumstances in which certain identified costs or expenses of the non-Commercializing Party will be included in Operating Profits (Losses); in that circumstance the non-Commercializing Party will provide the Commercializing Party with financial statements within **[*]** after the end of the quarter for its activities, prepared in accordance with the terms contained in this **Exhibit E** in order for the Commercializing Party to prepare the consolidated reports.

Definitions.

"Allocable Overhead" means fully-burdened costs incurred by a Commercializing Party that are attributable to that Commercializing Party's **[*]**. Allocable Overhead shall not include **[*]**, and shall not duplicate General & Administrative Expenses hereunder.

"Cost of Sales" means the sum of: (a) Fully Burdened Manufacturing Cost (as defined below) of a Profit Share Product (in whatever form); (b) freight, insurance, customs charges, duty, temporary storage and other costs of shipping Profit Share Products to customers (to the extent actually incurred by the shipping Party and not reimbursed by the customer); and (c) any third party royalties payable with respect to the manufacture, use or sale of Profit Share Products, excluding any royalties already accounted for in Fully Burdened Manufacturing Cost. Cost of Sales shall not include any costs that are already included in Development Costs, Distribution Costs, Distribution Costs, Marketing Costs, Sales Costs, Other Operating Income/Expense, General and Administrative Costs, Sales Returns and Allowances, and Allocable Overhead for any of the foregoing cost categories, and in every case shall only include costs directly allocable to a Profit Share Product (with the exception of Allocable Overhead allowable in determination of FBMC) in accordance with GAAP.

"Development Costs" shall include, but are not limited to, costs of **[*]**. In determining "Development Costs" chargeable under this Agreement, the Commercializing Party will use its respective project accounting systems, as consistently applied across all its projects, and will review its respective project accounting systems and methodologies with the non-Commercializing Party. Development Costs shall not include any costs that are already included

in Cost of Sales, Distribution Costs, Marketing Costs, Sales Costs, Other Operating Income/Expense, General and Administrative Costs, Sales Returns and Allowances, and Allocable Overhead for any of the foregoing cost categories, and in every case shall only include costs directly allocable to a Profit Share Product in accordance with GAAP.

"Distribution Costs" means the costs, including applicable Allocable Overhead, specifically identifiable to the distribution of a Profit Share Product by a Commercializing Party, including customer services, collection of data about sales to hospitals and other end users, order entry, billing, shipping, logistics, credit and collection and other such activities. Distribution Costs shall not include any costs that are already included in Cost of Sales, Development Costs, Marketing Costs, Sales Costs, Other Operating Income/Expense, General and Administrative Costs, Sales Returns and Allowances, and Allocable Overhead for any of the foregoing cost categories, and in every case shall only include costs directly allocable to a Profit Share Product in accordance with GAAP.

"Fully Burdened Manufacturing Cost" or **"FBMC"** means one hundred percent (100%) of a Commercializing Party's manufacturing cost (as defined in the Commercializing Party's accounting policies consistently applied), which shall comprise the sum of:

(a) the actual cost of goods produced, as determined by the Commercializing Party manufacturing or contracting with a Third Party for each stage of the manufacturing process, in accordance with GAAP (as used in this definition of FBMC, the "Cost of Goods"), including product quality assurance/control costs, plus applicable Allocable Overhead; and

(b) all royalties payable under license(s) taken by a Commercializing Party under a Third Party's patents or patent applications that, but for such license(s), would be infringed by the manufacture of a Profit Share Product by such Commercializing Party.

In no event shall "FBMC" include any costs or expenses included in the calculation of Development Costs, Marketing Costs, Sales Costs, Other Operating Income/Expense, Distribution Costs, Sales Returns and Allowances, General and Administrative Costs, and Allocable Overhead for any of the foregoing cost categories, and in every case shall only include costs directly allocable to a Profit Share Product in accordance with GAAP. When the Commercializing Party holds **[*]**, "FBMC" shall include **[*]**. Such **[*]** shall be calculated by multiplying (i) **[*]**, by (ii) **[*]**.

"General and Administrative Costs" or **"G&A Costs"** means costs equal to **[*]** ("**G&A Rate**") of the sum of the **[*]** for the Commercializing Party. **[*]** both Parties shall use such revised G&A Rate going forward in calculating General and Administrative Costs.

"Gross Sales" means the amount invoiced by the Commercializing Party and/or its Sublicensees for sales of a Profit Share Product to any Third Party in arms-length transactions. Consideration for sales of Profit Share Products for other than cash shall be valued at fair market value at the time of final sale. Notwithstanding anything to the contrary herein, sale(s) of Profit Share Products by and between the Commercializing Party and its Sublicensees shall be excluded from

Gross Sales and Net Sales, provided that the final sales of Profit Share Products by such Sublicensees to third parties are included in Gross Sales and Net Sales.

"Marketing Costs" means the specific direct costs incurred by a Commercializing Party directly on account of a Profit Share Product for marketing, promotion, advertising, promotional materials, professional education, product related public relations, relationships with opinion leaders and professional societies, market research (before and after product approval), healthcare economics studies, post-marketing studies not required to maintain product approvals (e.g., investigator sponsored trials, product registries and medical information), and other similar activities the costs of which were approved as a part of the budget incorporated in a Plan/Budget. Such costs will include both internal costs (e.g., salaries, benefits, travel, supplies and materials), applicable Allocable Overhead, and outside services and expenses (e.g., consultants, agency fees, meeting costs), in all cases as directly applicable to a specific Profit Share Product. "Marketing Costs" shall also include activities related to obtaining reimbursement from payers and costs of sales and marketing data, in all cases only as directly applicable to a specific Profit Share Product. "Marketing Costs" will specifically exclude the costs of activities that promote either Party's business as a whole without being product specific (e.g., corporate image advertising). Marketing Costs shall not include any costs that are already included in Cost of Sales, Development Costs, Distribution Costs, Sales Costs, Other Operating Income/Expense, Sales Returns and Allowances, General and Administrative Costs, and Allocable Overhead for any of the foregoing cost categories, and in every case shall only include costs directly allocable to a Profit Share Product in accordance with GAAP.

"Operating Profits or Losses" means Gross Sales of all Profit Share Products plus any Sublicensing Revenue for all Profit Share Products less the following items with respect to each Profit Share Product, all for a given period: Sales Returns and Allowances, Cost of Sales, Marketing Costs, Sales Costs, Development Costs, Other Operating Income/Expense, Distribution Costs, and General and Administrative Costs, all of which as properly chargeable and allocable on a Profit Share Product-by-Profit Share Product basis. All calculations will be made using, and all defined and undefined terms will be construed in accordance with GAAP and consistent with generally accepted costing methods (including appropriate Allocable Overhead) for similar products in the pharmaceutical industry.

"**Other Operating Income/Expense**" means any of the following:

- actual inventory write-offs of any Profit Share Product, to the extent not previously captured
- third party indemnification expenses
- patent and trademark costs
- product liability insurance

Other Operating Income/Expense shall not include any costs that are already included in Cost of Sales, Development Costs, Marketing Costs, Sales Costs, Distribution Costs, General and Administrative Costs, Sales Returns and Allowances, and Allocable Overhead for any of the foregoing cost categories, and in every case shall only include costs directly allocable to a Profit Share Product in accordance with GAAP.

“Report Table” means the table set forth in Section A.2 of this **Exhibit E** that specifies the frequency and timing of submissions for specific reporting events.

“Sales Costs” means costs, including Allocable Overhead, approved as a part of the budget incorporated in the then-current commercialization plan for a Profit Share Product, incurred by the Commercialization Party or for its account and specifically identifiable to the sales efforts of Profit Share Products to all markets, including the managed care market. “Sales Costs” shall include costs associated with sales representatives for Profit Share Products, including compensation, benefits and travel, supervision and training of the sales representatives, sales meetings, and other sales expenses. “Sales Costs” will not include the start-up costs associated with the Commercializing Party’s sales force, including recruiting, relocation and other similar costs. Sales Costs shall not include any costs that are already included in Cost of Sales, Development Costs, Marketing Costs, Distribution Costs, Other Operating Income/Expense, Sales Returns and Allowances, General and Administrative Costs, and Allocable Overhead for any of the foregoing cost categories, and in every case shall only include costs directly allocable to a Profit Share Product in accordance with GAAP.

“Sales Returns and Allowances” means the sum of (a) and (b), where:

(a) is a provision, determined by a Party under GAAP for sales of Profit Share Products in the Territory for (i) trade, cash and quantity discounts or rebates on Profit Share Products granted and which are included in the determination of Gross Sales; (ii) credits or allowances given or made for rejection or return of, and for uncollected amounts on, previously sold Profit Share Products or for damaged Profit Share Products, billing errors and retroactive price reductions (including rebates similar to Medicare and/or Medicaid); (iii) sales tax, VAT taxes, and other taxes, duties or other governmental charges levied on or measured by the billing amount for Profit Share Products, as adjusted for rebates or refunds, that are borne by the seller thereof and that are not refundable and to the extent noncreditable; (iv) commissions relating to import or transportation of Profit Share Products paid to Third Party distributors, brokers or agents (excluding sales personnel, sales representatives and sales agents that are employees or consultants of a Commercializing Party or its Sublicensees) in countries outside the United States in which such commissions are paid by deducting such commissions from gross sales invoiced for sales to such third parties; (v) charges for freight and insurance directly related to the return of Profit Share Products and not otherwise paid for by the customer or refunds that are born by the seller thereof and that are not refundable and to the extent noncreditable; and (vi) credits or allowances given or made for wastage replacement, indigent patient and similar programs; and

(b) is a periodic adjustment of the provision determined in clause (a) to reflect amounts actually incurred by the Commercializing Party in the Territory for items (i), (ii), (iii), and (iv) in clause (a). The provision allowed in clause (a) and adjustments made in clause (b) (if any) will be reviewed by the financial representatives from the Parties.

Sales Returns and Allowances shall not include any costs that are already included in Cost of Sales, Development Costs, Distribution Costs, Marketing Costs, Sales Costs, Other Operating Income/Expense, General and Administrative Costs, and Allocable Overhead for any of the foregoing cost categories, and in every case shall only include costs directly allocable to a Profit Share Product in accordance with GAAP.

Exhibit F

Research Plan

[*]. Genentech will take strategic leadership for cancer, and Exelixis will take strategic leadership for inflammation and tissue growth and repair; **[*]**

Exhibit G

Yale Patents

[*]

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

Exhibit H

Adam-10 Patents

[*]

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "**Agreement**") is made and entered into as of June 10, 2005 (the "**Effective Date**") by and between **EXELIXIS, INC.**, a Delaware corporation having its principal place of business at 170 Harbor Way, P.O. Box 511, South San Francisco, California 94083 ("**Exelixis**"), and **HELSINN HEALTHCARE S.A.**, a Swiss corporation having its principal place of business at via Pian Scairolo 9, 6912 Lugano, Switzerland ("**Helsinn**"). Exelixis and Helsinn are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

BACKGROUND

A. Exelixis is a biotechnology company that has expertise in the field of cancer and proprietary technology relating to Becatecarin.

B. Helsinn is a pharmaceutical company that has expertise in the development and commercialization of pharmaceutical products.

C. Exelixis desires to grant to Helsinn, and Helsinn desires to receive, a license and other tangible assets to develop and commercialize Becatecarin based on the terms and conditions set forth below.

NOW THEREFORE, Exelixis and Helsinn agree as follows:

1. DEFINITIONS

Capitalized terms used in this Agreement (other than the headings of the Sections or Articles) shall have the following meaning set forth in this Article 1, or, if not listed in this Article 1, the meaning as designated in the text of this Agreement.

1.1 "**Affiliate**" means, with respect to a particular Party, a person, corporation, partnership, or other entity that controls, is controlled by or is under common control with such Party. For the purposes of the definition in this Section 1.1, the word "control" (including, with correlative meaning, the terms "controlled by" or "under the common control with") means the actual power, either directly or indirectly through one or more intermediaries, to direct or cause the direction of the management and policies of such entity, whether by the ownership of at least fifty percent (50%) of the voting stock of such entity, or by contract or otherwise.

1.2 "Assumed Contracts" means the contracts listed in Exhibit 1.2.

1.3 "**Becatecarin**" means: (i) the rebeccamycin analog compound known as Becatecarin ("**XL119**"), with CAS Identification No. CAS-119673-08-4 and CAS nomenclature 1,11-Dichloro-6-**[*]**-12,13-dihydro-12-(4-O-methyl-ß-D-glucopyranosyl)-5H-indolo**[*]**pyrrolo**[*]**carbazole-5,7(6H)-dione; and (ii) **[*]**.

1.4 "**Control**" or "**Controlled**" means, with respect to any material, particular item of Information or intellectual property right, (i) that the Party owns and has the ability to grant to the other Party the license to such item provided for herein, without violating the terms of any agreement or other arrangement with any Third Party, and/or (ii) that the Party has a license to such item and has the ability to grant to the other Party the license to such item provided for herein, without violating the terms of any agreement or other arrangement with any Third Party.

1.5 "EU" means the European Union, as its membership may be altered from time to time, and any successor thereto. The member countries of the European Union as of the Effective Date are Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxemburg, Netherlands, Austria, Portugal, Finland, Sweden, the United Kingdom, Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Slovenia, Malta, and Cyprus.

1.6 "**Exelixis Know-How**" means all Information Controlled by Exelixis or its Affiliates as of the Effective Date, including Information originated or developed by any Third Party, that relates to **[*]**, including without limitation: (i) **[*]** any utilization or optimization thereof and related **[*]**; (ii) **[*]** data; (iii) **[*]** data; (iv) **[*]** information; (v) **[*]**; (vi) **[*]** data; (vii) all **[*]**; and (viii) all **[*]** data. For sake of clarity, no trademarks or tradenames Controlled by Exelixis are included in Exelixis Know-How.

1.7 "**Exelixis Patent Rights**" means the Patents listed in Exhibit 1.7.

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

1.9 "Field" means any therapeutic use in humans or animals.

1.10 "Final Report" means the final report provided by Helsinn to Exelixis pursuant to Section 3.6 upon completion of the first successful Phase 3 Clinical Trial for Becatecarin and describing in detail the data, analysis and conclusions of such clinical trial. As used in this Agreement, "successful" means, with respect to a Phase 3 Clinical Trial, **[*]**.

1.11 "First Commercial Sale" means for each Product on a country-by-country basis, the first commercial sale in such country after regulatory approval of such Product in such country. A First Commercial Sale shall not include any Product sold for use in clinical trials, for research or for other non-commercial uses, or that is supplied as part of a compassionate use or similar program.

1.12 "First Option" shall have the meaning set forth in Section 2.4.1.

1.13 "First Option Exercise Period" shall mean the period commencing on the Effective Date and ending on the earlier of (a) ninety (90) days after Exelixis' receipt of the Final Report, (b) Exelixis' exercise of the First Option in accordance with Section 2.4.1, or (c) Exelixis' written notification to Helsinn that it will not exercise the First Option.

1.14 "First Option Negotiation Period" shall have the meaning set forth in Section 2.4.1.

1.15 "GAAP" means the United States Generally Accepted Accounting Principles, consistently applied.

1.16 "Generic Product" means a pharmaceutical product that contains Becatecarin and **[*]**.

1.17 "**IAS-IFRS"** means an integrated system of International Accounting Standards and International Financial Reporting Standards, consistently applied.

1.18 "**IND**" means an Investigational New Drug application and any amendments thereto, as defined in the U.S. Food, Drug and Cosmetics Act and the regulations promulgated thereunder, or any corresponding or equivalent foreign application, registration or certification.

1.19 "IND Transfer Date" shall have the meaning set forth in Section 3.5.

1.20 "**Information**" means **[*]**, including without limitation, **[*]**.

1.21 "Major Country" means any of the following countries, and their respective territories and possessions: United States, United Kingdom, Germany, Italy, France, Spain and Japan.

1.22 "Market Exclusivity" shall be deemed to exist for a given Product in a given country **[*]**.

1.23 "Net Sales" means the gross amount invoiced or otherwise charged by Helsinn or its Affiliates or sublicensees for the sale of any Product to any Third Party, less the following deductions (calculated in accordance with GAAP or IAS-IFRS, as applicable) to the extent actually incurred or allowed in connection with such sale of such Product: (i) reasonable and customary cash, trade and quantity discounts; (ii) government-mandated rebates and/or charges; (iii) allowances for returned or rejected Product or retroactive price reductions; (iv) credits and/or allowances given or made for Indigent Patients Programs or similar programs; (v) freight out (i.e., freight charges between the seller and the end user), handling fees and insurance, if invoiced to the purchaser; and (vi) sales, value-added (to the extent not otherwise refunded, credited or reimbursed) and other direct taxes on the sale of Product (other than income taxes), if invoiced to the purchaser; (vii) **[*]**; and (viii) **[*]**. A Net Sale shall not include any Product sold for use in clinical trials, for research or for other non-commercial uses, or that is supplied as part of a compassionate use or similar program.

1.24 "North American Territory" means: (i) the United States of America and its territories and possessions; and (ii) Canada and its provinces and territories.

1.25 "Option Field" means therapeutic use in the indications of gall bladder cancer and bile duct cancer.

1.26 "Patents" means all: (i) United States patents, re-examinations, reissues, renewals, extensions and term restorations, supplementary protection certificates, inventors' certificates and foreign counterparts thereof; (ii) pending applications for United States patents, including provisional applications, continuations, continuations-in-part, continued prosecution, divisional and substitute applications; and (iii) foreign counterparts of the foregoing.

1.27 "Phase 3 Clinical Trial" means a human clinical trial, the principal purpose of which is to establish efficacy and safety of a drug in patients with the disease being studied as required in 21 C.F.R. §312.21(c) or similar clinical study in a country other than the United States for regulatory purposes

1.28 "**Product**" means: (i) Becatecarin; **[*]**. For clarity, Exelixis is granting Helsinn rights under the Exelixis Know-How and Exelixis Patents solely to Becatecarin. Notwithstanding anything to the contrary, the license set forth in Section 2.1 does not grant Helsinn any rights under the Exelixis Know-How and Exelixis Patents to any other compound or molecule Controlled by Exelixis.

1.29 "Regulatory Authority" means any governmental authority, including without limitation FDA or the European Medicines Agency ("**EMEA**"), with responsibility for granting any licenses or approvals necessary for the clinical testing, marketing and sale of a Product in any country.

1.30 "ROFR" shall have the meaning set forth in Section 2.5.

1.31 "ROFR Field" means all therapeutic uses other than in the indications of gall bladder cancer or bile duct cancer.

1.32 "Second Option" shall have the meaning set forth in Section 2.4.2.

1.33 "**Second Option Exercise Period"** shall mean the period commencing on the Effective Date and ending on the date ninety (90) days after Exelixis' receipt of the Final Report.

1.34 "Second Option Negotiation Period" shall have the meaning set forth in Section 2.4.2.

1.35 "Successful First Interim Analysis" means that the existing Phase 3 Clinical Trial for Becatecarin is not discontinued for futility upon completion of the first interim analysis performed when data are available for **[*]**.

1.36 "**Third Party**" means any person or entity other than Exelixis, Helsinn or an Affiliate of Exelixis or Helsinn.

1.37 "Transition Committee" shall have the meaning set forth in Section 3.1.

1.38 "Valid Claim" means: (i) any claim in an issued Patent in Exelixis Patent Rights that has not expired, been canceled, been declared invalid, or been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise; or (ii) a claim under a pending application for a Patent in Exelixis Patent Rights that has not been abandoned, canceled,

withdrawn from consideration, or finally determined to be unallowable in a decision from which no appeal can be taken. For clarity, on a country-by-country basis, a Valid Claim shall include any patent claim that has been declared invalid (pending appeal) if and to the extent that such invalidity does not prejudice enforceability of the relevant Patent in accordance with local laws of any such country.

2. LICENSE AND OTHER RIGHTS

2.1 License to Helsinn. Subject to the terms and conditions of this Agreement, Exelixis hereby grants to Helsinn and Helsinn hereby accepts a worldwide, exclusive, royalty-bearing license (with the unrestricted right to sublicense), under Exelixis Patent Rights and Exelixis Know-How, to make, have made, use, develop, sell, offer for sale and import Products in the Field. For clarity, the Parties intend that the license in this Section 2.1 includes the ability to distribute, promote, and market Products.

2.2 Retained Rights. Pursuant to the License Agreement between Exelixis and Bristol-Myers Squibb Company ("**BMS**") dated July 17, 2001 (the "**Upstream License**"), Exelixis granted to BMS and its Affiliates a worldwide, non-exclusive, fully paid, royalty-free license, under Exelixis Patent Rights and Exelixis Know-How, to make, have made, use, and test Becatecarin solely for internal pre-clinical research purposes: (i) to profile or test the activity of compounds other than Becatecarin; or (ii) to synthesize compounds that are not Becatecarin. The exclusivity of Exelixis' license to Helsinn in Section 2.1 is subject to such license to BMS. Exelixis retains the right to make, have made, import and have imported Becatecarin and Becatecarin for Injection (as such term is defined at Section 3.4.3) to Helsinn in accordance with and for the sole purpose of Section 3.4.3.

2.3 Negative Covenants. Helsinn and its Affiliates shall not, and shall use commercially reasonable efforts to ensure that their sublicensees do not, practice or sublicense Exelixis Patent Rights and/or Exelixis Know-How outside the scope of the license granted in Section 2.1.

2.4 Exelixis Option Rights.

2.4.1 First Option. Helsinn hereby grants Exelixis the exclusive option to obtain an exclusive license to distribute, promote, market, use, import, offer for sale and/or sell Products in the North American Territory in the Option Field (the "**First Option**"). Upon the occurrence of any of the following triggering events: (i) Exelixis' receipt of Helsinn's written solicitation to exercise the First Option; (ii) Helsinn's receipt of Exelixis' written request; or (iii) Helsinn's providing Exelixis with the Final Report, Helsinn shall promptly provide to Exelixis under confidentiality such information and data that may be relevant to Exelixis' evaluation of whether it wishes to acquire such a license and that Helsinn usually discloses to potential partners licensees and distributors. Exelixis may exercise the First Option by written notification to Helsinn at any time during the First Option Exercise Period. Commencing upon Helsinn's receipt of such notification or upon Exelixis' receipt of Helsinn's written solicitation to Exelixis to exercise the First Option, the Parties shall negotiate on an exclusive basis in good faith for **[*]** days (the "**First Option Negotiation Period**") to reach agreement on the commercially reasonable terms and conditions of an agreement for the distribution, promotion, marketing, use,

importation, offer for sale and/or sale of Products by Exelixis in the North American Territory in the Option Field. If Exelixis fails to exercise the First Option during the First Option Exercise Period, or if the Parties fail to execute an agreement within the First Option Negotiation Period or any mutually agreed extension thereof, then Helsinn shall be free thereafter to directly distribute, promote, market, use, import and sell the Products in the North American Territory and/or, subject to Section 2.4.2, to discuss, negotiate and enter into an agreement with a Third Party for the distribution, promotion, marketing, use, importation, offer for sale and/or sale of Products in the North American Territory in the Option Field. If the Parties enter into an agreement for the license described in this Section 2.4.1, the Parties acknowledge and agree that Exelixis shall not **[*]** but, with Helsinn's prior written consent (which shall not be unreasonably withheld or delayed), Exelixis may **[*]**.

2.4.2 Second Option. In the event that, during the Second Option Exercise Period, Helsinn and any Third Party agree on the financial terms under which such Third Party would have the opportunity to obtain a license to distribute, promote, market, use, import, offer for sale and/or sell Products in the North American Territory in the Option Field, then, prior to entering into a legally binding agreement with such Third Party, Helsinn shall immediately: (i) notify Exelixis in writing of the financial terms agreed upon with such Third Party; (ii) provide Exelixis with all information provided to such Third Party with respect to the Products; and (iii) provide Exelixis with the opportunity to match such Third Party's offer within **[*]** days of Exelixis' receipt of such notification and information (the "**Second Option**") and the Parties shall proceed as follows:

(a) If Exelixis notifies Helsinn in writing during such **[*]** day period that it will match such Third Party's offer and will agree to the marketing commitments set forth in Section 2.4.3, then Helsinn may provide such Third Party with one (1) opportunity to increase its offer in writing in the **[*]** days following Helsinn's receipt of Exelixis' notice and the Parties shall proceed as follows:

(1) If such Third Party either (A) increases its offer, whereby Helsinn shall so notify Exelixis in writing and provide Exelixis the opportunity to match such Third Party's final offer within **[*]** days of Exelixis' receipt of such notification from Helsinn, and if Exelixis agrees in writing to match such Third Party's final offer, or (B) does not increase its offer within **[*]** days of Helsinn's receipt of notification from Exelixis matching such Third Party's initial offer, then the Parties shall negotiate on an exclusive basis in good faith for **[*]** days (the "**Second Option Negotiation Period**") to reach agreement on the other commercially reasonable terms and conditions of an agreement for the distribution, promotion, marketing, use, importation, offer for sale and/or sale of such Product by Exelixis in the North American Territory in the Option Field. In the event that the Parties negotiate in good faith during the Second Option Negotiation Period but fail to execute an agreement during such period, then Helsinn shall be free thereafter to fully exploit the Products in the North American Territory in the Option Field directly and/or through any Third Party; or

(2) If such Third Party increases its offer, whereby Helsinn shall so notify Exelixis in writing and provide Exelixis the opportunity to match such Third Party's final offer within **[*]** days of Exelixis' receipt of such notification from Helsinn, and if Exelixis does not agree in writing to match such Third Party's final offer, Helsinn shall be free thereafter to fully exploit the Products in the North American Territory in the Option Field directly and/or through any Third Party.

(b) If Exelixis fails to notify Helsinn in writing during such **[*]** day period that it will match such Third Party's offer, then Helsinn shall be free thereafter to fully exploit the Products in the North American Territory in the Option Field directly and/or through any Third Party.

If the Parties enter into an agreement for a license pursuant to the Second Option, Exelixis shall not **[*]** but, with Helsinn's prior written consent (which shall not be unreasonably withheld or delayed), Exelixis may **[*]**.

2.4.3 Marketing Commitments. In the event Exelixis enters into a license agreement with Helsinn pursuant to Exelixis' exercise of either the First Option or the Second Option, such license agreement will include: (i) a **[*]** marketing commitment in the United States of **[*]** as mutually agreed in good faith by the Parties **[*]**; (ii) a **[*]** amount of **[*]**, as suggested by **[*]** or as mutually agreed in good faith in writing by the Parties **[*]**; (iii) **[*]**, as mutually agreed in good faith by the Parties; and (iv) a **[*]**, as mutually agreed in good faith by the Parties.

2.5 Exelixis Right of First Refusal. Prior to offering any Third Party the opportunity to obtain a license to distribute, promote, market, use, import, offer for sale and/or sell any Product in the North American Territory in the ROFR Field, and **[*]**, Helsinn shall provide Exelixis with the opportunity to consider whether it wishes to acquire such a license (the "**ROFR**"). Helsinn shall promptly provide to Exelixis under confidentiality such information and data that may be relevant to Exelixis' evaluation of whether it wishes to acquire such a license and that Helsinn usually discloses to potential partners licensees and distributors. Exelixis shall have **[*]** days following receipt of such information in which to inform Helsinn in writing that Exelixis is interested in exercising the ROFR and acquiring such a license. If Exelixis notifies Helsinn of its interest, the Parties shall negotiate in good faith on an exclusive basis for **[*]** days to reach agreement on the commercially reasonable terms and conditions of an agreement for the distribution, promotion, marketing, use, importation, offer for sale and/or sale of such Product by Exelixis in the North American Territory in the ROFR Field. If Exelixis fails to notify Helsinn of its interest during the **[*]** day period, or if the Parties fail to execute an agreement within the **[*]** day period, then Helsinn shall be free to pursue an agreement with a Third Party for the distribution, promotion, marketing and/or sale of such Product in the North American Territory in the ROFR Field (or to directly distribute, promote, market, use, import and sell such Products in the North American Territory in the ROFR Field). If the Parties enter into an agreement for the license described in this Section 2.5, the Parties acknowledge and agree that Exelixis shall not **[*]** but, with Helsinn's prior written consent (which shall not be unreasonably withheld or delayed), Exelixis may **[*]**.

2.6 No additional Licenses. Except for the express license granted in this Article 2, neither Party shall be granted any license (either express, implied or by estoppel) to the Patents or Information Controlled by the other Party.

2.7 IND Transfer. Exelixis hereby agrees to transfer and assign to Helsinn, in accordance with the procedures set forth in Section 3.5, and Helsinn hereby agrees to receive from Exelixis in accordance with such procedures, all of Exelixis' right, title and interest to Exelixis' IND No. 66588 for Becatecarin in the United States. Helsinn understands and acknowledges that, with respect to certain Becatecarin clinical trials being conducted in countries outside the United States, Exelixis is the Sponsor of Record, and Exelixis is not the holder of the applicable INDs in such countries because Exelixis does not have a sufficient presence in those countries. Accordingly, Exelixis' Third Party contractor holds the IND(s) for Becatecarin for those countries. Such IND(s) are listed on **Exhibit 2.7**, and, prior to the IND Transfer Date (defined in Section 3.5), Exelixis will transfer its rights in such INDs to Helsinn so that Helsinn shall be the Sponsor of Record and/or IND holder, as applicable for such INDs.

2.8 Nonproprietary Name and Trademark Rights. The Parties acknowledge and agree that Becatecarin is a United States Accepted Name ("**USAN**") and International Nonproprietary Name ("**INN**"). Exelixis hereby assigns to Helsinn all right, title and interest in any rights owned by Exelixis with respect to the name "Becatecarin". No other right (either express, implied or by estoppel) is granted by this Agreement to Helsinn to use in any manner any other name associated with Exelixis or any trademark or tradename Controlled by Exelixis. Helsinn shall be free to use whatever trademark or trademarks it will deem appropriate in connection with the Products, including Becatecarin, except for any other name associated with Exelixis or any trademark or tradename Controlled by Exelixis.

3. TRANSITION COMMITTEE; TRANSFER OF KNOW-HOW AND ASSUMED CONTRACTS; OTHER OBLIGATIONS

3.1 Transition Committee. Within **[*]** days of the Effective Date, the Parties shall form a committee to facilitate the transfer to Helsinn of Information in Exelixis' possession and Control that relates to Becatecarin and/or to the Products in accordance with the terms of this Agreement and to assist Helsinn in identifying and addressing any issues associated with such transfer (the "**Transition Committee**"). In addition to its primary goals of facilitating a smooth transfer of Becatecarin-related Information from Exelixis to Helsinn to allow Helsinn to exercise its rights under this Agreement and providing a forum to discuss and coordinate the Parties' transition activities, the Transition Committee shall perform those functions which will be deemed appropriate or advisable by the Parties, in accordance with the working procedures agreed to in writing by the Parties. Each Party shall designate two (2) representatives to serve as its members of the Transition Committee. Either Party may designate a temporary substitute for each of its representatives that is unable to be present at or otherwise participate in a particular meeting. Either Party may replace its representatives from time to time by written notice to the other Party specifying the representative(s) to be replaced and the replacement therefor.

3.1.1 Limited Authority. The role of the Transition Committee shall be advisory in nature, with the goal of serving as a forum for the sharing of information and facilitating communications between the Parties. The Transition Committee shall not have any power to amend, modify or waive compliance with, this Agreement.

3.1.2 Meetings. The Transition Committee shall meet at such times as it elects to do so. Meetings may be held in person or by audio or video teleconference. Each Party shall be responsible for all of its own expenses for participating in the Transition Committee.

3.1.3. Dissolution of the Transition Committee. The Transition Committee shall dissolve on the date **[*]** months after the Effective Date, unless the Parties mutually agree in writing to extend such period.

3.2 Transfer of Exelixis Know-How. Within **[*]** of the Effective Date, Exelixis shall commence the disclosure and transfer to Helsinn of all Exelixis Know-How. Exelixis shall use commercially reasonable efforts to complete such disclosure and transfer **[*]**. The Parties agree and acknowledge that Exelixis may retain one or more copies of any Exelixis Know-How and may use such Exelixis Know-How for archival purposes and for the purpose of the manufacture and supply of Becatecarin and Becatecarin for Injection pursuant to Section 3.4.3. Exelixis shall not be required to provide any on-site advice or support in connection with this Section 3.2. **[*]** shall bear its own expenses in connection with this Section 3.2, except that Helsinn shall reimburse Exelixis for reasonable travel expenses incurred by Exelixis to attend, at Helsinn's request and with Exelixis' consent, any meetings not held at an Exelixis facility.

3.2.1. Further disclosure of relevant Information. Exelixis shall use commercially reasonable efforts to **[*]** disclose and transfer to Helsinn any further Information related to Becatecarin and/or to the Products which **[*]**.

3.3 Transfer of Assumed Contracts.

3.3.1 Assignment. Subject to the terms and conditions of this Agreement and to any necessary consent by Third Parties, Exelixis sells, transfers and assigns the Assumed Contracts to Helsinn effective upon the later of the Effective Date and the date upon which the Third Party consents to such transfer.

3.3.2 Assumption of Liability. Subject to the terms and conditions of this Agreement and to any necessary consent by Third Parties, Helsinn assumes all obligations, duties and liabilities of Exelixis that are related to the Assumed Contracts and that arise on and after: (a) the Effective Date (with respect to each Assumed Contract for which a Third Party's consent is not necessary for assigning such Assumed Contract); and (b) the date upon which the relevant Third Party consents to the assignment of a given Assumed Contract (with respect to each Assumed Contract for which a Third Party's consent is necessary for assigning such Assumed Contract). Notwithstanding the foregoing, Helsinn shall not be responsible for any liability under an Assumed Contract to the extent attributable to a breach by Exelixis of its obligations under the Assumed Contracts accrued prior to the effective date of assignment. Such assumed obligations, duties and liabilities shall include but are not limited to, payment obligations to existing clinical study sites and providers of storage and distribution services with respect to Becatecarin. Exelixis shall retain all liability for its failure to fulfill any obligations, including but not limited to payment obligations, under each Assumed Contract that accrued prior to the effective date of assignment to Helsinn of said Assumed Contract.

3.3.3 Consents. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Assumed Contract or any claim or right or any benefit arising thereunder or resulting therefrom if an attempted assignment thereof, without the consent of a Third Party, would constitute a breach or other contravention thereof or in any way adversely affecting the rights of Exelixis or Helsinn. Exelixis will use commercially reasonable efforts (but without any payment of money or other consideration by Exelixis) to obtain the consent of any such Third Party to any such Assumed Contract for the assignment thereof to Helsinn as Helsinn may reasonably request. If any such consent is not obtained, or if an attempted assignment of any such Assumed Contract would be ineffective or would adversely affect the rights of Exelixis thereunder so that Helsinn would not in fact receive all such rights, the Parties will cooperate in a mutually agreeable arrangement under which Helsinn would obtain the benefits and assume the obligations thereunder in accordance with this Agreement and as reasonably permitted under the terms of such Assumed Contract at no cost to Helsinn in excess of the cost Helsinn would have incurred (without modification to the terms of such Assumed Contract) if the consent had been obtained, including sub-contracting or sub-licensing to Helsinn, to the extent practicable depending upon the nature of the Assumed Contract.

3.4 Product Supply.

3.4.1 Generally. As between the Parties and subject to Section 3.4.2 and Section 3.4.3 below, Helsinn shall be solely responsible for manufacturing and supplying, either directly or indirectly, all supplies of Product for clinical, commercial and other purposes. In the event that Exelixis obtains, pursuant to Section 2.4 or 2.5, the right to distribute, promote, market and/or sell Products in the North American Territory, Exelixis shall obtain its supply of Products for such purposes **[*]** from Helsinn at a price **[*]**.

3.4.2 Product Inventory. Exelixis shall transfer to Helsinn all of Exelixis' right, title and interest in all clinical supplies of Product in Exelixis' possession **[*]**. Exelixis shall deliver such clinical supplies in its possession to Helsinn **[*]** Exelixis' storage facility together with **[*]**. If requested by Helsinn in writing, Exelixis shall arrange for transportation and insurance of such clinical supplies at Helsinn's expense.

3.4.3 Supply of Product for the Existing Phase 3 Clinical Trial.

(a) Exelixis shall supply to Helsinn by 30 April 2006 **[*]** of Becatecarin ("**Becatecarin for Injection**") for the Phase 3 Clinical Trial of the Product that is on-going as of the Effective Date. Such Becatecarin for Injection will **[*]** as the Product being used in such on-going Phase 3 Clinical Trial. For clarity, Exelixis may enter into agreements with Third Parties as necessary or useful to indirectly manufacture and supply such Becatecarin and Becatecarin for Injection. Such manufacture and supply shall be in accordance with applicable regulatory laws. The price per vial which will be charged by Exelixis to Helsinn shall be **[*]**. Helsinn shall pay Exelixis within **[*]** days of receiving the relevant invoice for the **[*]** Becatecarin for Injection, which shall specify the details of **[*]**.

(b) Exelixis shall be responsible for preparing the documentation of analytical methods and validation procedures related to the manufacture of Becatecarin and Becatecarin for Injection (the "**CMC Documentation**"). Exelixis shall prepare such CMC Documentation in accordance with applicable regulations and shall provide Helsinn with the completed CMC Documentation, along with the **[*]**.

(c) Exelixis shall also notify Helsinn in writing of the scheduled date for completing the fill and finish of the Becatecarin for Injection. Within **[*]** weeks of receiving such notice, Helsinn shall designate to Exelixis in writing the cGMP-qualified storage facility (suitable for storage of the completed Becatecarin for Injection) that Helsinn desires Exelixis to ship such completed Becatecarin for Injection. If Exelixis does not receive any designation from Helsinn by the end of such **[*]** week period, then Exelixis shall ship such completed Becatecarin for Injection to its designated storage facility **[*]**, where it will be stored **[*]** until Helsinn requests in writing that such Becatecarin for Injection be distributed to the applicable storage facility for use in the on-going Phase 3 Clinical Trial for the Product. Exelixis shall transfer to Helsinn all of Exelixis' right, title and interest in such Becatecarin for Injection on the later of: (i) **[*]**; or (ii) the date such **[*]**.

3.5 Transfer of IND. On a date mutually agreed by the Parties in writing, but no later than **[*]**; *provided*, *however*, that the Parties may mutually agree to extend such date if Exelixis has not transferred to Helsinn **[*]** with respect Exelixis' IND No. 66588 by **[*]** period (the "**IND Transfer Date**"), Exelixis shall notify the applicable Regulatory Authorities in writing that it is transferring Exelixis' IND No. 66588 for Becatecarin to Helsinn pursuant to Section 2.7, and Helsinn shall notify the applicable Regulatory Authorities in writing that it is accepting such IND and all responsibilities associated therewith, including without limitation, the responsibility for reporting adverse events. If Helsinn does not satisfy the applicable Regulatory Authorities' requirements for holding an IND, then Helsinn shall either: (i) engage an entity that satisfies such requirements to accept such IND and its associated responsibilities on behalf of Helsinn; or (ii) enter into a contractual relationship with one or more entities for the provision of services such that Helsinn is able to satisfy such Regulatory Authorities' requirements. Helsinn shall identify any such entity(ies) and provide documentation of its satisfaction of the relevant Regulatory Authority requirements to Exelixis at least **[*]** days prior to the IND Transfer Date. If Helsinn fails to do so, then Exelixis may, at Helsinn's expense, make whatever arrangements it believes are appropriate to ensure the full and complete transfer of the IND to Becatecarin to Helsinn or Helsinn's agent on the IND Transfer Date.

3.5.1 During the period from the Effective Date until the IND Transfer Date, Helsinn shall reimburse Exelixis for all of Exelixis' direct and indirect costs of maintaining the existing Phase 3 Clinical Trial for Becatecarin during such period (the "**Interim Trial Costs**"). These indirect costs shall be **[*]** per year. On a monthly basis, Exelixis shall invoice Helsinn for the Interim Trial Costs for the preceding month and shall send to Helsinn appropriate documentation evidencing such costs, and Helsinn shall pay Exelixis the amount of such Interim Trial Costs within **[*]** days of receiving each such invoice. The Interim Trial Costs payments made by Helsinn shall be nonrefundable and noncreditable.

3.6 Diligence. Helsinn shall use commercially reasonable efforts to develop, obtain Regulatory Approval for, and commercialize the Product in each Major Country. Such efforts

shall be no less than those efforts a pharmaceutical company of the size of Helsinn would make with respect to a pharmaceutical product of comparable commercial potential, stage of development, and medical/scientific, technical and regulatory profile. In particular, Helsinn shall use commercially reasonable efforts to complete the existing, and any subsequent, Phase 3 Clinical Trial for Becatecarin, including analysis of all case report forms and other clinical data and investigator observations, and shall promptly provide Exelixis with the Final Report.

3.7 Regulatory and CMC Responsibilities.

3.7.1 IND. **[*]** prior to the IND Transfer Date, Exelixis shall be responsible for continuing all activities (including clinical development activities) conducted under the INDs for Becatecarin, provided however that any and all **[*]** shall have to be previously approved and authorized in writing by Helsinn. Commencing on the IND Transfer Date, Helsinn shall be responsible for maintaining the active status of the INDs for Becatecarin and for performing all obligations associated with such INDs.

3.7.2 Regulatory and Medical Communication. Beginning on the IND Transfer Date, Helsinn and/or its agents shall assume all responsibility for all correspondence and communication relating to the Product with Regulatory Authorities, and the physicians and other health care professionals. Helsinn shall keep such records and make such reports as shall be reasonably necessary to document communications to Regulatory Authorities and to physicians in compliance with all applicable regulatory requirements. After the IND Transfer Date, Exelixis shall refer any questions relating to the Product raised by Regulatory Authorities and health care professionals to Helsinn for its follow-up

3.7.3 Adverse Event Reporting. After the IND Transfer Date, Helsinn shall be responsible for the adverse experience and safety reporting for the Product in compliance with the requirements of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 321 et seq. and the regulations promulgated thereunder and the equivalent regulations in other countries in the world. Exelixis shall provide interim adverse experience and safety reporting services on Helsinn's behalf between the Effective Date and the IND Transfer Date.

3.8 Additional Assistance. Upon the Effective Date and **[*]**, Exelixis shall provide to Helsinn, at Helsinn's written request, a commercially reasonable amount of consulting assistance on **[*]** issues related to Becatecarin, including **[*]**. Exelixis shall also, at reasonable times during normal business hours, provide Helsinn and its representatives an opportunity to meet at Exelixis' facilities with certain Exelixis employees who have material knowledge pertaining to Becatecarin-related contracts, data and records. Exelixis shall also use commercially reasonable efforts to **[*]**.

3.9 Exchange of Information. Helsinn shall provide Exelixis twice a year with written reports on the progress of Helsinn's efforts to develop and commercialize Products. Additionally, Helsinn shall provide Exelixis with a detailed annual written report summarizing

the Helsinn's progress at developing and commercializing Products, and any other information reasonably requested by Exelixis and which may have a material impact on Exelixis' rights or obligations under this Agreement.

3.10 Compliance with Laws. Helsinn shall perform, and shall use commercially reasonable efforts to ensure that its Affiliates, sublicensees and Third Party contractors perform, all development and commercialization activities for which it is responsible under this Agreement in good scientific and medical manner and in compliance with all applicable laws, rules and regulations.

4. FINANCIAL TERMS

4.1 Up-front Payment. Upon execution of this Agreement, Helsinn shall pay Exelixis an up-front fee of four million dollars ($4,000,000). Such up-front fee shall be nonrefundable and noncreditable and shall be paid by Helsinn within **[*]** days of receipt of the relevant invoice from Exelixis. The Parties acknowledge and agree that such up-front fee includes payment by Helsinn for the Product inventory in Exelixis' possession as of the Effective Date to be transferred to Helsinn in accordance with Section 3.4.2.

4.2 Milestone Payments. In partial consideration for the grant of the license to Helsinn in Section 2.1, Helsinn shall pay Exelixis the amounts set forth below upon the first occurrence of the events described below for any Product. Helsinn shall notify Exelixis in writing within **[*]** days of the achievement of each such event. All milestone payments shall be nonrefundable and noncreditable and shall be paid by Helsinn within **[*]** days of receipt of the relevant invoice from Exelixis.

Milestone Events	Amounts
[*]	[*]
[*]	[*]
[*]	[*]
[*]	[*]
[*]	[*]

If any milestone event (the "**Later Milestone**") is achieved prior to the achievement of a milestone event listed above it in the foregoing table (an "**Earlier Milestone**"), then Helsinn shall pay to Exelixis within **[*]** days of the achievement of such Later Milestone, the amount for such Later Milestone plus the amount for each and every Earlier Milestone not yet achieved. Notwithstanding the foregoing, the **[*]** milestone event shall not be considered an Earlier Milestone with respect to the **[*]** milestone event.

4.3 Royalties.

4.3.1 Products [*]. For Products that are **[*]**, Helsinn shall, subject to Section 6.3, pay Exelixis royalties equal to:

(a) Until the worldwide, aggregate, annual Net Sales of all Products exceeds **[*]**, **[*]** of the Net Sales of such Products; and

(b) Once the worldwide, aggregate, annual Net Sales of all Products exceeds **[*]**, **[*]** of the Net Sales of such Products.

Helsinn's obligation to pay royalties pursuant to this Section 4.3.1 shall last, on a Product-by-Product and country by country basis, until the later to expire of: (i) **[*]**; or (ii) **[*]** for the Product in such country (provided that **[*]** for a given Product in a given country shall not extend beyond **[*]** after the First Commercial Sale of such Product in such country).

4.3.2 Products Not [*]. Subject to Section 4.3.3, for Products that are not, or are no longer, **[*]**, Helsinn shall pay Exelixis royalties equal to:

(a) Until the worldwide, aggregate, annual Net Sales of all Products exceeds **[*]**, **[*]** of the Net Sales of such Products; and

(b) Once the worldwide, aggregate, annual Net Sales of all Products exceeds **[*]**, **[*]** of the Net Sales of such Products.

Helsinn's obligation to pay royalties pursuant to this Section 4.3.2 shall expire, on a Product-by-Product and country-by-country basis, on the **[*]**.

4.3.3 Generic Competition. If a Third Party **[*]** a Generic Product in a particular country, and Helsinn can demonstrate by competent evidence that the number of units sold in such country by such Third Party in any calendar year exceeds **[*]** of the total number of units of Product sold by Helsinn, its Affiliates or sublicensees in such country during such year, then Helsinn **[*]** during said calendar year.

4.4 Reports. Within **[*]** days after the end of the calendar quarter in which the First Commercial Sale in any country occurs, and on each calendar quarter thereafter, Helsinn shall send to Exelixis (i) a payment of all royalties owed to Exelixis for such calendar quarter; and (ii) a report of Net Sales of Products in sufficient detail on a country-by-country basis to permit confirmation of the accuracy of the royalty payment made, including the number of Products sold, the gross sales and Net Sales of Products, the royalties payable (in dollars), the method used to calculate the royalty, and the exchange rates used.

4.5 Payments. All references to **"dollars"** or **"$"** means the legal currency of the United States. All amounts due to Exelixis by Helsinn under this Agreement shall be paid in dollars by wire transfer in immediately available funds to an account designated by Exelixis. If

any currency conversion shall be required in connection with any payment or accounting of costs and expenses under this Agreement (including, without limitation, for the purpose of calculating the amount of worldwide, aggregate, annual Net Sales as mentioned at Sections 4.3.1 and 4.3.2), such conversion shall be made by using the average of the exchange rates for the purchase of dollars as published in *The Wall Street Journal, Western Edition*, or a comparable publication, on the last business day of each of the three (3) months of the calendar quarter for which the payment is made. If Helsinn is prevented from paying Exelixis any royalties in a given country because the local currency is blocked and cannot be removed from the country, then Helsinn shall promptly pay Exelixis in the local currency by deposit in a local bank designated by Exelixis, to the extent permitted by local law.

4.6 Withholding of Taxes. Helsinn may withhold from payments due to Exelixis amounts for payment of any withholding tax that is required by law to be paid to any taxing authority with respect to such payments. Helsinn shall provide to Exelixis all relevant documents and correspondence, and shall also provide to Exelixis any other cooperation or assistance on a reasonable basis as may be necessary to enable Exelixis to claim exemption from such withholding taxes and to receive a full refund of such withholding tax or claim a foreign tax credit. Helsinn shall give proper evidence from time to time as to the payment of such tax. Helsinn may treat Exelixis as a US resident person if it has provided a valid Form W-9 or equivalent or a signed statement concerning its permanent residence address and Taxpayer Identification Number ("**TIN**").

4.7 Late Payments. Any amounts not paid by Helsinn when due under this Agreement shall be subject to interest from and including the date payment is due through and including the date upon which Exelixis has received payment at a rate equal to **[*]** calculated daily on the basis of a 365-day year, or similar reputable data source, or, if lower, the highest rate permitted under applicable law.

4.8 Records and Audit. During the term of this Agreement and for a period of **[*]** years thereafter, Helsinn shall keep complete and accurate records pertaining to the development, manufacture, use, sale or other disposition of the Products, in sufficient detail to permit Exelixis to confirm the accuracy of all payments due hereunder and compliance with the diligence obligations set forth in Section 3.6. Exelixis shall have the right to cause an independent, certified public accountant reasonably acceptable to Helsinn, to audit such records to confirm the accuracy of Helsinn's payments; provided, however, that such auditor shall not disclose Helsinn's confidential information to Exelixis, except to the extent such disclosure is necessary to verify the payments due under this Agreement. Exelixis shall bear the full cost of such audit unless such audit discloses an underpayment of more than **[*]** from the amounts previously paid for the audited period. In such case, Helsinn shall bear the full cost of such audit. Helsinn shall remit any underpayment identified by such audit (plus applicable interest) to Exelixis within thirty (30) days of the results of such audit. Reciprocally, if the audit discloses an overpayment from the amount of royalties previously paid by Helsinn, Exelixis shall remit any such overpaid amount (plus applicable interest) to Helsinn within thirty (30) days of the results of such audit. The terms of this Section 4.8 shall survive any termination or expiration of this Agreement for a period of **[*]**.

5. CONFIDENTIALITY

5.1 Nondisclosure of Confidential Information. For all purposes hereunder, "Confidential Information" shall mean all Information disclosed by one Party to the other Party pursuant to this Agreement. During the term of this Agreement and for a period of **[*]** years thereafter, a Party receiving such item of Confidential Information of the other Party will (i) maintain in confidence such item of Confidential Information and not disclose such item of Confidential Information to any Third Party without prior written consent of the other Party, except for disclosures made in confidence to any Third Party under terms consistent with this Agreement and made in furtherance of this Agreement or of rights granted to a Party hereunder, and (ii) not use the other Party's Confidential Information for any purpose except those permitted by this Agreement.

5.2 Exceptions. The obligations in Section 5.1 shall not apply with respect to any portion of the Confidential Information that the receiving Party can show by competent written proof:

(a) Is publicly disclosed by the disclosing Party, either before or after it is disclosed to the receiving Party hereunder;

(b) Was known to the receiving Party or any of its Affiliates, without obligation to keep it confidential, prior to disclosure by the disclosing Party;

(c) Is subsequently disclosed to the receiving Party or any of its Affiliates by a Third Party lawfully in possession thereof and without obligation to keep it confidential;

(d) Is published by a Third Party or otherwise becomes publicly available or enters the public domain, either before or after it is disclosed to the receiving Party; or

(e) Has been independently developed by employees or contractors of the receiving Party or any of its Affiliates without the aid, application or use of Confidential Information of the disclosing Party.

5.3 Authorized Disclosure. Each Party may disclose the Confidential Information belonging to the other Party to the extent such disclosure is reasonably necessary in the following instances:

(a) Filing or prosecuting patents relating to Products;

(b) Regulatory filings;

(c) Prosecuting or defending litigation;

(d) Complying with applicable governmental regulations; and

(e) Disclosure, in connection with the performance of this Agreement, to Affiliates, sublicensees, research collaborators, employees, consultants, or agents, each of whom prior to disclosure must be bound by similar obligations of confidentiality and non-use at least equivalent in scope to those set forth in this Article 5.

The Parties acknowledge that the terms of this Agreement shall be treated as Confidential Information of both Parties. Such terms may be disclosed by a Party to investment bankers, investors, and potential investors (and by Helsinn to potential sub-licensees and distributors), each of whom prior to disclosure must be bound by obligations of confidentiality and non-use at least equivalent in scope to those set forth in this Article 5. In addition, a copy of this Agreement may be filed, furnished or submitted to the Securities and Exchange Commission by Exelixis. In connection with any such filing, Exelixis shall endeavor to obtain confidential treatment of economic and trade secret information and shall deliver to Helsinn in advance of any filing a redacted copy of this Agreement to enable Helsinn to give comments and suggestions on economic and trade secret information to be kept confidential.

In any event, the Parties agree to take all reasonable action to avoid disclosure of Confidential Information except as permitted hereunder.

5.4 Press Releases. Each Party shall be entitled to issue a press release, as approved by both Parties and attached hereto as **Exhibit 5.4**, upon the execution of this Agreement. If either Party desires to make any subsequent public announcement (e.g. press release) concerning the terms of this Agreement or the activities hereunder, such Party shall give reasonable advance notice of the proposed text of such announcement to the other Party for its review and approval prior to announcement, such approval shall not be unreasonably delayed or withheld. Such other Party shall provide its comments, if any, within **[*]** days after receipt of the proposed text and the Party making such announcement shall consider and address all such comments in good faith. Notwithstanding anything to the contrary, such approval shall not be needed if such public announcement: (i) is required pursuant to the disclosure requirements of the U.S. Securities and Exchange Commission or the national securities exchange or other stock market on which such Party's securities are traded, provided however that in this case the proposed text of the announcement shall, unless impracticable, be disclosed in advance to the other Party for information and comments; or (ii) solely discloses information that has previously been approved for disclosure by the other Party.

6. INTELLECTUAL PROPERTY

6.1 Ownership of Inventions. Each Party shall own any inventions made solely by its employees, agents or independent contractors in their activities hereunder. Inventions hereunder made jointly by employees, agents or independent contractors of each Party in the course of performing under this Agreement shall be owned jointly by the Parties in accordance with the joint ownership interests of co-inventors under U.S. patent laws. Inventorship shall be determined in accordance with U.S. patent laws.

6.2 Patent Prosecution, Maintenance and Enforcement.

6.2.1 Patent Prosecution and Maintenance. Exelixis and/or BMS will prosecute and maintain the Exelixis Patent Rights, including conducting any interferences,

reexaminations, reissues, oppositions, or request for patent term extension relating thereto. Exelixis shall provide Helsinn with a revised Exhibit 1.7 updating the status of the Exelixis Patent Rights on an annual basis or more frequently if requested by Helsinn (but in no event more than quarterly).

6.2.2 Enforcement of Patent Rights by Exelixis. If either Party becomes aware of a suspected infringement of Exelixis Patent Rights in the Field, such Party shall notify the other Party promptly, and following such notification, the Parties shall confer. Exelixis shall have the first right, but shall not be obligated, to take any actions or bring any proceedings regarding the infringement at its own expense, in its own name, and entirely under its own direction and control. Helsinn will reasonably assist Exelixis (at Exelixis' expense) in such actions or proceedings if so requested, and will lend its name to such actions or proceedings if required by law. Helsinn shall have the right to participate and be represented in any such proceeding by its own counsel at its own expense, in which case **[*]**. No settlement of any such action or proceeding that restricts the scope or affects the enforceability of Exelixis Patent Rights may be entered into by Exelixis without the prior consent of Helsinn, which consent shall not be unreasonably withheld.

6.2.3 Enforcement of Patent Rights by Helsinn. If Exelixis fails to take any action or bring any proceeding regarding infringement pursuant to Section 6.2.2 within **[*]** days of the provision or receipt of notice of suspected infringement, then Helsinn may take such action or bring such proceeding at its own expense, in its own name, and entirely under its own direction and control. Exelixis will reasonably assist Helsinn (at Helsinn's expense) in any action or proceeding being prosecuted or defended by Helsinn, if so requested by Helsinn or required by law in order for Helsinn to bring such action, including but not limited to executing any necessary documents such as any necessary power of attorney and including, if required, being joined as a necessary party. Exelixis shall have the right to participate and be represented in any such proceeding by its own counsel at its own expense, **[*]**. No settlement of any such action or proceeding that restricts the scope or affects the enforceability of Exelixis Patent Rights may be entered into by Helsinn without the prior consent of Exelixis, which consent shall not be unreasonably withheld. It is however understood that, irrespective of Helsinn's decision to sue or not to sue the infringer, as well as irrespective of the outcome of the proceedings, **[*]**.

6.3 Third Party Infringement Claims. If an allegation is made or claim is brought by a Third Party that any activity related to a Product infringes the intellectual property rights of such Third Party, each Party will give prompt written notice to the other Party of such claim. The Parties shall fully cooperate to defend against such allegation or claim, each bearing its own expenses. Neither Party shall enter into any settlement of any claim described in this Section 6.3 that affects the other Party's rights or interests without such other Party's written consent, which consent shall not be unreasonably withheld or delayed. If a Party is entitled to indemnification pursuant to Article 8 with respect to a claim described in this Section 6.3, it shall follow the procedures set forth in Article 8 if it wishes to obtain such indemnification. **[*]**. If necessary in order to avoid infringement of said Third Party intellectual property rights, Helsinn and Exelixis shall attempt to obtain a license for Helsinn under the Third Party's intellectual property rights. Royalties to be paid by Helsinn to Exelixis hereunder shall continue to be payable in accordance with the terms and conditions of this Agreement and any royalties on sales of the Products payable to the Third Party under said license shall be paid by Helsinn. **[*]**.

6.4 Patent Terms Extensions. The Parties shall co-operate in filing for and obtaining patent extensions and supplementary or complementary protection certificates, if available, of the Exelixis Patent Rights. Such co-operation shall include without limitation: (i) advising each other in a timely manner of any action by any Regulatory Authority or other competent authority that is pertinent to any such extension; (ii) reasonably supplying each other with all information in its Control pertaining to the extension of any such Exelixis Patent Rights; and (iii) co-operating with each other to prepare and execute all supporting affidavits or documents required in connection with the extension of any such Exelixis Patent Rights.

7. REPRESENTATIONS AND WARRANTIES

7.1 Mutual Warranties. Each Party represents and warrants to the other Party that: (i) it has the authority and right to enter into and perform this Agreement; (ii) this Agreement is a legal and valid obligation binding upon it and is enforceable in accordance with its terms, subject to applicable limitations on such enforcement based on bankruptcy laws and other debtors' rights; and (iii) its execution, delivery and performance of this Agreement will not conflict in any material fashion with the terms of any other agreement or instrument to which it is or becomes a party or by which it is or becomes bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having authority over it.

7.2 Exelixis Warranties. Exelixis represents and warrants to Helsinn that:

7.2.1 Exelixis has the full right and power to **[*]**;

7.2.2 Exelixis has delivered to Helsinn **[*]**;

7.2.3 As of the transfer date of each of the Assumed Contracts, Exelixis has **[*]**;

7.2.4 As of the Effective Date, there are no **[*]**, other than the **[*]**, which would **[*]** and Exelixis will not knowingly **[*]**;

7.2.5 Exelixis has not entered into any Third Party agreements as of the Effective Date which would materially adversely effect (i) Exelixis' ability to perform all of the material obligations undertaken by Exelixis hereunder, or (ii) to Exelixis' knowledge as of the Effective Date, Helsinn's ability to exploit the license granted hereunder, and Exelixis will not knowingly enter into any such agreement after the Effective Date;

7.2.6 (i) As of the Effective Date, Exelixis has not received any written notice or other written communication alleging that Becatecarin infringes or misappropriates the intellectual property rights of a Third Party; (ii) as of the Effective Date, all **[*]**; (iii) as of the Effective Date, **[*]**; (iv) as of the Effective Date, **[*]**; (v) as of the Effective Date, **[*]**; and (vi) it has **[*]**;

7.2.7 [*].

7.2.8 (i) [*]; and (ii) [*].

7.2.9 [*].

7.2.10 There is no **[*]** which might in any material way **[*]**.

7.3 No Additional Representations.

7.3.1 Helsinn acknowledges that Exelixis, its Affiliates, and its and their directors, officers, employees, agents or contractors have not made any representation or warranty, expressed or implied, as to the accuracy or completeness of any information, documents or material generated by Third Parties or provided by Third Parties to Exelixis regarding Becatecarin and its development or commercialization. Exelixis, its Affiliates, and its and their directors, officers, employees, agents or contractors shall not have or be subject to any liability to Helsinn or any Third Party resulting from the provision to Helsinn, or Helsinn's use of, any such information, documents or material regardless of how it was made available to Helsinn.

EXCEPT AS EXPRESSLY SET FORTH IN THE REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTIONS 7.1 AND 7.2 OF THIS AGREEMENT, THERE ARE NO REPRESENTATIONS OR WARRANTIES BY EXELIXIS OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO BECATECARIN, PRODUCTS OR THE MANUFACTURE OR USE OF BECATECARIN OR PRODUCTS (INCLUDING WITHOUT LIMITATION ITS RESEARCH, DEVELOPMENT (INCLUDING CLINICAL TRIALS) OR COMMERCIALIZATION) INCLUDING WITHOUT LIMITATION ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR USE OF BECATECARIN OR ANY PRODUCT OR ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

8. INDEMNIFICATION

8.1 Exelixis. Exelixis shall indemnify, defend and hold harmless Helsinn, its Affiliates, and their respective directors, officers and employees (each a "**Helsinn Indemnitee**") from and against any and all liabilities, damages, losses, costs or expenses (including attorneys' and professional fees and other expenses of litigation and/or arbitration) ("**Liabilities**") resulting from any claim, suit or proceeding made or brought by a Third Party against a Helsinn Indemnitee to the extent arising from or occurring as a result of: (i) any breach by Exelixis of the representations and warranties set forth in Section 7.1 or 7.2; (ii) any claims based on injury to a Third Party (including death) arising from the use of Products by Exelixis prior to the Effective Date; (iii) any liability retained by Exelixis pursuant to Section 3.3.2; and/or (iv) any negligent or wrongful act or omission hereunder by Exelixis and/or any breach by Exelixis of any of its obligations hereunder, except in each case to the extent that (1) any such Liability was due to the negligence or willful misconduct of a Helsinn Indemnitee or (2) Helsinn has an obligation under Section 8.2 to indemnify Exelixis for such Liabilities.

8.2 Helsinn. Helsinn shall indemnify, defend and hold harmless Exelixis, its Affiliates, and their respective directors, officers and employees (each an "**Exelixis Indemnitee**") from and against any and all Liabilities resulting from any claim, suit or proceeding made or brought by a Third Party against an Exelixis Indemnitee to the extent arising from or occurring as a result of: (i) any breach by Helsinn of the representations and warranties set forth in Section 7.1; (ii) any use, manufacture, development, distribution, storage, handling, promotion, marketing and sale of the Product(s) by or for Helsinn or its Affiliates or sublicensees after the Effective Date; (iii) the use of any Products after the Effective Date by any person or entity; (iv) any liability assumed by Helsinn pursuant to Section 3.3.2; and/or (v) any negligent or wrongful act or omission hereunder by Helsinn and/or any breach by Helsinn of any of its obligations hereunder, except in each case to the extent that (1) any such Liability was due to the negligence or willful misconduct of an Exelixis Indemnitee or (2) Exelixis has an obligation under Section 8.1 to indemnify Helsinn for such Liabilities.

8.3 Procedure. A Party seeking indemnification hereunder (an "**Indemnitee**") shall promptly notify the other Party (the "**Indemnitor**") in writing of such alleged Liability. The Indemnitor shall have the sole right to control the defense and settlement thereof. The Indemnitee shall cooperate with the Indemnitor and its legal representatives in the investigation of any action, claim or liability covered by this Article 8. The Indemnitee shall not, except at its own cost and risk, voluntarily make any payment or incur any expense with respect to any claim or suit without the prior written consent of the Indemnitor, which the Indemnitor shall not be required to give. The Indemnitor shall not be required to provide indemnification with respect to a Liability the defense of which is actually prejudiced by the failure to give notice by the Indemnitee or the failure of the Indemnitee to cooperate with the Indemnitor or where the Indemnitee settles or compromises a Liability without the written consent of the Indemnitor. Each Party shall cooperate with the other Party in resolving any claim or Liability with respect to which one Party is obligated to indemnify the other under this Agreement, including without limitation, by making commercially reasonable efforts to mitigate or resolve any such claim or Liability.

8.4 Limitations on Liability. NOTWITHSTANDING ANY PROVISION HEREIN, A PARTY SHALL IN NO EVENT BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, STOCKHOLDERS, AGENTS OR REPRESENTATIVES FOR ANY INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF USE, DAMAGE TO GOODWILL OR LOSS OF BUSINESS), UNLESS SUCH DAMAGES: (I) ARE OWED UNDER THE LIABLE PARTY'S INDEMNIFICATION OBLIGATIONS UNDER ARTICLE 8; (II) ARE DUE TO THE LIABLE PARTY'S BREACH OF ARTICLE 5; OR (III) ARE DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE LIABLE PARTY.

9. TERM AND TERMINATION

9.1 Term. Subject to the provisions below in this Section 9, the term of this Agreement shall commence on the Effective Date and continue on a country-by-country basis until the expiration of all Helsinn's royalties payment obligations under this Agreement, unless earlier terminated pursuant to Section 9.2 or 9.3. On such expiration, Helsinn's license under Section 2.1 with respect to Exelixis Know-How shall survive as a fully-paid and royalty-free license.

9.2 Material Breach. If any Party has breached any of its material obligations hereunder, and such breach has continued for **[*]** days after written notice thereof was provided to the breaching Party by the non-breaching Party, the non-breaching Party may terminate this Agreement. Any termination shall become effective at the end of such **[*]** day period unless the breaching Party has cured any such breach prior to the expiration of the **[*]** day period. For the avoidance of doubt, if Exelixis fails to supply Helsinn with **[*]** of Becatecarin for Injection by 30 April 2006 and this failure prevents Helsinn from enrolling additional human subjects, or from maintaining the then-current enrollment, in the Phase 3 Clinical Trial of the Product that is ongoing at the Effective Date, then this failure shall be considered a material breach by Exelixis entitling Helsinn to avail itself of the remedies set forth at Section 9.4.2 below.

9.3 Relinquishment by Helsinn. Beginning twelve (12) months after the Effective Date, Helsinn may relinquish all the rights and the license granted to it under this Agreement and thereby terminate this Agreement, at any time, by giving Exelixis written notice of its desire to do so at least six (6) months prior to the date on which the rights and the license are desired to be terminated. Such termination shall be conditional upon Helsinn informing Exelixis in writing, together with the notice of termination, that, in Helsinn's reasonable business judgment based on scientific or economic evidence, it is impossible for Helsinn to carry out further development or marketing of the Product in the Territory.

9.4 Effect of Termination or Expiration. Termination or expiration of this Agreement for any reason shall not release either Party hereto from any liability which, at the time of such termination or expiration, has already accrued to the other Party or which is attributable to a period prior to such termination or expiration or preclude either Party from pursuing any rights and remedies it may have hereunder or at law or in equity with respect to any breach of, or default under, this Agreement. It is understood and agreed that monetary damages may not be a sufficient remedy for any breach of this Agreement and that the non-breaching Party may be entitled to specific performance as a partial remedy for any such breach.

9.4.1 Effects of certain terminations attributable to Helsinn.

(a) If this Agreement is terminated by Exelixis pursuant to Section 9.2 for Helsinn's failure to pay any of the amounts owed to Exelixis under Article 4 (and such failure is not due to any breach by a sublicensee of Helsinn), then Exelixis may pursue all remedies available to it under law or equity, and: (i) Helsinn shall transfer and assign to Exelixis all Information in its possession relating to the Product, and all regulatory filings (including any regulatory approvals) in Helsinn's name, agreements with Third Parties (subject to Section 9.4.1(a)(ii)), trademark and other intellectual property rights, and supplies of Product (including any intermediates, retained samples and reference standards) that in each case are in its Control and that relate to the Product; (ii) with respect to each of Helsinn's sublicensees who are not in breach of their agreements relating to the Product, Exelixis shall notify Helsinn in writing if, in Exelixis' reasonable business judgment, Exelixis desires that the agreements with such sublicensees be transferred and assigned to Exelixis or that the relations between each said sublicensee and Exelixis be regulated by any other contract which Exelixis and the sublicensee may deem appropriate; and (iii) Helsinn undertakes, upon Exelixis' written request, to supply the Products in accordance with Exelixis' and/or the sublicensees' requirements, at market prices.

Any transfer and assignment by Helsinn to Exelixis under Section 9.4.1(a)(i) shall be free of charge to Exelixis (except for administrative costs and fees connected with the transfer of trademarks and other intellectual property rights, which shall be borne by Exelixis) and shall occur in a manner consistent with Exelixis' transfer of Exelixis Know-How, Assumed Contracts and Product inventory to Helsinn under Article 3. Notwithstanding anything to the contrary, Exelixis shall have no obligation (either under Section 9.4.1(a)(ii) or otherwise under this Agreement) to be transferred or assigned any agreements from, or enter into any relations with, any of Helsinn's sublicensees who are in breach of their agreements with Helsinn at the time of Exelixis' termination of this Agreement.

(b) If this Agreement is terminated by Helsinn pursuant to Section 9.3, then: (i) Helsinn shall transfer and assign to Exelixis all Information in its possession relating to the Product, and all of the regulatory filings (including any regulatory approvals) in Helsinn's name, agreements with Third Parties (subject to Section 9.4.1(b)(ii)), trademark and other intellectual property rights, and supplies of Product (including any intermediates, retained samples and reference standards) that in each case are in its Control and that relate to the Product; (ii) Exelixis shall notify Helsinn in writing if, in Exelixis' reasonable business judgment, Exelixis desires to continue the development and/or commercialization of the Product, in which case Helsinn's sublicensees' rights on the Product shall survive termination hereof and shall be varied into a direct grant from Exelixis (but only if such sublicensee is not in breach of its existing agreement with Helsinn), being however understood that the relations between each said sub-licensee and Exelixis shall, in Exelixis' sole discretion, be regulated either by the agreement in force between Helsinn and the sublicensee, which in such case would be assigned to Exelixis, or by any other contract which Exelixis and the sublicensee may deem appropriate; and (iii) Helsinn undertakes, upon Exelixis' written request, to supply the Products in accordance with Exelixis' and/or the sublicensees' requirements, at market prices. Any transfer and assignment by Helsinn to Exelixis under Section 9.4.1(b)(i) shall be free of charge to Exelixis (except for administrative costs and fees connected with the transfer of trademarks and other intellectual property rights, which shall be borne by Exelixis) and shall occur in a manner consistent with Exelixis' transfer of Exelixis Know-How, Assumed Contracts and Product inventory to Helsinn under Article 3. Notwithstanding anything to the contrary, Exelixis shall have no obligation (either under Section 9.4.1(b)(ii) or otherwise under this Agreement) to be transferred or assigned any agreements from, or enter into any relations with, any of Helsinn's sublicensees who are in breach of their agreements with Helsinn at the time of Helsinn's termination of this Agreement.

9.4.2 Effects of other termination. In the event of any termination that is not described in Section 9.4.1, the applicable Party may pursue all remedies available to such Party under law or equity pursuant to Sections 10.3 or 10.4, as applicable. In particular, in case of breach by Exelixis as described at Section 9.2, Helsinn in its discretion (i) shall have the right to terminate this Agreement and shall be entitled to receive appropriate (as determined by an arbitrator pursuant to Section 10.3) compensation from Exelixis as a result of the damages suffered by Helsinn from such breach, or (ii) as an alternative to its right to terminate this Agreement, Helsinn may elect to continue this Agreement and to reduce the royalty rates for the remaining term of this Agreement to **[*]**.

9.5 Survival. The following provisions of this Agreement shall survive expiration or termination of this Agreement for any reason: Articles 1, 5, 8 and 10, and Sections 3.3.2, 4.8, 9.4, and 9.5.

9.6 Rights in Bankruptcy. All rights and the license granted under or pursuant to this Agreement by Exelixis are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the United States Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101 of the United States Bankruptcy Code. The Parties agree that Helsinn, as licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the United States Bankruptcy Code. The Parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against Exelixis under the United States Bankruptcy Code, Helsinn shall be entitled to a complete duplicate of (or complete access to, as appropriate) any such intellectual property and all embodiments of such intellectual property, which, if not already in Helsinn's possession, shall be promptly delivered to it: (a) upon any such commencement of a bankruptcy proceeding upon Helsinn's written request therefor, unless Exelixis continues to perform all of its obligations under this Agreement; or (b) if not delivered under Section 9.6(a) above, following the rejection of this Agreement by or on behalf of Exelixis.

10. MISCELLANEOUS

10.1 Complete Agreement; Modification. This Agreement, along with the Assumed Contracts and the Mutual Non-Disclosure Agreement between the Parties effective April 1, 2004, constitute the entire agreement, both written and oral, between the Parties with respect to the subject matter hereof, and all prior agreements respecting the subject matter hereof, either written or oral, expressed or implied, are superseded hereby, merged and canceled, and are null and void and of no effect. No amendment or change hereof or addition hereto shall be effective or binding on either of the Parties hereto unless reduced to writing and duly executed on behalf of both Parties.

10.2 Governing Law. Resolution of all disputes arising out of or related to this Agreement or the performance, enforcement, breach or termination of this Agreement and any remedies relating thereto, shall be governed by and construed under the substantive laws of the State of Delaware, without regard to conflicts of law rules requiring the application of different law.

10.3 Dispute Resolution. Subject to Section 10.4, in the event of any dispute, controversy or claim between the Parties relating to or arising out of this Agreement (a "**Dispute**"), each Party shall use its reasonable efforts to expeditiously settle the Dispute in an amicable manner within a time reasonable under the circumstances. In the absence of a settlement, either Party may refer such Dispute to the Chief Executive Officers of, or such other senior executive officers designated by, each respective Party for resolution. If such senior executive officers fail to reach a resolution within **[*]** days of such referral, or such other period as the Parties may agree, then such Dispute shall be decided by arbitration to be conducted in Washington D.C., in accordance with the International Rules of the American Arbitration Association for Commercial Arbitration in effect at the time the Dispute arises, unless the Parties mutually agree otherwise. Each Party shall be responsible for its own costs (including, without limitation, reasonable attorneys' fees) and expenses in connection with any arbitration proceeding under this Section 10.3.

10.4 Patents. Any dispute, controversy or claim relating to the scope, validity, enforceability or infringement of any Exelixis Patent Rights covering the manufacture, use or sale of any Products shall be submitted to a court of competent jurisdiction in the territory in which such Patent or trademark rights were granted or arose.

10.5 Performance by Affiliates/Subcontractors. Each Party acknowledges that its obligations under this Agreement may be performed by its respective Affiliates or subcontractors. Notwithstanding any delegation of obligations under this Agreement by a Party to an Affiliate or subcontractor, each Party shall remain primarily liable and responsible for the performance of all of its obligations under this Agreement and for causing its Affiliates and/or subcontractors to act in a manner consistent herewith. Wherever in this Agreement the Parties delegate responsibility to Affiliates, subcontractors or local operating entities, the Parties agree that such entities shall not make decisions inconsistent with this Agreement, amend the terms of this Agreement or act contrary to its terms in any way.

10.6 Consents Not Unreasonably Withheld or Delayed. Whenever provision is made in this Agreement for either Party to secure the consent or approval of the other, that consent or approval shall not unreasonably be withheld or delayed, and whenever in this Agreement provisions are made for one Party to object to or disapprove a matter, such objection or disapproval shall not unreasonably be exercised.

10.7 Maintenance of Records. Each Party shall keep and maintain all records required by law or regulation with respect to Products and shall make copies of such records available to the other Party upon request.

10.8 Independent Contractors. The relationship of the Parties hereto is that of independent contractors. The Parties hereto are not deemed to be agents, partners or joint venturers of the others for any purpose as a result of this Agreement or the transactions contemplated thereby. At no time shall any Party make commitments or incur any charges or expenses for or in the name of the other Party.

10.9 Assignment. Neither Party may assign or transfer this Agreement or any rights or obligations hereunder without the prior written consent of the other, except a Party may make such an assignment without the other Party's consent to an Affiliate or to a successor to substantially all of the business of such Party to which this Agreement relates, whether in a merger, sale of stock, sale of assets or other transaction; provided, that any such permitted successor or assignee of rights and/or obligations hereunder shall, in a writing to the other Party, expressly assume performance of such rights and/or obligations. Any permitted assignment shall be binding on the successors of the assigning Party. Any assignment or attempted assignment by either Party in violation of the terms of this Section 10.9 shall be null and void and of no legal effect.

10.10 Notices. Any notices given under this Agreement shall be in writing, addressed to the Parties at the following addresses, and delivered by person, by facsimile, or by FedEx or

other reputable international courier service. Any such notice shall be deemed to have been given as of the day of personal delivery, one (1) day after the date sent by facsimile service or on the day of successful delivery to the other Party confirmed by the courier service.

For Exelixis:	Exelixis, Inc. 170 Harbor Way P.O. Box 511 South San Francisco, CA 94083 Attention: VP, Legal Affairs Phone: +1 650-837-7950 Fax: +1 650-837-7951
With a copy to:	Cooley Godward LLP Five Palo Alto Square 3000 El Camino Real Palo Alto, CA 94306 Attention: Robert L. Jones, Esq. Phone: +1 650-843-5000 Fax: +1 650-849-7400
For Helsinn:	Helsinn Healthcare S.A. via Pian Scairolo 9 6912 Lugano Switzerland Attention: Director, Legal Affairs Phone: +41 91 985.21.21 Fax: +41 91 993.21.22

10.11 Force Majeure. Each Party shall be excused from the performance of its obligations (other than payment obligations) under this Agreement to the extent that such performance is prevented by force majeure and the nonperforming Party promptly provides notice of the prevention to the other Party. Such excuse shall be continued so long as the condition constituting force majeure continues and the nonperforming Party takes reasonable efforts to remove the condition. For purposes of this Agreement, force majeure shall include conditions beyond the control of the Parties, including without limitation, an act of God, voluntary or involuntary compliance with any regulation, law or order of any government, war, act of terrorism, civil commotion, labor strike or lock-out, epidemic, failure or default of public utilities or common carriers, destruction of production facilities or materials by fire, earthquake, storm or like catastrophe; provided, however, the payment of invoices due and owing hereunder shall not be delayed by the payer because of a force majeure affecting the payer.

10.12 Further Assurances. Each Party agrees to execute, acknowledge and deliver such further instruments, and to do all such other acts, as may be necessary or appropriate in order to carry out the purposes and intent of this Agreement.

10.13 Severability. In the event that any provision of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect without said provision to any possible extent. In such event, the Parties shall in good faith negotiate a substitute clause for any provision declared invalid or unenforceable, which shall most nearly approximate the intent of the Parties in entering this Agreement.

10.14 Waiver. The failure of a Party to insist upon strict performance of any provision of this Agreement or to exercise any right arising out of this Agreement shall neither impair that provision or right nor constitute a waiver of that provision or right, in whole or in part, in that instance or in any other instance. Any waiver by a Party of a particular provision or right shall be in writing, shall be as to a particular matter and, if applicable, for a particular period of time and shall be signed by such Party.

10.15 Cumulative Rights. The rights, powers and remedies hereunder shall be in addition to, and not in limitation of, all rights, powers and remedies provided at law or in equity, or under any other agreement between the Parties. All of such rights, powers and remedies shall be cumulative, and may be exercised successively or cumulatively.

10.16 Use of Name. Except as required by law, neither Party shall use the name or trademarks of the other Party for any advertising or promotional purposes without the prior written consent of such other Party.

10.17 Construction of the Agreement. Except where the context otherwise requires, wherever used, the singular will include the plural, the plural the singular, the use of any gender will be applicable to all genders, and the word “or” are used in the inclusive sense. When used in this Agreement, “including” means “including, without limitation,.” References to either Party include the successors and permitted assigns of that Party. The headings of this Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement. The Parties have each consulted counsel of their choice regarding this Agreement, and, accordingly, no provisions of this Agreement will be construed against either Party on the basis that the Party drafted this Agreement or any provision thereof. If the terms of this Agreement conflict with the terms of any Exhibit, then the terms of this Agreement shall govern. The official text of this Agreement and any Exhibits hereto, any notice given or accounts or statements required by this Agreement, and any dispute proceeding related to or arising hereunder, shall be in English. In the event of any dispute concerning the construction or meaning of this Agreement, reference shall be made only to this Agreement as written in English and not to any other translation into any other language.

10.18 Insurance. Each Party agrees to procure and maintain, in full force and effect during the term of this Agreement, insurance from insurers of recognized financial responsibility, against such losses and risks and in such amounts which, in such Party’s reasonable judgment, are prudent and customary in the business in which it is engaged. Each Party shall promptly supply the other Party, upon the other Party written request, with a copy of the certificate of insurance evidencing said coverage.

10.19 Mitigation. Each of the Parties hereto shall take commercially reasonable steps to avoid or mitigate any loss, damage or liability which might give rise to a claim under this Agreement.

10.20 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be an original and all of which shall constitute together the same document. Counterparts may be signed and delivered by facsimile, each of which shall be binding when sent.

[Signature Page Follows]

IN WITNESS WHEREOF, Exelixis and Helsinn have executed this Agreement by their respective duly authorized representatives as of the Effective Date.

EXELIXIS, INC.

By: /s/ George Scangos

Name: George Scangos

Title: President and CEO

HELSINN HEALTHCARE S.A.

By: /s/ Riccardo Braglia

Name: Riccardo Braglia

Title: Managing Director

By: /s/ Enrico Braglia

Name: Enrico Braglia

Title: Managing Director

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EXHIBIT 1.2

ASSUMED CONTRACTS

[*]

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EXHIBIT 1.7

EXELIXIS PATENTS

[*]

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EXHIBIT 2.7

List of XL119-001 Non-US Regulatory Reference Numbers

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Exhibit 5.4
Press Release

EXELIXIS AND HELSINN SIGN AGREEMENT
FOR XL119 (BECATECARIN)

SOUTH SAN FRANCISCO, Calif and Lugano, Switzerland- May XX, 2005—Exelixis, Inc. (Nasdaq: EXEL) and Helsinn Healthcare S.A. reached an agreement for the development of XL119 (becatecarin). Under the terms of the agreement, Helsinn will pay Exelixis an upfront payment of $4 million and additional milestones up to $21 million. In addition, Helsinn will assume the cost of the Phase III program going forward. In return, Exelixis has granted to Helsinn a world-wide, royalty-bearing license to XL119. Exelixis has retained rights to reacquire commercial rights to XL119 for North America, and will receive milestones and royalties on sales in the rest of the world.

"We are gratified that we have found an excellent partner for the development of XL119," said George A. Scangos, Ph.D., president and chief executive officer of Exelixis. "Helsinn is a high-quality company with experience in cancer drug development, as demonstrated by their successful development and licensing of Aloxi® to MGI Pharma. By combining our resources with those of an excellent European partner, we hope to make XL119 available to patients in need around the world. This agreement will free up substantial financial and product development resources, allowing Exelixis to focus on the Phase I and II trials for our internally-developed pipeline. At the same time, we have structured this deal with rights to reacquire the commercial rights to XL119 for North America, which is our primary market. I believe that this is an excellent transaction and represents a win for both companies," said Dr. Scangos.

"Exelixis has a very strong scientific foundation and we are pleased to be in a partnership with such a company," said Enrico Braglia, Managing Director of Helsinn. "Through the development of XL119, we aim to create a new standard of care for patients with biliary tract cancers, a rare and aggressive form of cancer with a high medical need and very limited survival. While some existing therapies have been used off-label to treat this type of tumor, there is currently no drug therapy that has been approved by regulatory authorities for this indication. We believe that XL119 will offer a meaningful therapeutic benefit over currently used therapies and will become the therapy of reference for biliary tract cancer patients worldwide,"

XL119 is currently in a multi-national Phase III clinical trial at approximately 50 centers in North America and Europe. The primary endpoint of the 600-patient trial is increased survival of patients with bile duct tumors treated with XL119 compared with the chemotherapy agents 5-fluorouracil (FU) and leucovorin. The trial is currently recruiting and enrolling patients as anticipated and is on track to be completed as planned. XL119 was granted the Orphan Drug designation in the USA on March 1, 2004.

About Exelixis

Exelixis, Inc. is a leading genomics-based drug discovery company dedicated to the discovery and development of novel therapeutics across various disease areas. The company is leveraging its fully integrated gene-to-drug platform to fuel the growth of its proprietary drug pipeline. Exelixis' development pipeline covers cancer and metabolism and is comprised of the following compounds: XL784, initially an anticancer compound, which completed a Phase I clinical trial and is being developed as a treatment for

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renal disease; XL647, XL999 and XL880, anticancer compounds currently in Phase I clinical trials; XL820 and XL844, anticancer compounds for which INDs have been filed; XL184 a potential IND candidate for the treatment of cancer; and multiple compounds in preclinical development for diseases including cancer and various metabolic and cardiovascular disorders. Exelixis has established broad corporate alliances with major pharmaceutical and biotechnology companies including GlaxoSmithKline (GSK) and Bristol-Myers Squibb Company. Pursuant to a product development and commercialization agreement between Exelixis and GSK, GSK has the option, after completion of Phase IIa clinical trials, to elect to develop a certain number of compounds in Exelixis' product pipeline, which may include the cancer compounds identified in this press release (other than XL119), thus potentially triggering milestone payments and royalties from GSK and co-promotion rights by Exelixis. For more information, please visit the company's web site at www.exelixis.com.

About HELSINN HEALTHCARE

HELSINN HEALTHCARE SA is a privately owned pharmaceutical group with headquarters in Switzerland. HELSINN's core business is the licensing of pharmaceuticals in niche therapeutic areas. The company's business strategy is to in-license early-stage new chemical entities and complete their development from the performance of pre-clinical/clinical studies and CMC development to the attainment of market approvals in strategic markets (U.S. and Europe). HELSINN's products are eventually out-licensed to its marketing partners for distribution. The active pharmaceutical ingredients and the finished dosage forms are manufactured at HELSINN's cGMP facilities and supplied worldwide to its customers. For more information about HELSINN, please visit www.helsinn.com

This press release contains forward-looking statements, including without limitation all statements related to Exelixis' potential to receive future payments related to the clinical development program for XL119, the potential success of the XL119 Phase III trial, the therapeutic and commercial potential of XL784, XL647, XL880, XL999, XL820, XL844 and XL184, other compounds in the Exelixis preclinical pipeline and its program in metabolic diseases. Words such as "believes," "anticipates," "plans," "expects," "intend," "will," "slated," "goal" and similar expressions are intended to identify forward-looking statements. These forward-looking statements are based upon Exelixis' current expectations. Forward-looking statements involve risks and uncertainties. Exelixis' actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of these risks and uncertainties, which include, without limitation, the ability of the company to successfully conduct the clinical trials for, XL647, XL999 and XL880; the ability of the company to advance additional preclinical compounds into clinical development; the uncertainty of the FDA approval process; and the therapeutic and commercial value of the company's compounds. These and other risk factors are discussed under "Risk Factors" and elsewhere in our quarterly report on Form 10-Q for the quarter ended March 31, 2005, annual report on Form 10-K for the year ended December 31, 2004 and other filings with the Securities and Exchange Commission. Exelixis expressly disclaims any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements contained herein to reflect any change in the company's expectations with regard thereto or any change in events, conditions or circumstances on which any such statements are based.

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Exhibit 10.4

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NOVATED AND RESTATED

TECHNOLOGY LICENSE AGREEMENT

dated as of June 9, 2005

among

EXELIXIS, INC.,

SYMPHONY EVOLUTION, INC.

and

SYMPHONY EVOLUTION HOLDINGS LLC

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NOVATED AND RESTATED
TECHNOLOGY LICENSE AGREEMENT

This NOVATED AND RESTATED TECHNOLOGY LICENSE AGREEMENT (this "***Agreement***") is made and effective as of June 9, 2005 (the "***Effective Date***") by and among, Exelixis Inc., a Delaware corporation (the "***Licensor***"), Symphony Evolution, Inc., a Delaware corporation ("***Symphony Evolution***") (each of Licensor and Symphony Evolution being a "***Party***," and collectively, the "***Parties***"), and Symphony Evolution Holdings LLC, a Delaware limited liability company ("***Holdings***").

WHEREAS, Licensor and Holdings have entered into that certain Technology License Agreement, dated June 9, 2005 (the "***Original Agreement***");

WHEREAS, Holdings desires to assign its right, title and interest in, and delegate and novate its obligations under the Original Agreement to Symphony Evolution, and Licensor and Symphony Evolution desire to novate and restate the terms and conditions of the Original Agreement to effect such novation;

WHEREAS, Licensor owns or has rights in certain technology, know-how, patents and other intellectual property rights related to the design, development, manufacture and/or use of XL647, XL784, and XL999 and/or the Products;

WHEREAS, Licensor desires to grant to Symphony Evolution, and Symphony Evolution desires to acquire, the exclusive right to use such technology, know-how, patents and other intellectual property rights to develop and commercialize Products on the terms and conditions of this Agreement; and

WHEREAS, Licensor desires to receive, and Symphony Evolution desires to grant to Licensor, the exclusive right to use such technology, know-how, patents and other intellectual property rights to develop Products on behalf of Symphony Evolution on the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual promises and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

Capitalized terms used herein and not defined shall have the meanings assigned to such terms in Annex A attached hereto.

ARTICLE 2
GRANT OF RIGHTS

2.1. Assignment. Holdings hereby assigns to Symphony Evolution all of its right, title and interest in and to the Original Agreement. The Parties agree that from and after the Effective Date, all of the right, title, interest and obligations of Holdings under the Original Agreement will be assigned, novated and transferred to, and assumed by, Symphony Evolution, as amended and restated by this Agreement.

2.2. License Grant. Subject to Sections 2.3, 2.4 and 2.6 below, Licensor hereby grants to Symphony Evolution, subject to the terms and conditions of this Agreement, a fully paid, worldwide, exclusive (even as to Licensor) license under the Licensed Intellectual Property, to develop, make, have made, use, offer for sale, sell, and import XL647, XL784, XL999 and Products.

2.3. Sublicense to Licensor. Symphony Evolution hereby grants to Licensor a fully paid, worldwide, exclusive (even as to Symphony Evolution) sublicense under the Licensed Intellectual Property, with the right to grant further sublicense(s), to develop, make, have made, use and import XL647, XL784, XL999 and Products, or otherwise as necessary or useful to carry out Licensor's obligations or exercise Licensor's rights under the Operative Documents. Notwithstanding the foregoing, Licensor shall only exercise its sublicense rights in connection with and for the purpose of carrying out Licensor's obligations or exercising Licensor's rights under the Operative Documents. In the event of the expiration of a Discontinuation Option without exercise by Licensor, the sublicense set forth in this Section 2.3 shall expire with respect to the compounds and Products relating to the Program to which such Discontinuation Option pertained. Upon expiration of the Term without Licensor's exercise of the Purchase Option, the sublicense set forth in this Section 2.3 shall expire with respect to all compounds and Products relating to the Program(s) for which Licensor has not exercised the Program Option or Discontinuation Option.

2.4. Right to Sublicense. The license granted hereunder includes the right of Symphony Evolution to grant sublicenses under the Licensed Intellectual Property, provided, that,

(a) subject to Sections 2.3 and 2.4(b), Symphony Evolution shall not sublicense any of the rights granted pursuant to Section 2.2 to any third party (including without limitation any Affiliates) during the Term;

(b) notwithstanding (a), in the event of the expiration of a Discontinuation Option without exercise by Licensor, Symphony Evolution may grant sublicense(s) to third parties (including without limitation Affiliates) of the rights granted pursuant to Section 2.2 with respect to the compounds and Products relating to the Program to which such Discontinuation Option pertained, provided that Symphony Evolution acts in accordance with Section 11.2(b) of the Amended and Restated Research and Development Agreement;

(c) each sublicense granted is (i) pursuant to a written contract, (ii) consistent with the terms of this Agreement, (iii) does not grant any rights beyond the scope of the license rights granted herein, and (iv) is as protective of Licensor's rights as set forth in this Agreement; and

(d) upon Licensor's written request, Symphony Evolution shall provide to Licensor copies of any sublicense agreements, provided that (i) Symphony Evolution may redact any financial or other proprietary information contained therein which does not affect Licensor's

rights and (ii) Licensor shall treat its copy of the sublicense agreements as Confidential Information of Symphony Evolution, provided that, if Symphony Evolution exercises its option in Section 3.2, Licensor may disclose such sublicense agreement or the material terms thereof as necessary to fulfill its obligations under the Yale Agreement or Regents Agreement, as applicable.

2.5. Partial Reversion of License upon Licensor's Exercise of Program Option or Discontinuation Option. Licensor and Symphony Evolution acknowledge that Licensor may exercise its Program Option pursuant to Section 11.1 of the Amended and Restated Research and Development Agreement, or its Discontinuation Option pursuant to Section 11.2 of the Amended and Restated Research and Development Agreement. Upon the Program Option Closing Date or the Discontinuation Option Closing Date, as applicable, (i) the license set forth in Section 2.2 (and the corresponding sublicense under Section 2.3) shall expire with respect to the compounds and Products relating to the Program for which Licensor exercised its Program Option or Discontinuation Option, as applicable, (ii) those patents, know-how and enhancements that were previously part of the Licensed Intellectual Property and relate to such Program (including its compounds and Products) but not to the other Programs, shall be deleted from the relevant intellectual property definitions, and accordingly, Symphony Evolution shall no longer be responsible for any obligations or costs (including royalties or fees to third parties, prosecution costs, maintenance costs and enforcement costs) with respect to such patents, know-how and enhancements; and (iii) Symphony Evolution shall (a) at Licensor's request and option, promptly return to Licensor or destroy all Tangible Materials relating solely to such Program; and (b) upon Licensor's request, provide Licensor a copy of any Tangible Materials which relate to such Program (but not solely to such Program). The Parties shall, as necessary, promptly amend this Agreement, in connection with the exercise and consummation of the Program Option pursuant to Section 11.1 or the Discontinuation Option pursuant to Section 11.2 of the Amended and Restated Research and Development Agreement, to give Licensor all rights it needs to pursue the Program for which such option was exercised without any obligation to or dependency on Symphony Evolution and to limit this Agreement to the other Programs.

2.6. Reservation of Rights. All rights not expressly granted to a Party hereunder shall remain the exclusive property of the other Party. Notwithstanding the exclusivity of the license granted to Symphony Evolution in Section 2.2, Licensor retains the right to make and use XL647, XL784, XL999 and Structurally Related Compounds solely for Licensor's research purposes. Symphony Evolution covenants and agrees not to use or exploit the Licensed Intellectual Property outside of the scope of the licenses granted herein. Licensor covenants and agrees not to use or exploit the Licensed Intellectual Property in connection with the development, manufacture, use, sale, or importation of XL647, XL784, XL999 or Products after the expiration of all sublicenses granted pursuant to Section 2.3; provided, however, that such covenant by Licensor shall not (a) apply to any Program for which Licensor exercises a Program Option or Discontinuation Option or to any compounds or Products relating to such Program or (b) restrict Licensor's ability to practice the retained rights specified in this Section 2.6.

2.7. Regulatory Files.

(a) Within a reasonable time after the expiration or termination of the Purchase Option without exercise by Licensor and as of a date to be agreed upon by Licensor and Symphony Evolution, Licensor and Symphony Evolution shall, at Symphony Evolution's expense, take all actions necessary to effect the assignment to Symphony Evolution or its designee of the sponsorship to the Regulatory Files with respect to the Programs for which Licensor has not exercised its Program Option or Discontinuation Option. After such Regulatory Files are assigned to Symphony Evolution, Licensor shall have no further rights therein or obligations thereunder. Licensor shall, at the reasonable request of Symphony Evolution and at Symphony Evolution's expense, perform any acts that Symphony Evolution may reasonably deem necessary or desirable to evidence or confirm Symphony Evolution's ownership interest in such Regulatory Files, including, but not limited to, making further written assignments in a form determined by Symphony Evolution. Without limiting the license rights granted under this ARTICLE 2, the Parties understand and agree that the assignment of such Regulatory Files does not include an assignment of any Licensed Intellectual Property.

(b) In the event of the expiration of a Discontinuation Option without exercise by Licensor, the provisions of Section 2.7(a) shall apply solely with respect to the Regulatory Files for the Program to which the Discontinuation Option pertained.

2.8. Delivery of Materials.

(a) Upon the expiration or termination of the Purchase Option without exercise by Licensor, Licensor shall, at Symphony Evolution's expense, promptly deliver to Symphony Evolution all copies of Tangible Materials existing as of the date of such expiration or termination that relate to the Programs for which Licensor has not exercised its Program Option or Discontinuation Option; provided, however that Licensor may also retain copies of (and the right to use) those Tangible Materials that are required to be delivered to Symphony Evolution hereunder but which also relate to (i) any Program for which Licensor has exercised its Program Option or Discontinuation Option or (ii) any other product of Licensor.

(b) In the event of the expiration of a Discontinuation Option without exercise by Licensor, Licensor shall, at Symphony Evolution's expense, promptly deliver to Symphony Evolution all copies of Tangible Materials existing as of the date of such expiration that relate to the Program to which the Discontinuation Option pertained; provided, however that Licensor may also retain copies of (and the right to use) those Tangible Materials that are required to be delivered to Symphony Evolution hereunder but which also relate to any other Program or any other product of Licensor.

2.9. License Opportunities. In the event that, during the Term, Licensor reasonably determines that it is necessary to license from any third party any intellectual property relating to the composition of matter, use, manufacture, formulation or exploitation of XL647, XL784, or XL999 or the Products ("***Third Party IP***") and Licensor desires to license such Third Party IP during the Term, then (i) if Licensor desires Symphony Evolution to pay any or all of the financial obligations under such license, Licensor shall obtain Symphony Evolution's written consent, which shall not be unreasonably withheld or delayed

before acquiring such license; and (ii) if Symphony Evolution provides such consent, then unless otherwise agreed to by the Parties in writing, Licensor shall use commercially reasonable efforts to obtain, at the time such license is granted, the right to sublicense such Third Party IP to Symphony Evolution consistent with the terms of this Agreement as if such Third Party IP were Licensed Intellectual Property. Unless otherwise agreed to by the Parties in writing, the financial obligations under any licenses to Third Party IP obtained by Licensor with Symphony Evolution's consent shall (1) be borne fully by Symphony Evolution if such Third Party IP relates solely to the composition of matter, use, manufacture, formulation or exploitation of XL647, XL784, or XL999 or the Products and, at the time of entering into such third party license, Licensor has not exercised its Program Option or Discontinuation Option with respect to the Program to which such Third Party IP relates; or (2) be shared by the Parties in amounts and/or percentages to be agreed upon by the Parties prior to Licensor entering into such third party license, if such Third Party IP relates (but does not relate solely) to the composition of matter, use, manufacture, formulation or exploitation of Products within Program(s) for which Licensor has not exercised its Program Option and/or Discontinuation Option and also relates to either (x) the composition of matter, use, manufacture, formulation or exploitation of Products within Program(s) for which Licensor has exercised its Program Option and/or Discontinuation Option or (y) the composition of matter, use, manufacture, formulation or exploitation of other products of Licensor; or (3) be borne fully by Licensor if such Third Party IP relates solely to the composition of matter, use, manufacture, formulation or exploitation of a Product(s) within a Program(s) for which Licensor has exercised its Program Option and/or Discontinuation Option. Notwithstanding the foregoing, Licensor shall have no obligation to obtain any such third party licenses under this Agreement or, in the event that Symphony Evolution does not give such consent, to grant any sublicenses to Symphony Evolution. Upon obtaining a license to such Third Party IP and the right to sublicense to Symphony Evolution, the Parties will, as necessary, promptly amend this Agreement to include such sublicensed intellectual property within the license granted hereunder, incorporate any other limitations, royalties or other provisions required by such third party with respect to such sublicense, and address Symphony Evolution's rights (if any) with respect to patent prosecution, maintenance and enforcement of patents and patent applications within such Third Party IP.

2.10. Separate Third Party License for Discontinued Program. In the event of the expiration of a Discontinuation Option without exercise by Licensor, Symphony Evolution has the right to transfer to a third party, in accordance with Section 11.2(b) of the Amended and Restated Research and Development Agreement, Symphony Evolution's rights to the compounds and Products relating to the Program to which such Discontinuation Option pertained (the "***Discontinued Program***"). If Symphony Evolution identifies a third party that wishes to obtain such rights, then upon Symphony Evolution's request, (i) Licensor and Symphony shall amend this Agreement to terminate all of Symphony Evolution's rights and obligations to the extent applicable to the Discontinued Program and (ii) Licensor shall enter into a separate license agreement with such third party in which all of such terminated rights and obligations shall be conferred upon and undertaken by such third party. The terms and conditions of such license agreement shall be identical to those contained herein, to the extent that such terms are applicable to the Discontinued Program and not dependent on any Operative Document other than this Agreement. Such terms shall include but not be limited to (1) provisions allowing for termination of such license agreement upon a material, uncured breach of such license agreement by the third party on similar terms as provided herein with respect to

Symphony Evolution and (2) a confidentiality provision that is not dependent on any of the Operative Documents. Termination of this Agreement shall not effect such license agreement and Licensor's obligation to enter into such a license agreement shall survive termination of this Agreement.

ARTICLE 3
SUBLICENSE TO CERTAIN THIRD PARTY INTELLECTUAL PROPERTY

3.1. General. The Parties acknowledge and agree that the license set forth in Section 2.2 does not include certain Intellectual Property (the "***University IP***") which has been in-licensed by Licensor from Yale University ("***Yale***") pursuant to the Yale Exclusive License Agreement between Licensor and Yale effective January 9, 2002 (the "***Yale Agreement***") and the Regents of the University of California ("***Regents***") pursuant to the Exclusive License and Bailment Agreement between Licensor and Regents effective July 25, 2001 (the "***Regents Agreement***" and together with the Yale Agreement, the "***University Agreements***").

3.2. Option to Acquire Sublicense. In the event of (i) an expiration of a Discontinuation Option in respect of the Program relating to XL784 without exercise by Licensor or (ii) an expiration of the Purchase Option without exercise by Licensor (and Licensor has not exercised a Discontinuation Option or Program Option in respect of the Program relating to XL784), then, upon Symphony Evolution's written request, the Parties shall amend this Agreement to provide that, effective upon such expiration of the Discontinuation Option or Purchase Option (as applicable), Symphony Evolution is granted a sublicense in and to such University IP to develop, make, have made, use, offer for sale, sell, and import XL784 and related Products; provided, however, that, with respect to the Intellectual Property licensed under the Yale Agreement, Symphony Evolution's sublicense shall be limited to Licensed Products as defined in the Yale Agreement, and, with respect to the Intellectual Property licensed under the Regents Agreement, Symphony Evolution's sublicense shall be limited to Licensed Products as defined in the Regents Agreement. The terms and conditions of the sublicense shall be consistent with and no broader than the terms and conditions contained herein with respect to Licensed Intellectual Property; *provided*, *however*, such sublicense shall contain such additional terms and obligations as are required under the University Agreements, including all terms set forth in Annex C. Without limiting Licensor's obligations under Section 3.4, the option set forth in this Section 3.2 shall expire with respect to the Yale Agreement and the Regents Agreement upon the expiration or termination of the Yale Agreement and the Regents Agreement, respectively.

3.3. Prosecution Fees. Symphony Evolution shall reimburse Licensor, within **[*]** after receipt of Licensor's invoice, for **[*]** of the costs incurred by Licensor with respect to the filing, prosecution and maintenance of all patent applications and patents included within the University IP. The foregoing obligation of Symphony Evolution shall terminate upon any exercise by Licensor of a Program Option or Discontinuation Option in respect of the Program related to XL784.

3.4. Termination or Amendment of University Agreements. Licensor may not (a) terminate any University Agreements or (b) amend any University Agreements in a

manner that would conflict with or otherwise limit Licensor's obligations to Symphony Evolution under Section 3.2 without (i) giving Symphony Evolution reasonable advance written notice of such intention and (ii) in the event that Yale or Regents agree to (1) permit the Yale Agreement or the Regents Agreement, respectively, to be assigned to Symphony Evolution or to (2) grant a substitute license to the relevant University IP to Symphony Evolution, executing any document necessary to effect such assignment or permit such substitute license and, in the event that Licensor terminates both the Yale Agreement and the Regents Agreement, transferring to Symphony Evolution any applicable patent files in respect of the University IP (provided that the foregoing shall not be construed to require Licensor to pay any amounts or to undertake any additional obligations).

3.5. No Conflicts. Licensor shall not enter into any agreements with third parties that would conflict with or otherwise limit Licensor's obligations to Symphony Evolution under Section 3.2.

ARTICLE 4
INTELLECTUAL PROPERTY

4.1. Ownership. The Parties acknowledge and agree that, as between Licensor and Symphony Evolution, Licensor or its licensors are the owner of all right, title and interest in and to the Licensed Intellectual Property, including without limitation Symphony Evolution Enhancements. Symphony hereby assigns to Licensor all of Symphony Evolution's rights and interests in any Symphony Evolution Enhancements. Symphony Evolution shall promptly disclose any Symphony Evolution Enhancement to Licensor, and shall use reasonable efforts, at Licensor's request and at no cost to Licensor, to cooperate fully with Licensor to transfer such Symphony Evolution Enhancements to Licensor.

4.2. Marking. Symphony Evolution shall mark, and shall cause all of its sublicensees to mark, all Products, or the packaging thereof or materials related thereto, with the number of the applicable patents licensed hereunder in accordance with applicable U.S. patent law.

4.3. Prosecution and Maintenance.

(a) Unless otherwise set forth in this Section 4.3, (i) Licensor shall prepare, file, prosecute and maintain, in the name of Licensor, those patents and patent applications in Licensed Patent Rights for which, as between Licensor and Third Party Licensors, Licensor has patent prosecution and maintenance rights at such time; and (ii) Licensor shall provide Symphony Evolution with (1) quarterly reports regarding the status of the prosecution and maintenance of such patents and patent applications, (2) copies of any patent documents provided to GlaxoSmithKline with respect to such patents and patent applications, and (3) timely answers to Symphony Evolution's questions regarding the status of patents and patent applications in Licensed Patent Rights.

(b) Licensor will use commercially reasonable efforts to seek the allowance of broad generic claims, consistent with Licensor's determination of enforceability, business considerations and other factors.

(c) Subject to any such costs paid by Third Party Licensors, the cost of such prosecution and maintenance of Licensed Patent Rights shall be paid by Symphony Evolution. Upon the scope of any Licensed Patent Rights being amended so that the patent or patent application's claims no longer relate to XL647, XL784, XL999 or any Products, such patent or patent application shall cease to be a Licensed Patent Right and all rights and obligations with respect to such patent or patent application (including costs, fees, prosecution, maintenance and enforcement) shall revert to Licensor.

(d) Symphony Evolution shall not be responsible for the costs of any interference or reexamination initiated by Licensor with respect to the Licensed Patent Rights (except to the extent allocated in the Development Budget), unless the Parties mutually agree in writing that it is reasonably necessary or useful to file and prosecute such interference or re-examination in connection with such Licensed Patent Rights to protect their interests in such Licensed Patent Rights, which agreement will not be unreasonably withheld or delayed. In the event of such agreement, unless otherwise agreed in writing by the Parties, Symphony Evolution shall pay all costs of such interference or reexamination.

(e) Each Party shall provide the prosecuting Party with reasonable cooperation under this Section 4.3.

(f) Symphony Evolution acknowledges that Licensor has certain obligations to GlaxoSmithKline with respect to the prosecution and maintenance of certain patents and patent applications within the Licensed Patent Rights, including without limitation certain obligations to **[*]**. Nothing in this Agreement shall be interpreted as requiring Licensor to breach such obligations to GlaxoSmithKline. Notwithstanding the foregoing, Licensor shall use commercially reasonable efforts to make, no later than upon any expiration of the Term without Licensor's exercise of the Purchase Option, any amendment to the GSK Agreement (as defined in Section 4.10) that may be necessary to provide that, upon any such expiration of the Term, GlaxoSmithKline shall no longer have any rights with respect to **[*]**.

4.4. Abandonment. The Parties acknowledge that in the event Licensor desires to abandon any patent or patent application covering Licensed Patent Rights (whether during or after the Term), Licensor shall provide prompt, timely written notice thereof to Symphony Evolution. If Symphony Evolution informs Licensor in writing at least **[*]** before the relevant deadline that Symphony Evolution desires to avoid such abandonment or lapse, then Licensor shall continue to prosecute or maintain such patent or patent application at Symphony Evolution's request and sole expense. Symphony Evolution understands and acknowledges that Licensor cannot allow certain patents or patent applications in the Licensed Patent Rights to lapse or become abandoned without **[*]**. Nothing in this Section 4.4 shall be interpreted as giving Symphony Evolution rights that conflict with such Licensor obligations.

4.5. Infringement. Each Party agrees to immediately notify the other Party upon becoming aware of any infringement, misappropriation, illegal use or misuse of the Licensed Intellectual Property and provide to the other party all available evidence of such infringement.

4.6. First Enforcement Right During Term. During the Term, as between the Parties, Licensor has the first right, but not the obligation, to take action against others in the courts, administrative agencies or otherwise, at Symphony Evolution's cost and expense, to prevent or terminate infringement, misappropriation, illegal use or misuse of the Licensed Patent Rights or other Licensed Intellectual Property due to the manufacture, use or sale of a product or compound that might be competitive with a Product. Symphony Evolution shall, at its expense, cooperate with and reasonably assist Licensor in any such action if so requested by Licensor, and, upon Licensor's request, execute, file and deliver all documents and proof necessary for such purpose, including being named as a party to such litigation if requested by Licensor or if required by law. Subject to Section 4.10, Symphony Evolution shall have the right to participate and be represented by its own counsel at its own expense in any such action, suit or proceeding with respect to Licensed Patent Rights solely relating to Products for which Licensor has not exercised its Program Option or Discontinuation Option. Subject to Section 4.10, Licensor shall not enter into any settlement or compromise of such action, suit or proceeding that affects or concerns the validity, enforceability, or ownership of any Licensed Patent Rights or other Licensed Intellectual Property without the prior written consent of Symphony Evolution, which consent shall not be unreasonably withheld or delayed.

4.7. Post-Term Enforcement.

(a) Following the expiration of the Term without Licensor's exercise of the Purchase Option, as between the Parties, Symphony Evolution shall have the first right, but not the obligation, to take action against others in the courts, administrative agencies or otherwise, under Symphony Evolution's direction and control and at Symphony Evolution's cost and expense, to prevent or terminate infringement, misappropriation, illegal use or misuse of any Licensed Patent Rights or other Licensed Intellectual Property that solely relate to a Product for which Licensor has not exercised its Program Option or Discontinuation Option, due to the manufacture, use or sale of a product or compound that might be competitive with such Product. Licensor shall, at Symphony Evolution's expense, cooperate and reasonably assist Symphony Evolution in such action if so requested, and upon Symphony Evolution's request, execute, file and deliver all documents and proof necessary for such purpose, including being named as a party to such litigation if requested by Symphony Evolution or if required by law. Licensor shall have the right to participate and be represented in any such action, suit or proceeding by its own counsel at its own expense. Symphony Evolution shall not enter into any settlement or compromise of such action, suit or proceeding that affects or concerns the validity, enforceability, or ownership of any Licensed Patent Rights or other Licensed Intellectual Property without the prior written consent of Licensor, which consent shall not be unreasonably withheld or delayed.

(b) Following the expiration of the Term without Licensor's exercise of the Purchase Option, if Symphony Evolution does not take action under Section 4.7(a) within **[*]** of Licensor's written request that Symphony Evolution take such action, then Licensor shall have the option to commence any such action under its own direction and control, and at Licensor's cost and expense. Symphony Evolution shall, at Licensor's expense, cooperate and reasonably assist Licensor in such action if so requested, and upon Licensor's request, execute, file and deliver all documents and proof necessary for such purpose, including being named as a party to such litigation if requested by Licensor or if required by law. Symphony Evolution shall have

the right to participate and be represented in any such action, suit or proceeding by its own counsel at its own expense. Licensor shall not enter into any settlement or compromise of such action, suit or proceeding that affects or concerns the validity, enforceability, or ownership of any Licensed Patent Rights or other Licensed Intellectual Property without the prior written consent of Symphony Evolution, which consent shall not be unreasonably withheld or delayed.

4.8. Withdrawal of Enforcement. If either Party brings an action under this ARTICLE 4 and subsequently ceases to pursue or withdraws from such action, it shall promptly notify the other Party and the other Party may substitute itself for the withdrawing party under the terms of this ARTICLE 4, provided that such substitution would not constitute a breach of Licensor's obligations to any Third Party Licensor.

4.9. Recoveries. All damages or other compensation of any kind recovered in such action, suit, or proceeding or from any settlement or compromise brought under this ARTICLE 4 shall first be used to reimburse each Party for its expenses in connection with such action, suit or proceeding, (in proportion to the expenses of each Party if recovery is insufficient to cover all such expenses) and the remainder of such recovery, after Licensor makes any other payments it is obligated to make to Third Party Licensors on account of such recovery, shall be allocated **[*]**.

4.10. Third Party Rights. Symphony Evolution acknowledges that Licensor has certain obligations to GlaxoSmithKline with respect to the enforcement of certain patents and patent applications within the Licensed Patent Rights, including without limitation **[*]**. Nothing in this Agreement shall be interpreted as requiring Licensor to breach such obligations to GlaxoSmithKline. Notwithstanding the foregoing, (i) in the event that GlaxoSmithKline exercises its option to **[*]** the Product Development and Commercialization Agreement between Licensor and GlaxoSmithKline dated October 28, 2002 (the "***GSK Agreement***"), Licensor shall use commercially reasonable efforts to amend the GSK Agreement as soon as reasonably practical after such exercise but in no event later than any expiration of the Term without Licensor's exercise of the Purchase Option, to provide that upon any expiration of the Term without Licensor's exercise of the Purchase Option, GlaxoSmithKline shall no longer have any right to **[*]**; and (ii) in the event GlaxoSmithKline does not exercise its option to **[*]**, Licensor hereby represents and warrants to Symphony Evolution that upon expiration of the Term pursuant to Section 1(c)(iii)(x) of the Purchase Option Agreement, GlaxoSmithKline shall no longer have any right to **[*]**.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

5.1. Representations and Warranties of Licensor. Licensor hereby represents and warrants to Symphony Evolution, that, as of the Effective Date:

(a) Licensor is the owner of all right, title, and interest in and to (i) all Licensed Patent Rights listed in Annex B and not identified as jointly owned or licensed from a third party and (ii) the Regulatory Files;

(b) Licensor has sufficient rights to grant the licenses granted hereunder and the grant of such licenses does not and will not conflict with any agreement to which Licensor is a party or otherwise governing the Licensed Intellectual Property;

(c) To the Knowledge of Licensor, no third party is engaging in any activity that infringes or misappropriates the Licensed Intellectual Property;

(d) No element of the Licensed Intellectual Property has been adjudged invalid or unenforceable in whole or part, and to the Knowledge of Licensor, the issued patents within the Licensed Intellectual Property are valid and enforceable;

(e) To the Knowledge of Licensor, no actions or claims have been asserted, are pending or have been threatened, against Licensor in writing alleging that the manufacture, use or sale of XL647, XL784 or XL999 misappropriates or infringes the intellectual property rights of any third party; and

(f) To the Knowledge of Licensor, the manufacture, use or sale of XL647, XL784 or XL999 by Symphony Evolution (or its sublicensees) in strict accordance with the licenses herein and other terms of this Agreement will not misappropriate or infringe the intellectual property rights of any third party.

5.2. Disclaimer and Acknowledgement. EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE 5, THE LICENSED INTELLECTUAL PROPERTY, PRODUCTS (AND THE COMPOUNDS THEREIN), TANGIBLE MATERIALS AND REGULATORY FILES ARE PROVIDED "AS IS" WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, AND LICENSOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR NON-INFRINGEMENT. LICENSOR DOES NOT WARRANT THE PERFORMANCE OF ANY PRODUCT (OR THE COMPOUND(S) THEREIN), INCLUDING THEIR SAFETY, EFFECTIVENESS OR COMMERCIAL VIABILITY. ANY SYMPHONY EVOLUTION ENHANCEMENTS PROVIDED TO LICENSOR HEREUNDER ARE PROVIDED "AS IS" WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND AND SYMPHONY EVOLUTION EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

ARTICLE 6
INDEMNIFICATION AND LIMITATION OF LIABILITY

6.1. Indemnity. To the greatest extent permitted by applicable law, Licensor shall indemnify and hold harmless Symphony Evolution, its Affiliates, and each of their respective officers, directors, employees, agents, members, managers, successors and assigns (each, a "***Symphony Evolution Indemnified Party***") and Symphony Evolution shall indemnify and hold harmless Licensor, its Affiliates and each of their respective officers, directors, employees, agents, members, successors and assigns (each, an "***Exelixis Indemnified Party***" and together with Symphony Evolution Indemnified Party, the "***Indemnified Parties***"), from and

against any and all claims, losses, diminution in value, costs, interest, awards, judgments, penalties, fees (including reasonable fees for attorneys and other professionals), court costs, liabilities, damages and expenses incurred by any Symphony Evolution Indemnified Party or Exelixis Indemnified Party (irrespective of whether any such Symphony Evolution Indemnified Party or Exelixis Indemnified Party, as applicable, is a party to the action for which indemnification hereunder is sought), (collectively, a "***Loss***") as a result of, arising out of, or relating to any and all third party suits, claims, actions, proceedings, investigations, litigation or demands based upon:

(i) in the case of Licensor being the Indemnifying Party, (A) any breach of any representation or warranty made by Licensor herein or in any certificate, instrument or document delivered hereunder, (B) any breach of any covenant, agreement or obligation of Licensor contained herein, or in any certificate, instrument or document delivered hereunder, or (C) any act of gross negligence or willful misconduct by Licensor in performing its obligations under this Agreement; in each case, except (1) with respect to Losses for which Licensor is entitled to indemnification under this ARTICLE 6 or (2) to the extent such Loss arises from the gross negligence or willful misconduct of a Symphony Evolution Indemnified Party, and

(ii) in the case of Symphony Evolution being the Indemnifying Party, (A) any breach of any representation or warranty made by Symphony Evolution herein or in any certificate, instrument or document delivered hereunder, (B) any breach of any covenant, agreement or obligation of Symphony Evolution contained herein, or in any certificate, instrument or document delivered hereunder, (C) any act of gross negligence or willful misconduct by Symphony Evolution in performing its obligations under this Agreement, or (D) the development, manufacture, use, handling, storage, sale or other disposition of the Product (other than those Products arising from a Program for which Licensor exercised a Program Option or Discontinuation Option) after end of the Term; in each case, except (1) with respect to Losses for which Symphony Evolution is entitled to indemnification under this ARTICLE 6 or (2) to the extent such Loss arises from the gross negligence or willful misconduct of an Exelixis Indemnified Party.

To the extent that the foregoing undertakings by Licensor and/or Symphony Evolution may be unenforceable for any reason, such Party shall make the maximum contribution to the payment and satisfaction of any Loss that is permissible under applicable Law.

6.2. Notice of Claims. Any Indemnified Party that proposes to assert a right to be indemnified under this ARTICLE 6 shall notify Licensor or Symphony Evolution, as applicable (the "***Indemnifying Party***"), promptly after receipt of notice of commencement of any action, suit or proceeding against such Indemnified Party (an "***Indemnified Proceeding***") in respect of which a claim is to be made under this ARTICLE 6, or the incurrence or realization of any Loss in respect of which a claim is to be made under this ARTICLE 6, of the commencement of such Indemnified Proceeding or of such incurrence or realization, enclosing a copy of all relevant documents, including all papers served and claims made, but the omission so to notify the applicable Indemnifying Party promptly of any such Indemnified Proceeding or incurrence or realization shall not relieve (a) such Indemnifying Party from any liability that it may have to such Indemnified Party under this ARTICLE 6 or otherwise, except, as to such

Indemnifying Party's liability under this ARTICLE 6, to the extent, but only to the extent, that such Indemnifying Party shall have been prejudiced by such omission, or (b) any other indemnitor from liability that it may have to any Indemnified Party under the Operative Documents.

6.3. Defense of Proceedings. In case any Indemnified Proceeding shall be brought against any Indemnified Party, it shall notify the applicable Indemnifying Party of the commencement thereof and such Indemnifying Party shall be entitled to participate in, and provided such Indemnified Proceeding involves a claim solely for money damages and does not seek an injunction or other equitable relief against the Indemnified Party and is not a criminal or regulatory action, to assume the defense of, such Indemnified Proceeding with counsel reasonably satisfactory to such Indemnified Party, and after notice from such Indemnifying Party to such Indemnified Party of such Indemnifying Party's election so to assume the defense thereof and the failure by such Indemnified Party to object to such counsel within **[*]** following its receipt of such notice, such Indemnifying Party shall not be liable to such Indemnified Party for legal or other expenses related to such Indemnified Proceedings incurred after such notice of election to assume such defense except as provided below and except for the reasonable costs of investigating, monitoring or cooperating in such defense subsequently incurred by such Indemnified Party reasonably necessary in connection with the defense thereof. Such Indemnified Party shall have the right to employ its counsel in any such Indemnified Proceeding, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless:

(a) the employment of counsel by such Indemnified Party at the expense of the applicable Indemnifying Party has been authorized in writing by such Indemnifying Party;

(b) such Indemnified Party shall have reasonably concluded in its good faith (which conclusion shall be determinative unless a court determines that such conclusion was not reached reasonably and in good faith) that there is or may be a conflict of interest between the applicable Indemnifying Party and such Indemnified Party in the conduct of the defense of such Indemnified Proceeding or that there are or may be one or more different or additional defenses, claims, counterclaims, or causes of action available to such Indemnified Party (it being agreed that in any case referred to in this clause (b) such Indemnifying Party shall not have the right to direct the defense of such Indemnified Proceeding on behalf of the Indemnified Party);

(c) the applicable Indemnifying Party shall not have employed counsel reasonably acceptable to the Indemnified Party, to assume the defense of such Indemnified Proceeding within a reasonable time after notice of the commencement thereof (*provided, however*, that this clause shall not be deemed to constitute a waiver of any conflict of interest that may arise with respect to any such counsel); or

(d) any counsel employed by the applicable Indemnifying Party shall fail to timely commence or diligently conduct the defense of such Indemnified Proceeding;

in each of which cases the fees and expenses of counsel for such Indemnified Party shall be at the expense of such Indemnifying Party. Only one counsel shall be retained by all Indemnified Parties with respect to any Indemnified Proceeding, unless counsel for any

Indemnified Party reasonably concludes in good faith (which conclusion shall be determinative unless a court determines that such conclusion was not reached reasonably and in good faith) that there is or may be a conflict of interest between such Indemnified Party and one or more other Indemnified Parties in the conduct of the defense of such Indemnified Proceeding or that there are or may be one or more different or additional defenses, claims, counterclaims, or causes or action available to such Indemnified Party.

6.4. Settlement. Without the prior written consent of such Indemnified Party, such Indemnifying Party shall not settle or compromise, or consent to the entry of any judgment in, any pending or threatened Indemnified Proceeding, unless such settlement, compromise, consent or related judgment (i) includes an unconditional release of such Indemnified Party from all liability for Losses arising out of such claim, action, investigation, suit or other legal proceeding, (ii) provides for the payment of money damages as the sole relief for the claimant (whether at law or in equity), (iii) involves no finding or admission of any violation of law or the rights of any Person by the Indemnified Party, and (iv) is not in the nature of a criminal or regulatory action. No Indemnified Party shall settle or compromise, or consent to the entry of any judgment in, any pending or threatened Indemnified Proceeding in respect of which any payment would result hereunder or under the Operative Documents without the prior written consent of the Indemnifying Party, such consent not to be unreasonably conditioned, withheld or delayed.

6.5. Limitation of Liability. TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY NOR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, MEMBERS, MANAGERS, EMPLOYEES, INDEPENDENT CONTRACTORS OR AGENTS SHALL HAVE ANY LIABILITY OF ANY TYPE (INCLUDING, BUT NOT LIMITED TO, CLAIMS IN CONTRACT, NEGLIGENCE AND TORT LIABILITY) FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, THE LOSS OF OPPORTUNITY, LOSS OF USE OR LOSS OF REVENUE OR PROFIT IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE SERVICES PERFORMED HEREUNDER, EVEN IF SUCH DAMAGES MAY HAVE BEEN FORESEEABLE. THE FOREGOING SHALL NOT LIMIT EITHER PARTY'S INDEMNIFICATION OBLIGATIONS PURSUANT TO SECTION 6.1.

6.6. Insurance. Each Party shall maintain insurance, including on the part of Symphony Evolution, product liability insurance, with respect to its activities under this Agreement. Such insurance shall be in such amounts and subject to such deductibles as are prevailing in the industry from time to time. Symphony Evolution shall maintain a minimum of an aggregate of $10,000,000 in directors and officers insurance and an aggregate of $10,000,000 in product liability insurance. Notwithstanding anything to the contrary herein, this Section 6.6 shall survive only for a period of two (2) years following termination or expiration of this Agreement.

ARTICLE 7
TERM AND TERMINATION

7.1. Term. This Agreement shall commence on the Effective Date and shall remain in force until terminated as provided herein.

7.2. Termination.

(a) Either Party may terminate this Agreement at any time if the other Party is in material default or breach of this Agreement that has resulted in, or would reasonably be expected to result in, a material adverse effect on the Programs or the non-breaching Party's rights under the Operative Documents, and such material default or breach continues unremedied for a period of **[*]** after written notice thereof is delivered to the defaulting or breaching party.

(b) Licensor may terminate this Agreement at any time upon written notice to Symphony Evolution if (i) Investors materially breaches Sections 2 or 3 of the Funding Agreement, (ii) Holdings breaches Section 2 of the Subscription Agreement or (iii) Holdings or Symphony Evolution is in material default or breach the Purchase Option Agreement that has resulted in, or would reasonably be expected to result in, a material adverse effect on the Licensor's rights under the Operative Documents and such default or breach is not cured within **[*]** after written notice of such default or breach under the Purchase Option Agreement is delivered to the defaulting or breaching party.

(c) Licensor may terminate this Agreement in the event that the Amended and Restated Research and Development Agreement is terminated by Licensor in accordance with the terms thereof due to a material breach or default by Symphony Evolution or Holdings (without limiting any rights to notice or cure that Symphony Evolution or Holdings may have under such agreements).

(d) Upon any termination of this Agreement, all license rights granted herein (except for those rights granted in or pursuant to Section 2.5) shall immediately terminate.

7.3. Survival. The following Sections and Articles shall survive any expiration or termination of this Agreement: Sections 2.10, 4.1, 5.2 and 7.3, and Articles 6 and 8.

7.4. Bankruptcy. All rights and licenses granted under this Agreement are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the United States Bankruptcy Code (the "***Code***"), licenses to "Intellectual Property" as defined in the Code. The Parties agree that each Party shall retain and may fully exercise all of its rights and elections under the Code.

ARTICLE 8
MISCELLANEOUS

8.1. Notices. Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted to be given to any Party shall be in writing and shall be deemed given only if delivered to the Party personally or sent to the Party by

facsimile transmission (promptly followed by a hard-copy delivered in accordance with this Section 8.1), by next Business Day delivery by a nationally recognized courier service, or by registered or certified mail (return receipt requested), with postage and registration or certification fees thereon prepaid, addressed to the Party at its address set forth below:

Licensor:

Exelixis, Inc.
170 Harbor Way
South San Francisco, CA 94083
Attention: Corporate Secretary
Facsimile: (650) 837-7951

Symphony Evolution:

Symphony Evolution, Inc.
7361 Calhoun Place, Suite 325
Rockville, MD 20850
Attn: Charles Finn
Facsimile: (301) 762-6154

with a copy to:

Symphony Capital Partners, L.P.
875 Third Avenue
18th Floor
New York, NY 10022
Attn: Mark Kessel
Facsimile: (212) 632-5401

or to such other address as such Party may from time to time specify by notice given in the manner provided herein to each other Party entitled to receive notice hereunder.

8.2. Entire Agreement. This Agreement (including any Annexes, Schedules, Exhibits or other attachments hereto) and the agreements referred to herein (including the Operative Documents) constitute the entire agreement between the Parties with respect to the subject matter hereof, and no oral or written statement may be used to interpret or vary the meaning of the terms and conditions hereof. This Agreement supersedes any prior or contemporaneous agreements and understandings, whether written or oral, between the Parties with respect to the subject matter hereof, including the Original Agreement but excluding the Operative Documents.

8.3. Assignment. Neither Party may assign or otherwise transfer this Agreement without the prior written consent of the other Party; *provided, however*, that (i) Licensor may assign this Agreement or any of its rights and obligations hereunder without the consent of Symphony Evolution (A) to an Affiliate or in connection with a merger or the sale of all or substantially all of the assets of the Licensor to which this Agreement relates, or (B) to the

Surviving Entity in the event Licensor undergoes a Change of Control in compliance with Article 14 of the Amended and Restated Research and Development Agreement, *provided, however*, the Licensed Patent Rights and Licensed Know-How shall not be construed, as a result of such assignment, to include any patent rights, know-how, trade secret, and other intellectual property that, prior to such Change of Control, were owned or Controlled by the Person (other than Licensor) involved in such Change of Control; and (ii) after expiration of the Term without Licensor's exercise of the Purchase Option, Symphony Evolution may assign this Agreement to any Person without the prior, written consent of Licensor. Assignment of this Agreement by either Party shall not relieve the assignor of its obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

8.4. Headings. The descriptive headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of the Agreement.

8.5. Independent Contractor. Each Party shall be acting as an independent contractor in performing under this Agreement and shall not be considered or deemed to be an agent, employee, joint venturer or partner of the other Party.

8.6. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party.

8.7. No Third-Party Beneficiaries. Except with respect to certain indemnification obligations and liability limitations pursuant to ARTICLE 6, nothing in this Agreement, either express or implied, is intended to or shall confer upon any third party any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

8.8. Compliance with Laws. In performing under this Agreement, each Party shall comply with all applicable laws rules and regulations, including without limitation, the United States Food and Drug Administration and the United States Export Administration Regulations.

8.9. Amendment. This Agreement may not be amended or modified except by an instrument in writing signed by authorized representatives of Licensor and Symphony Evolution.

8.10. Governing Law; Consent to Jurisdiction and Service of Process.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

(b) Each of the Parties hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court or federal

court of the United States of America sitting in The City of New York, Borough of Manhattan, and any appellate court from any jurisdiction thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the Parties hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in any such New York State court or, to the fullest extent permitted by law, in such federal court. Each of the Parties agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any Party may otherwise have to bring any action or proceeding relating to this Agreement.

(c) Each of the Parties irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any New York State or federal court. Each of the Parties hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

8.11. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.

8.12. Counterparts. This Agreement may be executed in one or more counterparts, and by the respective Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same Agreement.

8.13. No Waiver. The failure of either Party to enforce at any time for any period the provisions of or any rights deriving from this Agreement shall not be construed to be a waiver of such provisions or rights or the right of such Party thereafter to enforce such provisions.

SIGNATURES FOLLOW ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective duly authorized officers.

SYMPHONY EVOLUTION, INC.

/s/ Harri V. Taranto

Name: Harri V. Taranto
Title: Chairman of the Board

SYMPHONY EVOLUTION HOLDINGS LLC

By: Symphony Capital Partners, L.P.,
its Manager

By: Symphony Capital GP, L.P.,
its general partner

By: Symphony GP, LLC,
its general partner

/s/ Mark Kessel

Name: Mark Kessel
Title: Managing Member

EXELIXIS, INC.

/s/ Christoph Pereira

Name: Christoph Pereira
Title: Vice President, Legal Affairs and Secretary

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

DEFINITIONS

"***$***" means United States dollars.

"***Accredited Investor***" has the meaning set forth in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended.

"***Act***" means the Delaware Limited Liability Company Act, *6 Del. C. § 18-101 et seq*.

"***Additional Funds***" has the meaning set forth in Section 2(b) of the Funding Agreement.

"***Additional Funding Date***" has the meaning set forth in Section 3 of the Funding Agreement.

"***Additional Party***" has the meaning set forth in Section 12 of the Confidentiality Agreement.

"***Additional Regulatory Filings***" means such Governmental Approvals as required to be made under any law applicable to the purchase of the Symphony Evolution Equity Securities under the Agreement.

"***Ad Hoc Meeting***" has the meaning set forth in Paragraph 6 of Annex B to the Amended and Restated Research and Development Agreement.

"***Adjusted Capital Account Deficit***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Affected Member***" has the meaning set forth in Section 27 of the Investors LLC Agreement.

"***Affiliate***" means, with respect to any Person (i) any Person directly or indirectly controlling, controlled by or under common control with such Person, (ii) any officer, director, general partner, member or trustee of such Person, or (iii) any Person who is an officer, director, general partner, member or trustee of any Person described in clauses (i) or (ii) of this sentence. For purposes of this definition, the terms "controlling," "controlled by" or "under common control with" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person or entity, whether through the ownership of voting securities, by contract or otherwise, or the power to elect at least 50% of the directors, managers, general partners, or persons exercising similar authority with respect to such Person or entities.

"***Amended and Restated Research and Development Agreement***" means the Amended and Restated Research and Development Agreement dated as of June 9, 2005, among Exelixis, Holdings and Symphony Evolution.

"***Asset Value***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Auditors***" means an independent certified public accounting firm of recognized national standing.

"***A Warrant Date***" has the meaning set forth in Section 2.04 of the Warrant Purchase Agreement.

"***A Warrants***" has the meaning set forth in Section 2.01 of the Warrant Purchase Agreement.

"***A Warrant Shares***" has the meaning set forth in Section 2.01 of the Warrant Purchase Agreement.

"***Bankruptcy Code***" means the United States Bankruptcy Code.

"***Bloomberg***" means Bloomberg L.P., a multimedia based distributor of information services, including data and analysis for financial markets and businesses.

"***Bloomberg Screen***" means the display page designated on the Bloomberg service (or such other page as may replace that page on that service) for the purpose of displaying prices or bids of Exelixis Common Stock.

"***Business Day***" means any day other than Saturday, Sunday or any other day on which commercial banks in The City of New York or the City of San Francisco are authorized or required by law to remain closed.

"***B Warrants***" has the meaning set forth in Section 2.02 of the Warrant Purchase Agreement.

"***B Warrant Date***" has the meaning set forth in Section 2.02 of the Warrant Purchase Agreement.

"***B Warrant Shares***" has the meaning set forth in Section 2.05 of the Warrant Purchase Agreement.

"***Capital Contributions***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Capitalized Leases***" means all leases that have been or should be, in accordance with GAAP, recorded as capitalized leases.

"***Cash Available for Distribution***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Chair***" has the meaning set forth in Paragraph 4 of Annex B to the Amended and Restated Research and Development Agreement.

"***Change of Control***" means and includes the occurrence of any of the following events, but specifically excludes (i) acquisitions of capital stock directly from Exelixis for cash, whether in a public or private offering, (ii) sales of capital stock by stockholders of Exelixis, and (iii) acquisitions of capital stock by or from any employee benefit plan or related trust:

(a) the merger, reorganization or consolidation of Exelixis into or with another corporation or legal entity in which Exelixis' stockholders holding the right to vote with respect to matters generally immediately preceding such merger, reorganization or consolidation, own less than fifty percent (50%) of the voting securities of the surviving entity; or

(b) the sale of all or substantially all of Exelixis' assets or business.

"***Class A Member***" means a holder of a Class A Membership Interest.

"***Class A Membership Interest***" means a Class A Membership Interest in Holdings.

"***Class B Member***" means a holder of a Class B Membership Interest.

"***Class B Membership Interest***" means a Class B Membership Interest in Holdings.

"***Class C Member***" means a holder of a Class C Membership Interest.

"***Class C Membership Interest***" means a Class C Membership Interest in Holdings.

"***Class D Member***" means a holder of a Class D Membership Interest.

"***Class D Membership Interest***" means a Class D Membership Interest in Holdings.

"***Clinical Budget***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Clinical Plan***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Closing Date***" means June 9, 2005.

"***CMC***" means the chemistry, manufacturing and controls documentation as required for filings with Regulatory Authority relating to the manufacturing, production and testing of drug products.

"***Code***" means the Internal Revenue Code of 1986, as amended from time to time.

"***Committed* Capital**" means $80,000,000.00.

"***Common Stock***" means the common stock, par value $0.01 per share, of Symphony Evolution.

"***Company Expenses***" has the meaning set forth in Section 5.09 of the Holdings LLC Agreement.

"***Company Property***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Confidential Information***" has the meaning set forth in Section 2 of the Confidentiality Agreement.

"***Confidentiality Agreement***" means the Confidentiality Agreement, dated as of June 9, 2005, among Symphony Evolution, Holdings, Exelixis, each Symphony Fund, SCP, SSP, Investors, Symphony Capital, RRD and Daniel F. Hoth, M.D., Herbert J. Conrad, and Alastair J.J. Wood, M.D.

"***Conflict Transaction***" has the meaning set forth in Article IX of the Symphony Evolution Charter.

"***Control***" means, with respect to any material, information or intellectual property right, that a Party owns or has a license to such item or right, and has the ability to grant the other Party access, a license or a sublicense (as applicable) in or to such item or right as provided in the Operative Documents without violating the terms of any agreement or other arrangement with any third party.

"***C Warrants***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***C Warrant Date***" has the meaning set forth in Section 2.06 of the Warrant Purchase Agreement.

"***C Warrant Shares***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***Debt***" of any Person means, without duplication:

(a) all indebtedness of such Person for borrowed money,

(b) all obligations of such Person for the deferred purchase price of property or services (other than any portion of any trade payable obligation that shall not have remained unpaid for 91 days or more from the later of (A) the original due date of such portion and (B) the customary payment date in the industry and relevant market for such portion),

(c) all obligations of such Person evidenced by bonds, notes, debentures or other similar instruments,

(d) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (whether or not the rights and remedies of the seller or lender under such agreement in an event of default are limited to repossession or sale of such property),

(e) all Capitalized Leases to which such Person is a party,

(f) all obligations, contingent or otherwise, of such Person under acceptance, letter of credit or similar facilities,

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value any Equity Securities of such Person,

(h) the net amount of all financial obligations of such Person in respect of Hedge Agreements,

(i) the net amount of all other financial obligations of such Person under any contract or other agreement to which such Person is a party,

(j) all Debt of other Persons of the type described in clauses (a) through (i) above guaranteed, directly or indirectly, in any manner by such Person, or in effect guaranteed, directly or indirectly, by such Person through an agreement (A) to pay or purchase such Debt or to advance or supply funds for the payment or purchase of such Debt, (B) to purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Debt or to assure the holder of such Debt against loss, (C) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered) or (D) otherwise to assure a creditor against loss, and

(k) all Debt of the type described in clauses (a) through (i) above secured by (or for which the holder of such Debt has an existing right, contingent or otherwise, to be secured by) any Encumbrance on property (including accounts and contract rights) owned or held or used under lease or license by such Person, even though such Person has not assumed or become liable for payment of such Debt.

"***Development Budget***" means the budget for the implementation of the Development Plan that is agreed upon by Exelixis and Symphony Evolution as of the Effective Date, as may be revised from time to time in accordance with the Development Committee Charter and the Amended and Restated Research and Development Agreement.

"***Development Committee***" has the meaning set forth in Article 3 of the Amended and Restated Research and Development Agreement.

"***Development Committee Charter***" has the meaning set forth in Article 3 of the Amended and Restated Research and Development Agreement.

"***Development Committee Member***" has the meaning set forth in Paragraph 1 of Annex B to the Amended and Restated Research and Development Agreement.

"***Development Plan***" means the development plan, covering all the Programs, agreed to by Exelixis and Symphony Evolution as of the Effective Date, as may be revised from time to time in accordance with the Development Committee Charter and the Amended and Restated Research and Development Agreement.

"***Directors***" has the meaning set forth in the Preliminary Statement of the Indemnification Agreement.

"***Disclosing Party***" has the meaning set forth in Section 3 of the Confidentiality Agreement.

"***Discontinuation Closing Date***" means the date of Symphony's receipt of the Discontinuation Price.

"***Discontinuation Option***" has the meaning set forth in Section 11.2(a) of the Amended and Restated Research and Development Agreement.

"***Discontinuation Price***" has the meaning set forth in Section 11.2(a) of the Amended and Restated Research and Development Agreement.

"***Discontinued Program***" has the meaning set forth in Section 2.10 of the Novated and Restated Technology License Agreement.

"***Disinterested Directors***" has the meaning set forth in Article IX of the Symphony Evolution Charter.

"***Distribution***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Effective Date***" has the meaning set forth in the Novated and Restated Technology License Agreement.

"***Effective Registration Date***" has the meaning set forth in the Registration Rights Agreement

"***Encumbrance***" means (i) any security interest, pledge, mortgage, lien (statutory or other), charge or option to purchase, lease or otherwise acquire any interest, (ii) any adverse claim, restriction, covenant, title defect, hypothecation, assignment, deposit arrangement or other encumbrance of any kind, preference or priority, or (iii) any other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement).

"***Enhancements***" means findings, improvements, discoveries, inventions, additions, modifications, enhancements, derivative works, clinical development data, or changes to the Licensed Intellectual Property and Regulatory Files.

"***Equity Securities***" means, with respect to any Person, shares of capital stock of (or other ownership or profit interests in) such Person, warrants, options or other rights for the purchase or other acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or other acquisition from such Person of such shares (or such other interests), and other ownership or profit interests in such Person (including, without limitation, partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are authorized or otherwise existing on any date of determination.

"***ERISA***" means the United States Employee Retirement Income Security Act of 1974, as amended.

"***Exchange Act***" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"***Exelixis***" means Exelixis, Inc., a Delaware corporation.

"***Exelixis Common Stock***" means the common stock, par value $0.001 per share, of Exelixis.

"***Exelixis Common Stock Valuation***" has the meaning set forth in Section 2(e) of the Purchase Option Agreement.

"***Exelixis-GlaxoSmithKline Collaboration Committee***" means the committee established by Exelixis and GlaxoSmithKline pursuant to Section 2.2 of the GSK Agreement.

"***Exelixis Member***" has the meaning set forth in Section 2(c) of the Management Services Agreement.

"***Exelixis Obligations***" has the meaning set forth in Section 6.1 of the Amended and Restated Research and Development Agreement.

"***Exelixis Personnel***" has the meaning set forth in Section 8.4 of the Amended and Restated Research and Development Agreement.

"***Existing NDA***" has the meaning set forth in Section 2 of the Confidentiality Agreement.

"***Expert***" has the meaning set forth in Section 11.2(c) of the Amended and Restated Research and Development Agreement.

"***Extension Funding***" has the meaning set forth in Section 2 of the Research Cost Sharing and Extension Agreement.

"***External Directors***" has the meaning set forth in the preamble of the Confidentiality Agreement.

"***FDA***" means the United States Food and Drug Administration or its successor agency in the United States.

"***FDA Sponsor***" has the meaning set forth in Section 5.1 of the Amended and Restated Research and Development Agreement.

"***Final Purchase Price***" has the meaning set forth in Section 2(j)(ii) of the Purchase Option Agreement.

"***Financial Audits***" has the meaning set forth in Section 6.7 of the Amended and Restated Research and Development Agreement.

"***Financing***" has the meaning set forth in the Preliminary Statement of the Purchase Option Agreement.

"***Fiscal Year***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Form S-3***" means the Registration Form S-3 as defined under the Securities Act.

"***FTE"*** has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Funded Capital***" has the meaning set forth in Section 2.02(b) of the Warrant Purchase Agreement.

"***Funding Agreement***" means the Funding Agreement, dated June 9, 2005, among Exelixis, SCP and Investors.

"***Funding Notice***" has the meaning set forth in Section 2(a) of the Funding Agreement.

"***Funds Price***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***GAAP***" means generally accepted accounting principles in effect in the United States of America from time to time.

"***GlaxoSmithKline***" means SmithKline Beecham Corporation, a Pennsylvania corporation, doing business as GlaxoSmithKline.

"***Governmental Approvals***" means authorizations, consents, orders, declarations or approvals of, or filings with, or terminations or expirations of waiting periods imposed by any Governmental Authority.

"***Governmental Authority***" means any United States or non-United States federal, national, supranational, state, provincial, local, or similar government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body.

"***Governmental Order***" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"***GSK Agreement***" has the meaning set forth in Section 4.10 of the Novated and Restated Technology License Agreement.

"***Hedge Agreement***" means any interest rate swap, cap or collar agreement, interest rate future or option contract, currency swap agreement, currency future or option contract or other similar hedging agreement.

"***HHMI***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Holdings***" means Symphony Evolution Holdings LLC, a Delaware limited liability company.

"***Holdings Claims***" has the meaning set forth in Section 5.01 of the Warrant Purchase Agreement.

"***Holdings LLC Agreement***" means the Second Amended and Restated Limited Liability Company Agreement of Holdings dated June 9, 2005.

"***HSR Act Filings***" means the premerger notification and report forms required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"***IND***" means an Investigational New Drug Application, as described in 21 U.S.C. § 355(i)(1) and 21 C.F.R. § 312 in the regulations promulgated by the United States Food and Drug Administration, or any foreign equivalent thereof.

"***Indemnification Agreement***" means the Indemnification Agreement among Symphony Evolution and the Directors named therein, dated June 9, 2005.

"***Independent Accountant***" has the meaning set forth in Section 2(i)(ii) of the Purchase Option Agreement.

"***Initial Funds***" has the meaning set forth in Section 2(a) of the Funding Agreement.

"***Initial Holdings LLC Agreement***" means the Agreement of Limited Liability Company of Holdings, dated March 30, 2005.

"***Initial Investors LLC Agreement***" means the Agreement of Limited Liability Company of Investors, dated May 20, 2005.

"***Initial LLC Member***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Interest Certificate***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Interim Holdings LLC Agreement***" means the Amended and Restated Agreement of Limited Liability Company of Holdings, dated June 2, 2005.

"***Investment Company Act***" means the Investment Company Act of 1940, as amended.

"***Investment Overview***" means the investment overview describing the transactions entered into pursuant to the Operative Documents.

"***Investment Policy***" has the meaning set forth in Section 1(a)(viii) of the Management Services Agreement.

"***Investors***" means Symphony Evolution Investors LLC.

"***Investors LLC Agreement***" means Amended and Restated Agreement of Limited Liability Company of Investors dated June 9, 2005.

"***IRS***" means the U.S. Internal Revenue Service.

"***Knowledge***" means the actual (and not imputed) knowledge of the executive officers of Exelixis, without the duty of inquiry or investigation.

"***Law***" means any law, statute, treaty, constitution, regulation, rule, ordinance, order or Governmental Approval, or other governmental restriction, requirement or determination, of or by any Governmental Authority.

"***Ledger Fee***" has the meaning set forth in Section 6(b) of the Management Services Agreement.

"***License***" has the meaning set forth in the Preliminary Statement of the Purchase Option Agreement.

"***Licensed Intellectual Property***" means the Licensed Patent Rights, Symphony Evolution Enhancements, Licensor Enhancements and the Licensed Know-How.

"***Licensed Know-How***" means any and all proprietary technology (other than the University IP) that is [*]

"***Licensed Patent Rights***" means:[*]

"***Licensor***" means Exelixis.

"***Licensor Enhancements***" means [*]

"***Lien***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Liquidating Event***" has the meaning set forth in Section 8.01 of the Holdings LLC Agreement.

"***LLC Agreements***" means the Initial Holdings LLC Agreement, the Interim Holdings LLC Agreement, the Holdings LLC Agreement, the Initial Investors LLC Agreement and the Investors LLC Agreement.

"***Loss***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Management Budget***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Management Fee***" has the meaning set forth in Section 6(a) of the Management Services Agreement.

"***Management Plan***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Management Services***" has the meaning set forth in Section 1(a) of the Management Services Agreement.

"***Management Services Agreement***" means the Management Services Agreement between Symphony Evolution and RRD, dated as of June 9, 2005.

"***Manager***" means (i) for each LLC Agreement in which it appears, the meaning set forth in such LLC Agreement, and (ii) for each other Operative Document in which it appears, RRD.

"***Manager Event***" has the meaning set forth in Section 3.01(f) of the Holdings LLC Agreement.

"***Material Adverse Effect***" means, with respect to any Person, a material adverse effect on (i) the business, assets, property or condition (financial or otherwise) of such Person or, (ii) its ability to comply with and satisfy its respective agreements and obligations under the Operative Documents or, (iii) the enforceability of the obligations of such Person of any of the Operative Documents to which it is a party.

"***Material Change***" has the meaning set forth in Paragraph 12 of Annex B of the Amended and Restated Research and Development Agreement.

"***Material Contract***" has the meaning set forth in Section 3(j) of the Management Services Agreement.

"Material Subsidiary" means, at any time, a Subsidiary of Exelixis having assets in an amount equal to at least 5% of the amount of total consolidated assets of Exelixis and its Subsidiaries (determined as of the last day of the most recent fiscal quarter of Exelixis) or revenues or net income in an amount equal to at least 5% of the amount of total consolidated revenues or net income of Exelixis and its Subsidiaries for the 12-month period ending on the last day of the most recent fiscal quarter of Exelixis.

"***Maximum Committed Capital***" has the meaning set forth in Section 2.02(b) of the Warrant Purchase Agreement.

"***Medical Discontinuation Event***" means (a) as specified in each Protocol, those data that, if collected in such Protocol, demonstrate that such Protocol should not be continued or (b) a series of adverse events, side effects or other undesirable outcomes that, when collected in a Protocol, would cause a reasonable FDA Sponsor to discontinue such Protocol.

"***Membership Interest***" means (i) for each LLC Agreement in which it appears, the meaning set forth in such LLC Agreement, and (ii) for each other Operative Document in which it appears, the meaning set forth in the Holdings LLC Agreement.

"***NASDAQ***" means the National Association of Securities Dealers Automatic Quotation System.

"***NDA***" means a New Drug Application, as defined in the regulations promulgated by the United States Food and Drug Administration, or any foreign equivalent thereof.

"***Net Debt***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***Non-Exelixis Capital Transaction***" means any (i) sale or other disposition of all or part of the Symphony Evolution Shares or all or substantially all of the operating assets of Symphony Evolution, to a Person other than Exelixis or an Affiliate of Exelixis or (ii) distribution in kind of the Symphony Evolution Shares following the expiration of the Purchase Option.

"***Novated and Restated Technology License Agreement***" means the Novated and Restated Technology License Agreement, dated as of June 9, 2005, among Exelixis, Symphony Evolution and Holdings.

"***Operative Documents***" means, collectively, the Indemnification Agreement, the Holdings LLC Agreement, the Purchase Option Agreement, the Warrant Purchase Agreement, the Registration Rights Agreement, the Subscription Agreement, the Technology License Agreement, the Novated and Restated Technology License Agreement, the Management Services Agreement, the Research and Development Agreement, the Amended and Restated Research and Development Agreement, the Research Cost Sharing and Extension Agreement, the Confidentiality Agreement, the Funding Agreement and each other certificate and agreement executed in connection with any of the foregoing documents.

"***Organizational Documents***" means any certificates or articles of incorporation or formation, partnership agreements, trust instruments, bylaws or other governing documents.

"***Parties***" means, for each Operative Document or other agreement in which it appears, the parties to such Operative Document or other agreement, as set forth therein (each a "***Party***"). With respect to any agreement in which a provision is included therein by reference to a provision in another agreement, the term "Party" shall be read to refer to the parties to the document at hand, not the agreement that is referenced.

"***Payment Terms***" has the meaning set forth in Section 8.2 of the Amended and Restated Research and Development Agreement.

"***Percentage***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Permitted Investments***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Permitted Investments Letter***" means the Permitted Investments Letter dated as of June 9, 2005, from Symphony Evolution to RRD, as set forth in Exhibit B to the Management Services Agreement.

"***Permitted Lien***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Person***" means any individual, partnership (whether general or limited), limited liability company, corporation, trust, estate, association, nominee or other entity.

"***Personnel***" of a Party means such Party, its employees, subcontractors, consultants, representatives and agents.

"Prime Rate" means the quoted "Prime Rate" at JPMorgan Chase Bank or, if such bank ceases to exist or is not quoting a base rate, prime rate reference rate or similar rate for United States dollar loans, such other major money center commercial bank in New York City selected by the Manager.

"***Product***" means any product that contains or comprises XL647, XL784 or XL999 or any Structurally Related Compound thereof.

"***Profit***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Program Option***" has the meaning set forth in Section 11.1(a) of the Amended and Restated Research and Development Agreement.

"***Program Option Closing Date***" has the meaning set forth in Section 11.1(d) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Date***" has the meaning set forth in Section 11.1(b) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Notice***" has the meaning set forth in Section 11.1(b) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Price***" has the meaning set forth in Section 11.1(c) of the Amended and Restated Research and Development Agreement.

"***Program Option Period***" has the meaning set forth in Section 11.1(a) of the Amended and Restated Research and Development Agreement.

"***Programs***" means those certain clinical programs pursuing indications for XL647, XL784, and XL999 in accordance with the Development Plan (each a "***Program***").

"Protocol" means a written protocol that meets the substantive requirements of Section 6 of the ICH Guideline for Good Clinical Practice as adopted by the FDA, effective May 9, 1997 and is included within the Clinical Plan or later modified or added to the Clinical Plan pursuant to Section 4.2 of the Amended and Restated Research and Development Agreement.

"***Public Companies***" has the meaning set forth in Section 5(e) of the Purchase Option Agreement.

"***Purchase Option***" has the meaning set forth in Section 1(a) of the Purchase Option Agreement.

"***Purchase Option Agreement***" means this Purchase Option Agreement dated as of June 9, 2005, among Exelixis, Holdings and Symphony Evolution.

"***Purchase Option Closing Date***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Dispute Notice***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***Purchase Option Exercise Date***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Exercise Notice***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Period***" has the meaning set forth in Section 1(c)(iii) of the Purchase Option Agreement.

"***Purchase Price***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***QA Audits***" has the meaning set forth in Section 6.6 of the Amended and Restated Research and Development Agreement.

"***Quarterly Meeting***" has the meaning set forth in Paragraph 6 of Annex B of the Amended and Restated Research and Development Agreement.

"***Regents***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Regents Agreement***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Regents Claims***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Regents Indemnitees***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Regents Technology***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Registration Rights Agreement***" means the Registration Rights Agreement dated as of the Closing Date, between Exelixis and Holdings.

"***Registration Statement***" has the meaning set forth in Section 1(b) of the Registration Rights Agreement.

"***Regulatory Authority***" means the United States Food and Drug Administration, or any successor agency in the United States, or any health regulatory authority(ies) in any other country that is a counterpart to the FDA and has responsibility for granting registrations or other regulatory approval for the marketing, manufacture, storage, sale or use of drugs in such other country.

"***Regulatory Allocation***" has the meaning set forth in Section 3.06 of the Holdings LLC Agreement.

"***Regulatory Files***" means any IND, NDA or any other filings filed with any Regulatory Authority with respect to XL647, XL784, XL999 or the Programs.

"***Removed Director***" has the meaning set forth in Section 3.01(h)(i) of the Holdings LLC Agreement.

"***Representative***" of any Person means such Person's shareholders, principals, directors, officers, employees, members, managers and/or partners.

"***Research and Development Agreement***" means the Research and Development Agreement dated as of June 9, 2005, between Exelixis and Holdings.

"***Research Cost Sharing and Extension Agreement***" means the Research Cost Sharing and Extension Agreement dated as of June 9, 2005, between Exelixis, Holdings, and Symphony Evolution.

"***RRD***" means RRD International, LLC, a Delaware limited liability company.

"***RRD Indemnified Party***" has the meaning set forth in Section 10(a)(i) of the Management Services Agreement.

"***RRD Loss***" has the meaning set forth in Section 10(a)(i) of the Management Services Agreement.

"***Schedule K-1***" has the meaning set forth in Section 9.02(a) of the Holdings LLC Agreement.

"***Scientific Discontinuation Event***" has the meaning set forth in Section 4.2(f) of the Amended and Restated Research and Development Agreement.

"***SCP***" means Symphony Capital Partners, L.P., a Delaware limited partnership.

"***SEC***" means the United States Securities and Exchange Commission.

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

"***Shareholder***" means any Person who owns any Symphony Evolution Shares.

"***Solvent***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***SSP***" means Symphony Strategic Partners, LLC, a Delaware limited liability company.

"***Stock Payment Date***" has the meaning set forth in Section 2 of the Subscription Agreement.

"***Stock Purchase Price***" has the meaning set forth in Section 2 of the Subscription Agreement.

"***Structurally Related Compound***" means:

(a) with respect to XL647, any compound that is [*]

(b) with respect to XL784, any compound that is [*]

(c) with respect to XL999, any compound that is [*]

"***Subcontracting Agreement***" has the meaning set forth in Section 6.3 of the Amended and Restated Research and Development Agreement.

"***Subcontractor***" has the meaning set forth in Section 6.3 of the Amended and Restated Research and Development Agreement.

"***Subscription Agreement***" means the Subscription Agreement between Symphony Evolution and Holdings, dated as of June 9, 2005.

"***Subsidiary***" of any Person means any corporation, partnership, joint venture, limited liability company, trust or estate of which (or in which) more than 50% of (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency); (b) the interest in the capital or profits of such partnership, joint venture or limited liability company; or (c) the beneficial interest in such trust or estate is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person's other Subsidiaries.

"***Surviving* Entity**" means the surviving legal entity which is surviving entity to Exelixis after giving effect to a Change of Control.

"***Symphony Capital***" means Symphony Capital LLC, a Delaware limited liability company.

"***Symphony Evolution***" means Symphony Evolution, Inc., a Delaware corporation.

"***Symphony Evolution Board***" means the Symphony Evolution board of directors.

"***Symphony Evolution By-laws***" means the By-laws of Symphony Evolution, as adopted by resolution of the Symphony Evolution Board on June 9, 2005.

"***Symphony Evolution Charter***" means the Amended and Restated Certificate of Incorporation of Symphony Evolution, dated as of June 9, 2005.

"***Symphony Evolution Director Event***" has the meaning set forth in Section 3.01(h)(i) of the Holdings LLC Agreement.

"Symphony Evolution Enhancements" means [*]

"***Symphony Evolution Equity Securities***" means the Common Stock and any other stock or shares issued by Symphony Evolution.

"***Symphony Evolution Loss***" has the meaning set forth in Section 10(b) of the Management Services Agreement.

"***Symphony Evolution Securities Encumbrance***" has the meaning set forth in Section 4(b)(ii) of the Purchase Option Agreement.

"***Symphony Evolution Shares***" has the meaning set forth in Section 2.02 of the Holdings LLC Agreement.

"***Symphony Funds***" means Symphony Capital Partners, L.P., a Delaware limited partnership, and Symphony Strategic Partners, LLC, a Delaware limited liability company (each a "***Symphony Fund***").

"***Symphony Member***" has the meaning set forth in Section 4.2(d) of the Amended and Restated Research and Development Agreement.

"***Tangible Materials***" means [*].

"***Tax Amount***" has the meaning set forth in Section 4.02 of the Holdings LLC Agreement.

"***Technology License Agreement***" means the Technology License Agreement, dated as of June 9, 2005, between Exelixis and Holdings.

"***Term***" means the period starting on the Closing Date and ending upon the termination or expiration of the Purchase Option Period.

"***Territory***" means the world.

"***Third Party IP***" has the meaning set forth in Section 2.9 of the Novated and Restated Technology License Agreement.

"***Third Party Licensor***" means (a) a third party from which Exelixis has received a license or sublicense to Licensed Intellectual Property or (b) a third party to which Exelixis has granted a license or sublicense to the Licensed Intellectual Property. As of the Closing Date, GlaxoSmithKline is the only Third Party Licensor.

"***Transfer***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Transferee***" has, for each Operative Document in which it appears, the meaning set forth in such Operative Document.

"***University Agreements***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***University IP***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Voluntary Bankruptcy***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Warrant Closing***" has the meaning set forth in Section 2.07 of the Warrant Purchase Agreement.

"***Warrant Date***" has the meaning set forth in Section 2.06 of the Warrant Purchase Agreement.

"***Warrant Purchase Agreement***" means the Warrant Purchase Agreement dated as of the Closing Date, between Exelixis and Holdings.

"***Warrants***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***Warrant Share Legend***" has the meaning set forth in Section 6.02 of the Warrant Purchase Agreement.

"***Warrant Shares***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***XL647***" means: [*]

"***XL784***" means: [*]

"***XL999***" means: [*]

"***Yale***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Yale Agreement***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Yale Claims***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Yale Indemnitees***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Yale Technology***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

ANNEX B

PATENTS INCLUDED IN LICENSED PATENT RIGHTS

[*]

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

ANNEX C

SUBLICENSE TERMS

[*]

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

Exhibit 10.5

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

EXECUTION COPY

AMENDED AND RESTATED
RESEARCH AND DEVELOPMENT AGREEMENT

among

EXELIXIS, INC.,

SYMPHONY EVOLUTION HOLDINGS LLC,

and

SYMPHONY EVOLUTION, INC.

Dated as of June 9, 2005

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AMENDED AND RESTATED
RESEARCH AND DEVELOPMENT AGREEMENT

This AMENDED AND RESTATED RESEARCH AND DEVELOPMENT AGREEMENT (this "***Agreement***") is entered into as of June 9, 2005 (the "***Effective Date***") by and among EXELIXIS, INC., a Delaware corporation ("***Exelixis***"), SYMPHONY EVOLUTION, INC., a Delaware corporation ("***Symphony Evolution***") (each of Exelixis and Symphony Evolution being a "***Party***," and collectively, the "***Parties***"), and SYMPHONY EVOLUTION HOLDINGS LLC, a Delaware limited liability company ("***Holdings***") (which shall be a Party to this Agreement solely with respect to Article 1 and Section 7.5). Capitalized terms used herein and not defined herein shall have the meanings assigned to such terms in Annex A attached hereto.

PRELIMINARY STATEMENT

Exelixis and Holdings have entered into that certain Research and Development Agreement, dated as of June 9, 2005 (the "***Research and Development Agreement***"). Pursuant to this Agreement, Holdings desires to assign all of its rights and delegate its obligations under the Research and Development Agreement to Symphony Evolution, and Exelixis and Symphony Evolution desire to amend and restate the terms and conditions of the Research and Development Agreement.

In the Novated and Restated Technology License Agreement, Exelixis grants Symphony Evolution an exclusive license to develop and commercialize certain compounds. Symphony Evolution wishes for Exelixis to continue to develop such compounds. Symphony Evolution and Exelixis desire to establish, and agree on the responsibilities of, a Development Committee to oversee such development. Exelixis and Symphony Evolution further desire to comply with and perform certain agreements and obligations related thereto.

The Parties hereto agree as follows:

1. **Assignment.** The Parties agree that from and after the Effective Date, all of the rights and obligations of Holdings under the Research and Development Agreement will be assigned and transferred to, and assumed by, Symphony Evolution.

2. **Overview of the Development.** The Parties shall develop the Programs in a collaborative and efficient manner. The Parties shall engage in joint decision-making for the Programs as set forth in Articles 3 and 4. As between the Parties, Exelixis shall be the sole Party performing pre-clinical and clinical development, all scientific and technical services associated with such development, and patent work under the Programs, including all matters set forth in the Clinical Plan, and Symphony Evolution shall be responsible for all matters set forth in the Management Plan.

3. **Development Committee.** The Parties shall establish and maintain a committee (the "***Development Committee***") to oversee the development of the Programs. The Development Committee shall be established, operated and governed in accordance with

the policies and procedures set forth in Annex B hereto (the "***Development Committee Charter***"). The Development Committee Charter may only be amended with the consent of the Development Committee and the approval of Symphony Evolution and Exelixis. In no event shall the Development Committee have the power to amend the terms of any Operative Documents.

4. Development Plan and Development Budget.

4.1 Generally. The Parties have agreed to a Development Plan and Development Budget as of the Effective Date, which are attached hereto and incorporated herein as Annex C and Annex D, respectively. Such Development Plan consists of two (2) plans: (a) a plan that governs all clinical, scientific, technical, regulatory and patent work to be performed under the Operative Documents (the "***Clinical Plan***"), and (b) a plan that governs all other matters pertaining to Symphony Evolution (the "***Management Plan***"). The Clinical Plan includes without limitation (i) an outline of the clinical plan for each Program, (ii) all available Protocols for each Program, (iii) detailed synopses for each Program for which Protocols have not yet been developed, and (iv) outlines of non-clinical activities, key regulatory and quality activities, and CMC activities for each Program. The Development Budget consists of a budget for the Clinical Plan (the "***Clinical Budget***") and a budget for the Management Plan (the "***Management Budget***"). The Clinical Budget is further divided into a separate budget for each Protocol, and shall include without limitation budget spreadsheets summarizing anticipated costs of engaging third party service providers for such Protocol and scope of Protocol-related work to be performed by such third parties. Notwithstanding the foregoing, the number of full-time equivalents ("***FTEs***") to be dedicated to the Programs by Exelixis shall be specified in the Clinical Budget, by function and work responsibilities, on a Program by Program basis. All anticipated or actual expenditures of Symphony Evolution, including without limitation, compensation of members of the Symphony Evolution Board, are included in the Development Budget attached hereto as Annex D and will be continue to be included in any amendments thereof.

4.2 Amendments.

(a) Subject to Sections 5.1 and 8.3, all amendments of and, subject to Sections 5.1, 6.2 and 8.3, all deviations from the Development Plan and Development Budget shall be made in accordance with the procedures described in this Article 4 or the Management Services Agreement, as applicable, and the Development Committee Charter, including obtaining the approval of the Symphony Evolution Board.

(b) The Development Committee shall review the Development Plan and Development Budget **[*]** to determine whether any changes are needed and shall comply with all procedures required to amend the Development Plan or Development Budget to implement such changes.

(c) Notwithstanding anything in this Agreement to the contrary, if Exelixis desires to: (i) add a Protocol for which there is no detailed synopsis in the Clinical Plan; (ii) adopt a Protocol which materially deviates from its corresponding synopsis in the Clinical Plan; (iii) eliminate a Protocol (including for a Medical Discontinuation Event); (iv) pursue a new

indication for a Program; (v) make any material change to the non-clinical activities or CMC activities described in the Program outlines; (vi) make any change in a Protocol that, based on Exelixis' reasonable judgment, would result in a delay of more than **[*]** in the completion of a Protocol; (vii) make any material change in the entry criteria for a Protocol; (viii) make any change to the primary study endpoint of a Protocol; or (ix) make any change to other endpoints or outcome measures of a Protocol that, based on Exelixis' reasonable judgment, is likely to materially affect the label, cost, feasibility or timeline of such Protocol, then it shall propose to the Development Committee that the Clinical Plan and, if applicable, the Clinical Budget be amended to reflect such change; provided, however that with respect to the adoption of a Protocol that materially deviates from its corresponding detailed synopsis, the Clinical Plan need only be amended to account for such material deviations. Subject to Section 4.3, Exelixis shall not implement any of the changes described in this Section 4.2(c) until the Clinical Plan and, if applicable, Clinical Budget are so amended.

(d) The Clinical Budget shall be periodically amended to account for any additional expenditures approved by a Development Committee Member appointed by Symphony Evolution ("***Symphony Member***") in accordance with Section 8.3(b). If the Symphony Member denies an Exelixis additional expenditure request made pursuant to Section 8.3(b), the Development Committee shall convene an Ad Hoc Meeting as soon as practical thereafter to consider amending the Clinical Budget to include such additional expenditure.

(e) If Exelixis brings to the Development Committee's attention a potential additional expenditure pursuant to Section 8.3(c), the Development Committee shall consider amending the Clinical Budget to include such additional expenditure at the next meeting of the Development Committee.

(f) A Protocol may only be discontinued or abandoned in the event that either (i) (A) a Medical Discontinuation Event arises in such Protocol or (B) the Parties mutually agree, based on scientific evidence (regardless of whether such evidence was generated by a Party or a third party), that **[*]** (a "***Scientific Discontinuation Event***"), or (ii) the Symphony Board, by unanimous vote, resolves to discontinue or abandon a Protocol. The Development Committee shall promptly thereafter amend the Clinical Plan to reflect such discontinuation or abandonment and amend the Clinical Budget to reallocate to any or all of the remaining Protocols the funds previously allocated to the discontinued or abandoned Protocol (with any funds not then allocated to another Protocol to be held for reallocation by the Development Committee at another time).

(g) A Program may only be discontinued or abandoned in the event that either (i) the Parties mutually agree to discontinue or abandon such Program based on a Medical Discontinuation Event or Scientific Discontinuation Event that arose in a Protocol in such Program, or (ii) the Symphony Board, by unanimous vote, resolves to discontinue or abandon such Program. The Development Committee shall promptly thereafter amend the Clinical Plan to reflect such discontinuation or abandonment and amend the Clinical Budget to reallocate to any or all of the remaining Programs the funds previously allocated to the discontinued or abandoned Program (with any funds not then allocated to be held for reallocation by the Development Committee at another time).

(h) The Parties acknowledge that Exelixis has diligence obligations to GlaxoSmithKline with respect to the Products and Programs. To assure Exelixis' fulfillment of such obligations, the activities set forth in the Clinical Plan (including any and all amendments thereto) shall always involve **[*]** develop Products. Such efforts shall include but not be limited to **[*]** such Product.

(i) The Clinical Plan shall never be amended in any manner that would require Exelixis or Symphony Evolution to perform any assignments or tasks in a manner that would violate any applicable law or regulation. In the event of a change in any applicable law or regulation, the Development Committee shall consider amending the Clinical Plan to enable Exelixis or Symphony Evolution (as the case may be) to comply fully with such law or regulation. If the Development Committee does not approve such an amendment, the affected Party shall be excused from performing any activity specified in the Clinical Plan that would violate or result in a violation of any applicable law or regulation.

4.3 Exelixis Funded Research. Each of Symphony Evolution and Exelixis hereby agrees that, until the end of the Term, Exelixis, using commercially reasonable methods, may expend its own funds to extend, increase, or otherwise modify, outside the scope of the Clinical Plan, the trials and development activities run by Exelixis, subject to the approval of the Development Committee (which approval shall not be withheld unless the Development Committee determines in good faith that such changes would have a material adverse effect on the development of the Program). Such additional Exelixis-supplied funds shall not be included in the calculations used to determine the Program Option Exercise Price (pursuant to Section 11.1 hereof) or the Purchase Price (pursuant to Section 2(b) of the Purchase Option Agreement). Exelixis agrees that the results of such research and development shall immediately become part of the Licensed Intellectual Property and shall thereafter be subject to the terms of the Operative Documents. Exelixis' rights pursuant to this Section 4.3 are in addition to, and separate from, its rights pursuant to Sections 8.3(b) and 8.3(c).

5. Regulatory Matters.

5.1 FDA Sponsor. Notwithstanding any governance provision contained herein or in any Operative Document, the Parties agree that, until the expiration of the unexercised Purchase Option, Exelixis shall be the FDA Sponsor for the Programs (except any Programs which were the subject of a Discontinuation Option that was not exercised by Exelixis). Exelixis shall have the responsibility and the authority to act as the sponsor and make those decisions and take all actions necessary to assure compliance with all regulatory requirements. Exelixis agrees to be bound by, and perform all obligations set forth in, 21 C.F.R. § 312 related to its role as the FDA sponsor for the Programs (the "***FDA Sponsor***"). Notwithstanding anything to the contrary in Article 4 or the Development Committee Charter, Exelixis may discontinue or modify any Program without the approval of the Development Committee or the Symphony Evolution Board in the event such actions are: (a) triggered by an event that is reportable to the FDA; and (b) reasonably necessary to avoid the imposition of criminal or civil liability.

5.2 Correspondence. Each Party hereto acknowledges that Exelixis shall be the Party responding to any regulatory correspondence or inquiry. However, each Party shall: (a) notify the other Parties promptly of any FDA or other governmental or regulatory inspection or

inquiry concerning any study or project under the Programs, including, but not limited to, inspections of investigational sites or laboratories; and (b) forward to the other Parties copies of any correspondence from any regulatory or governmental agency relating to such a study or project, including, but not limited to, Form FD-483 notices and FDA refusal to file, action or warning letters, even if they do not specifically mention the other Parties. Symphony Evolution shall obtain the written consent of Exelixis, which consent will not be unreasonably withheld, before referring to Exelixis or its Affiliates in any regulatory correspondence, except to the extent that such reference is required by law or simply refers to the existence of this Agreement or any of the other Operative Documents. Exelixis shall be the Party responsible for responding to or handling any FDA or regulatory inspection. Exelixis shall notify the Development Committee (i) within twenty-four (24) hours of the commencement of a clinical hold for any Protocol, and (ii) concurrently with its submission to the FDA of any IND safety reports for the Programs.

5.3 Inspections. Each Party agrees that during an inspection by the FDA or other Regulatory Authority concerning any study or project under the Programs, it will not disclose information and materials that are not required to be disclosed to such agency without the prior consent of the other Parties, which consent shall not be unreasonably withheld. Such information and materials include, but are not limited to, the following: (a) financial data and pricing data (including, but not limited to, the budget and payment schedule); (b) sales data (other than shipment data); and (c) personnel data (other than data as to qualification of technical and professional persons performing functions subject to regulatory requirements).

5.4 Transfer of FDA Sponsorship.

(a) Within a reasonable time after the expiration of the unexercised Purchase Option and as of a date to be agreed upon by Symphony Evolution and Exelixis, Exelixis shall cease to act as the FDA sponsor for the Programs for which Exelixis has not exercised the Program Option or Discontinuation Option, and Exelixis and Symphony Evolution shall, at Symphony Evolution's expense, take all actions necessary to effect the transfer of the Regulatory Files solely related to such Programs to Symphony Evolution or its designee in accordance with Section 2.7 of the Novated and Restated Technology License Agreement. In conjunction with such transfer, Exelixis shall assign to Symphony Evolution or its designee all of the material agreements to which Exelixis is a Party and which: (i) are related to such Programs; (ii) provide Exelixis with goods and services (clinical and manufacturing) from third party suppliers and subcontractors; and (iii) are assignable to Symphony Evolution or its designee. Exelixis shall use commercially reasonable efforts to cause the transfer of any non-assignable material agreements meeting the criteria set forth in (i) and (ii) above. Such efforts shall not include any obligation for Exelixis to incur any out-of-pocket costs in connection with such transfer.

(b) Upon the discontinuation or abandonment of any of the Protocols pursuant to Section 4.2(f), Exelixis shall have no further obligations with respect to such Protocols under the Operative Documents. Upon the discontinuation or abandonment of any of the Programs pursuant to Section 4.2(g), Exelixis shall have no further obligations with respect to such Programs under the Operative Documents. If such Programs are transferred or licensed to GlaxoSmithKline or a third party in accordance with Section 11.1(f) (such third party or GlaxoSmithKline, as applicable, the "***Transferee***"), then Exelixis shall cooperate with

Symphony Evolution and the Transferee to effect the assignment to the Transferee of the sponsorship to the Regulatory Files with respect to the Program for which Transferee has acquired rights; provided, however, that Exelixis shall not be obligated to take any action pursuant to this Section 5.4(b) for which it will not receive full reimbursement from Symphony Evolution or another party. The assignment of such Regulatory Files to the Transferee does not include an assignment of any Licensed Intellectual Property.

6. Exelixis' Obligations.

6.1 Generally. Exelixis will be responsible for all matters set forth in the Clinical Plan (collectively, the "***Exelixis Obligations***"). Each of the Parties agrees that Exelixis will work diligently and use commercially reasonable efforts to develop the Programs in a good scientific manner and, subject to Section 6.2 below, in accordance with the Clinical Plan, the Clinical Budget, and the terms of this Agreement.

6.2 Discretion. Exelixis shall have the right to use commercially reasonable discretion in carrying out the Exelixis Obligations including without limitation (a) carrying out day-to-day planning and implementation of activities under the Clinical Plan; (b) managing regulatory compliance matters, including adverse event reporting; (c) preparing and submitting all regulatory filings; (d) managing clinical research organizations engaged to carry out activities under the Clinical Plan; (e) managing the clinical trials that have been specified under the Clinical Plan; and (f) maintaining and managing its internal budget in accordance with established internal processes.

6.3 Subcontracting. Exelixis shall have the right to negotiate and enter into arms' length agreements with third parties (including without limitation clinical research organizations and contract manufacturers) for such third parties to perform activities called for or consistent with the Clinical Plan (each such third party, a "***Subcontractor***" and each such agreement, a "***Subcontracting Agreement***"). All such agreements entered into by Exelixis prior to the Closing Date (except for those master services agreements executed prior to the Closing Date that, only through the subsequent addition of a new work order, change order, project or the like after the Closing Date, become Subcontracting Agreements) are set forth in Schedule 6.3 and shall be deemed to be acceptable to the Parties in all respects. After the Closing Date, Exelixis shall obtain the approval of the Development Committee before (i) entering into any Subcontracting Agreement that (a) is not **[*]**, (b) is not **[*]**, or (c) **[*]** or (ii) amending any Subcontracting Agreement in a manner that would cause such agreement to satisfy the criteria set forth in (a), (b) or (c); provided, however, if Exelixis subcontracts any work under the Programs through submitting a work order, change order, or the like under an existing master services agreement with a third party (for the avoidance of doubt, such work order or change order shall then become a Subcontracting Agreement), Exelixis shall not be required to seek the approval from the Development Committee for the submission of such work order or change order or to amend such existing master services agreement unless (1) such work order or change order would alter the terms of an existing master services agreement that had not previously satisfied the criteria set forth in (a), (b) or (c) in a manner that causes such existing master services agreement to thereafter satisfy the criteria set forth in (a), (b) or (c), in which case Exelixis would obtain approval of the Development Committee for the submission of such work order or change order or (2) such amendment would take effect concurrently with or after the submission of a

work order or change for work under the Programs and would alter the terms of an existing master services agreement that had not previously satisfied the criteria set forth in (a), (b) or (c) in a manner that causes such existing master services agreement to thereafter satisfy the criteria set forth in (a), (b) or (c), in which case Exelixis would need to obtain approval of the Development Committee for the execution of such amendment. Exelixis need not obtain Development Committee approval prior to entering into or amending any other Subcontracting Agreement. Exelixis shall provide the Development Committee with a copy of each executed Subcontracting Agreement within **[*]** after its execution. The terms of each such agreement shall be deemed the Confidential Information of Exelixis and be subject to the rights and obligations set forth in the Confidentiality Agreement. Exelixis shall monitor the performance of its Subcontractors and shall use its reasonable discretion to address any Subcontractor performance issues, including without limitation, terminating or amending the relevant Subcontracting Agreement. Exelixis shall promptly notify the Development Committee with respect to any Subcontractor performance issues that may have a material effect on the Programs. Provided that Exelixis so informs the Development Committee and follows the Development Committee's reasonable advice regarding such issues, which may include terminating the Subcontracting Agreement or exercising other remedies, Exelixis shall not be considered in breach of this Agreement or the other Operative Documents in the event that it is unable to fulfill its obligations under this Agreement on account of a Subcontractor's failure to perform its obligations pursuant to a Subcontracting Agreement so long as Exelixis (a) exercised commercially reasonable efforts in supervising such Subcontractor, and (b) used commercially reasonable efforts to mitigate the effects of such failure or to replace such Subcontractor after learning of such Subcontractor's failure to perform.

6.4 Reports. Exelixis shall keep the Development Committee informed of its activities under the Clinical Plan through regular written reports. At each Quarterly Meeting of the Development Committee, Exelixis shall provide the Development Committee with a summary report of Exelixis' activities and developments with respect to the Programs for the preceding quarter. Each such summary report shall be consistent, in terms of topics covered and level of detail provided, with the quarterly report that Exelixis provides to the Exelixis-GlaxoSmithKline collaboration committee. Once a **[*]**, Exelixis shall provide the Development Committee with either (a) a written report that includes the information specified in the next sentence or (b) access to an Exelixis computer system that contains such information. Each **[*]** written report shall include: (i) a copy of each new Protocol being drafted by Exelixis; (ii) a copy of each standard clinical study progress report received by Exelixis during the preceding **[*]** from any of the clinical research organizations engaged by Exelixis pursuant to Subcontracting Agreements; (iii) updates regarding (A) **[*]**, and (B) **[*]**; (iv) a financial report, in the format agreed upon by the Parties, itemizing actual spending under the Clinical Plan as well as any variation from planned spending; and (v) if the budget related to a particular Program is altered to the extent that available funding for such Program no longer appears to be adequate to complete the Program, an updated budget forecast.

6.5 Staffing. Exelixis shall use commercially reasonable efforts to provide such sufficient and competent staff and Personnel (including, without limitation, such employees or agents of, or independent contractors retained by, Exelixis) that have the skill and expertise necessary to perform Exelixis' obligations under the Clinical Plan. Exelixis shall notify Symphony Evolution of any change in key personnel involved in the Programs.

6.6 QA Audit. During the Term, Exelixis will permit Symphony Evolution's representatives, such representatives to be identified by Symphony Evolution in advance and reasonably acceptable to Exelixis, to audit the work performed by Exelixis hereunder and the Exelixis facilities at which such work is conducted to determine that the project assignment is being conducted in accordance with the agreed upon services ("***QA Audits***"), which review will last no more than eight (8) hours during regular business hours and will take place no more than once per year unless (i) there are significant changes to Exelixis' Standard Operating Procedures, which may require additional QA Audits or (ii) the Development Committee determines additional QA Audits are necessary. Symphony Evolution shall give Exelixis reasonable advance notice of such QA Audits specifying the scope of the audit, which shall not include work that has previously undergone QA Audits. Symphony Evolution shall reimburse Exelixis for its time associated with QA Audits; provided, however, that should a particular QA Audit reveal a material deficiency in the work performed, then Symphony Evolution will not be responsible for costs associated with such QA Audit, the work to be re-performed or the costs or expenses associated with curing any material deficiencies. Symphony Evolution and Exelixis shall meet to discuss the results of the QA Audit and, if required, jointly agree upon any actions that will be required as a result of such audits including defining material deficiencies to be addressed. Exelixis shall make commercially reasonable efforts to reconcile all such deficiencies found by Symphony Evolution during such QA Audit.

6.7 Financial Audit. During the Term, Exelixis will permit Symphony Evolution's representatives, such representatives to be identified by Symphony Evolution in advance and reasonably acceptable to Exelixis, to verify Exelixis' receipts and FTE records that are related to Exelixis' performance of the work under the Programs ("***Financial Audits***"), which review shall be conducted during regular business hours and (i) last only as long as necessary to achieve the purpose of such Financial Audit and (ii) will take place no more than once per year, unless otherwise agreed to by the Parties. Symphony Evolution shall give Exelixis reasonable advance notice of such Financial Audits specifying the scope of the audit, which shall not include work that has previously undergone Financial Audits. Symphony Evolution shall reimburse Exelixis for its time associated with Financial Audits; provided, however, that should a particular Financial Audit reveal a material discrepancy between such financial records and the reports submitted by Exelixis to Symphony Evolution for reimbursement purposes, then Symphony Evolution will not be responsible for costs associated with such Financial Audit. Symphony Evolution and Exelixis shall meet to discuss the results of the Financial Audit and, if required, jointly agree upon any actions that will be required as a result of such audits including defining material discrepancies to be addressed. Exelixis shall make commercially reasonable efforts to reconcile all such discrepancies found by Symphony Evolution during such Financial Audit.

6.8 Insurance. Exelixis shall carry and maintain throughout the Term clinical trial liability insurance (including errors and omissions coverage and product coverage), at Exelixis' sole expense, with limits of at least **[*]**, and property insurance covering Products, at Exelixis' sole expense, with limits of at least **[*]**. Upon Symphony Evolution's request, Exelixis' insurance carrier(s) shall promptly furnish Symphony Evolution certificates reflecting such

coverage and a representation indicating that such coverage shall not be canceled or otherwise terminated during the Term without **[*]** prior written notice to Symphony Evolution. Notwithstanding anything to the contrary herein, this Section 6.8 shall survive for a period of **[*]** years following termination or expiration of this Agreement.

7. Symphony Evolution's Obligations.

7.1 Generally. Symphony Evolution will be responsible for all matters set forth in the Management Plan. Symphony Evolution shall perform all activities set forth in the Management Plan acting in a good faith and in accordance with the Management Plan, the Management Budget, and the terms of this Agreement.

7.2 Subcontracting. Symphony Evolution is subcontracting certain of its responsibilities under the Management Plan to RRD International, LLC ("***RRD***") pursuant to the Management Services Agreement between RRD and Symphony Evolution.

7.3 Insurance. Symphony Evolution shall maintain insurance with creditworthy insurance companies against such risks and in such amounts as are usually maintained or insured against by other companies of established repute engaged in the same or a similar business.

7.4 Staffing. Symphony Evolution shall use commercially reasonable efforts to provide, or cause to be provided on its behalf (including Personnel retained by RRD), sufficient and competent staff and Personnel that have the skill and expertise necessary to develop the Programs in accordance with the Management Plan and the Management Budget and to otherwise perform Symphony Evolution's obligations under this Agreement.

7.5 Audit. Symphony Evolution shall permit each of Exelixis, Holdings, Investors and each Symphony Fund and their duly authorized representatives at all reasonable hours to inspect (1) Symphony Evolution's books, records and other reasonably requested materials and (2) any and all properties of Symphony Evolution, and it shall provide to each of Exelixis, Holdings, Investors and each Symphony Fund all books, records and other materials related to any meeting of the Symphony Evolution Board and to permit Holdings, Investors and each Symphony Fund to make copies or extracts therefrom.

8. Funding and Payments.

8.1 Use of Proceeds. Symphony Evolution shall use any and all net proceeds received by Symphony Evolution as a result of the Financing for the sole purpose of the development of the Programs, including the payment of any indemnification obligations of Symphony Evolution under the Operative Documents and the payment of costs and expenses in accordance with the Development Plan and the Development Budget, as may be modified from time to time pursuant to Section 4.2 or deviated from in accordance with Section 8.3.

8.2 Reimbursement. Symphony Evolution shall compensate Exelixis fully for its planning, performance and supervision of Clinical Plan-associated activities. Such compensation shall be made in accordance with the provisions of this Article 8 and the payment terms attached hereto as Annex E (the "***Payment Terms***"), the terms of which are adopted and incorporated herein.

8.3 Budget Allocation and Deviations

(a) Exelixis shall have the discretion to incur out-of-pocket fees, expenses and costs and allocate Exelixis resources in a manner that is generally consistent with the Clinical Budget, including without limitation deviating from the specific allocations set forth in the Clinical Budget, except as otherwise provided in Sections 8.3(b) or 8.3(c) (as applicable). In addition, Exelixis shall amend the Clinical Budget accordingly in respect of any such fees, expenses, costs and allocations on a quarterly basis. Exelixis shall be fully compensated for all amounts to which Sections 8.3(b) and 8.3(c) do not apply and all amounts that are approved pursuant to Section 8.3(b) or are included in an amended Clinical Budget.

(b) If Exelixis reasonably anticipates that the actual cost for a Protocol will exceed that portion of the Clinical Budget allocated for such Protocol by **[*]** or more in the aggregate, then Exelixis shall contact a Symphony Member to request approval for such additional expenditure. Such Symphony Member shall approve or deny such request within **[*]** of the time when Exelixis speaks with such Symphony Member via telephone or in person. If such Symphony Member does not inform Exelixis of such approval or denial within such period, then such Symphony Member shall be deemed to have approved such additional expenditure. If, despite Exelixis' reasonable efforts to speak with a Symphony Member (which efforts shall include leaving voicemail and email messages for at least two (2) Symphony Members), Exelixis does not succeed in speaking with any Symphony Member within **[*]** after Exelixis initiated such efforts, such additional expenditure request shall be deemed approved by a Symphony Member unless any Symphony Member informs Exelixis, within **[*]** of the end of such **[*]** period, that such request has been denied. If the Symphony Member approves such additional expenditure, then Exelixis shall be reimbursed pursuant to Sections 8.2 and 8.3 for such additional expenditure. If the Symphony Member denies such request, then Exelixis may, in its discretion, (i) suspend performance of those incremental activities under the Clinical Plan that are expected to give rise to some or all of such additional expenditure until such time as the Clinical Budget is amended to include such additional expenditure or (ii) proceed with performance of those incremental activities under the Clinical Plan that are expected to give rise to some or all of such additional expenditure, with the understanding that if the Clinical Budget is not subsequently amended to include the entirety of such additional expenditures, then Exelixis may not be reimbursed for those resulting expenditures that exceed the Clinical Budget, and further that if the Clinical Budget is subsequently amended to include some or all of such additional expenditures, then Exelixis shall be reimbursed pursuant to Sections 8.2 and 8.3 for such additional expenditures included in the amended Clinical Budget. If Exelixis incurs expenditures as described in the preceding sentence for which it is not entitled to be reimbursed by Symphony Evolution pursuant to the preceding sentence, then none of such expenditures shall be included in the calculations used to determine the Program Option Exercise Price (pursuant to Section 11.1 hereof) or the Purchase Price (pursuant to Section 2(b) of the Purchase Option Agreement). Exelixis agrees that the results of any research and development that it funds pursuant to this Section 8.3(b) shall immediately become part of the Licensed Intellectual Property and shall thereafter be subject to the terms of the Operative Documents.

(c) If Exelixis reasonably anticipates that the actual cost in the aggregate of all other activities covered by the Clinical Budget but not included in those portions of the Clinical Budget allocated to particular Protocols specified in the Clinical Plan, such as CMC, non-clinical and regulatory activities, will exceed that portion of the Clinical Budget allocated for such activities by **[*]** or more in the aggregate, then Exelixis shall bring such potential additional expenditure to the attention of the Development Committee and Exelixis may, in its discretion, (i) suspend performance of those incremental activities under the Clinical Plan that are expected to give rise to some or all of such additional expenditure until such time as the Clinical Budget is amended to include such additional expenditure or (ii) proceed with performance of those incremental activities under the Clinical Plan that are expected to give rise to some or all of such additional expenditure, with the understanding that if the Clinical Budget is not subsequently amended to include the entirety of such additional expenditures, then Exelixis may not be reimbursed for those resulting expenditures that exceed the Clinical Budget, and further that if the Clinical Budget is subsequently amended to include some or all of such additional expenditures, then Exelixis shall be reimbursed pursuant to Sections 8.2 and 8.3 for such additional expenditures included in the amended Clinical Budget. If Exelixis incurs expenditures as described in the preceding sentence for which it is not entitled to be reimbursed by Symphony Evolution pursuant to the preceding sentence, then none of such expenditures shall be included in the calculations used to determine the Program Option Exercise Price (pursuant to Section 11.1 hereof) or the Purchase Price (pursuant to Section 2(b) of the Purchase Option Agreement). Exelixis agrees that the results of any research and development that it funds pursuant to this Section 8.3(c) shall immediately become part of the Licensed Intellectual Property and shall thereafter be subject to the terms of the Operative Documents.

(d) If the Clinical Budget is not amended to include any additional expenditure brought to the attention of the Development Committee pursuant to Section 8.3(b) or 8.3(c) and Exelixis does not elect to fund such additional expenditures, then the Development Committee shall recommend and the Symphony Evolution Board shall approve an amendment of the Clinical Plan that adjusts the scope of the work to that which can be reasonably accomplished within the constraints of the Clinical Budget. Under no circumstances shall Exelixis be obligated to incur out-of-pocket fees, expenses or costs or to utilize Exelixis resources in connection with its performance of the work under the Programs for which Exelixis will not be reimbursed by Symphony Evolution.

8.4 Employee Benefits. Symphony Evolution shall not be responsible for providing or paying any benefits (including, but not limited to, unemployment, disability, insurance, or medical, and any pension or profit sharing plans) to Exelixis or to any employees of Exelixis or any persons retained or used by Exelixis to perform activities pursuant to the Clinical Plan, including independent contractors, Subcontractors and agents (collectively, "***Exelixis Personnel***"). As to Exelixis or any Exelixis Personnel, Symphony Evolution shall not be responsible for: (a) any federal, state or local income tax withholding; (b) "FICA" contributions; (c) contributions to state disability funds or liability funds or similar withholdings; (d) payment of any overtime wages; (e) workers' compensation; or (f) compliance with any laws, rules or regulations governing employees. Exelixis agrees that, as between Symphony Evolution and Exelixis, Exelixis is and will continue to be solely responsible for: (i) all matters relating to the payment of compensation and provision of benefits to Exelixis Personnel; and (ii) compliance with all applicable laws, rules and regulations governing Exelixis' employees.

8.5 Taxes on Program Option, Discontinuation Option and Sale to Third Party. In the event of an exercise of the Program Option, an exercise of the Discontinuation Option or a sale of a discontinued or abandoned Program to GlaxoSmithKline or other third party, any and all corporate taxes required to be paid by Symphony Evolution as a result of the receipt of the proceeds of such Program Option, Discontinuation Option or sale to a third party shall be satisfied by Symphony Evolution from such proceeds of such Program Option, Discontinuation Option or sale, as applicable.

9. Covenants.

9.1 Mutual Covenants. Each of Exelixis and Symphony Evolution covenants and agrees that, with respect to the Programs and any other rights and obligations set forth in the Operative Documents, it shall:

(a) perform all of its obligations pursuant to this Agreement in material compliance with: (i) all applicable federal and state laws, statutes, rules, regulations and orders (including all applicable approval and qualification requirements thereunder), including, without limitation, the Federal Food, Drug and Cosmetic Act and the regulations promulgated pursuant thereto; (ii) all applicable good clinical practices and guidelines; (iii) all applicable standard operating procedures; (iv) all applicable Protocols; and (v) the provisions of this Agreement;

(b) keep complete, proper and separate books of record and account, including a record of all costs and expenses incurred, all charges made, all credits made and received, and all income derived in connection with the operation of its business, all in accordance with GAAP;

(c) not employ (or, to the best of its knowledge without further duty of inquiry, shall not use any contractor or consultant that employs) any individual or entity debarred by the FDA (or subject to a similar sanction of any other Regulatory Authority), or, to the best of its knowledge without further duty of inquiry, any individual who or entity which is the subject of an FDA debarment investigation or proceeding (or similar proceeding of any other Regulatory Authority), in the conduct of the Programs;

(d) promptly deliver to the other, upon receipt thereof, notice of all actions, suits, investigations, litigation and proceedings before any Governmental Authority, which would reasonably be expected to affect such Party's ability to perform its obligations under this Agreement;

(e) upon it receiving knowledge of a material event or development with respect to any Program, such Party shall notify the other Party in writing within **[*]** of the receipt of such knowledge by any executive officer of such Party, provided that the failure to provide such notice shall not impair or otherwise be deemed a waiver of any rights any Party may have arising from such material event. Furthermore, the provision of such notice of material event or development shall not be deemed an admission by the Party providing such notice of its breach of any of its covenants, representations or obligations under the Operative Documents; and

(f) with reasonable promptness, deliver to the other such data and information relating to the ability of such Person to perform its obligations hereunder as from time to time may be reasonably requested by the other (subject to the maintenance of the confidentiality of any such information by the receiving Party). For the avoidance of doubt, this Section 9.1(f) includes Exelixis' obligations to provide financial and other necessary information to Symphony Evolution and the Manager to enable Symphony Evolution to fulfill its obligations to Exelixis under Section 5(d) of the Purchase Option Agreement, and to enable the Manager to fulfill its obligations to Symphony Evolution and Exelixis under Sections 5(a) and 5(b) of the Management Services Agreement.

10. Confidentiality.

10.1 Confidentiality Agreement. It is understood that during the course of this Agreement each of the Parties shall be bound by the terms of the Confidentiality Agreement. In addition, the Parties' employees, subcontractors and agents shall be bound by terms substantially similar to the Confidentiality Agreement. The foregoing shall not be construed to require Exelixis to amend or supplement any of the agreements it entered into prior to the Closing Date, even if the confidentiality provisions in such agreements do not satisfy the foregoing requirement.

10.2 Permitted Disclosure of Information. The Parties agree that Exelixis shall have access to, and may use and disclose the Clinical Plan and any existing or newly generated data or intellectual property developed with respect to the Programs (i) to GlaxoSmithKline or the Exelixis-GlaxoSmithKline Collaboration Committee in accordance with the mutual agreements of Exelixis and GlaxoSmithKline, (ii) to obtain the assistance of one or more third parties to develop and/or commercialize the Programs subject to the terms of this Agreement, the other Operative Documents and appropriate confidentiality agreements pursuant to Section 10.1 or as approved by Symphony Evolution, and (iii) through press releases, public presentations or other appropriate public disclosures; provided that all such disclosure under this Section 10.2 shall be subject to the terms of the Confidentiality Agreement.

11. Options and Licensing.

11.1 Program Option.

(a) In consideration for entering into the Operative Documents to which both Exelixis and Symphony Evolution are parties, Symphony Evolution hereby grants Exelixis an exclusive option (the "***Program Option***") to purchase the rights to one Program at any time during the period (the "***Program Option Period***") after Exelixis has, by itself or through its subcontractor(s), **[*]** and before the earlier of (A) the termination of the Term, and (B) the eighteenth (18th) month anniversary of the Closing Date, in accordance with this Section 11.1.

(b) Exelixis may exercise the Program Option by delivery of a written notice (the "***Program Option Exercise Notice***") during the Program Option Period. The Program

Option Exercise Notice shall be delivered on a Business Day to Holdings and Symphony Evolution and shall be irrevocable once delivered. The date on which the Program Option Exercise Notice is first delivered to Holdings and Symphony Evolution is referred to as the "***Program Option Exercise Date***." The Program Option Exercise Notice shall specify a closing date for the settlement of the Program Option, which date shall not be less than **[*]**s after the Program Option Exercise Date.

(c) The exercise price (the "***Program Option Exercise Price***") shall be an amount equal to the sum of (A) **[*]**, plus (B) an amount equal to **[*]**, provided that such return thereon shall be calculated starting from **[*]** and through the Program Option Closing Date. In the event that, subsequent to its exercise of the Program Option, Exelixis exercises the Purchase Option under the Purchase Option Agreement, the Purchase Option Exercise Price shall be reduced by an amount equal to the Program Option Exercise Price.

(d) The entire amount of the Program Option Exercise Price shall be paid in cash on the date specified in the Program Option Exercise Notice (the "***Program Option Closing Date***").

(e) Promptly after the Program Option Closing Date, the Parties hereby agree to amend the Novated and Restated Technology License Agreement and such other Operative Documents as may be required to reflect that the Licensed Intellectual Property related to the applicable Program shall thereafter be the sole and exclusive property of Exelixis or its assignee or licensee.

(f) Within a reasonable time after the Program Option Closing Date, Symphony Evolution shall transfer and deliver to Exelixis any and all materials, documents, files and other information relating to the applicable compound and Product (or, where necessary, copies thereof if such materials, documents, files or other information also relate to Programs (including compounds and Products) that are not the subject of the Program Option), including without limitation any and all administrative files relating to the applicable compound and Product, and, to the extent applicable, any and all clinical and protocol results, analytical methodologies, bulk and final product manufacturing processes, batch records, vendor information, validation documentation, regulatory documentation, patent information, regulatory filings, transfer of information related to regulatory information and filings, pre-clinical and clinical data, adverse event data, regulatory correspondence, analyses, and manufacturing data.

(g) In the event that, following the Program Option Closing Date, either Party objects to the calculation of the portion of the Funded Capital expended on the development of the applicable Program as of the Program Option Closing Date used to determine the final Program Option Exercise Price (the "***Program Funding***"), then, within **[*]** of the Program Option Closing Date, such objecting party shall provide written notice to the other party (a "***Program Purchase Price Dispute Notice***") specifying the amount disputed and the basis for the dispute, together with supporting documentation reflecting the analysis of and justification for any re-computation made. In the event that a Program Purchase Price Dispute Notice is issued by either party, such dispute shall be resolved in accordance with the terms of Section 11.1(h). The Program Option Exercise Price shall be final, binding and conclusive, shall be non-appealable and shall not be subject to further review if the disputing party does not deliver a

Program Purchase Price Dispute Notice within such **[*]** period. For the avoidance of doubt, nothing in this Section 11.1(g) shall restrict or delay the Parties' performance of those activities identified in this Agreement or the Novated and Restated Technology License Agreement as taking place following the exercise of the Program Option.

(h) Program Option Exercise Price Adjustment.

(i) In the event that either Party delivers to the other a Program Purchase Price Dispute Notice within the time limit set forth in Section 11.1(g), then both Parties shall make good faith efforts to resolve any dispute relating to the calculation of the Program Funding through negotiations for a period of **[*]** following the date on which a Program Purchase Price Dispute Notice is delivered. If the Parties agree on the calculation of the Program Funding (or a revision thereto) before or within such **[*]** period, or the calculation of the Program Option Exercise Price becomes final pursuant to Section 11.1(g), and (x) the recalculated Program Funding results in a recalculated Program Option Exercise Price (including as revised through negotiations) that is less than the Program Option Exercise Price paid on the Program Option Closing Date, then Symphony Evolution shall promptly, and in any event within **[*]** of the date on which the Program Option Exercise Price recalculation becomes final, pay to Exelixis the amount by which the recalculated Program Option Exercise Price is less than Program Option Exercise Price paid on the Program Option Closing Date, or (y) the recalculated Program Funding results in a recalculated Program Option Exercise Price (including as revised through negotiations) that is greater than the Program Option Exercise Price paid on the Program Option Closing Date, then Exelixis shall promptly, and in any event within **[*]** of the date on which the recalculated Program Option Exercise Price becomes final, pay to Symphony Evolution the amount by which the recalculated Program Option Exercise Price is greater than the Program Option Exercise Price paid on the Program Option Closing Date. In the event that neither of the conditions set forth in the previous clauses (x) and (y) exist, then no payment shall be made.

(ii) To the extent that any matter remains unresolved following negotiations during such **[*]** period (as determined by notice by any party to the other party), the Parties shall jointly select an independent accountant of recognized national standing to resolve any remaining disagreements, which independent accountant shall not have provided services to either of the Parties or any of their respective Affiliates during the five-year period preceding the date of its selection (the "***Independent Accountant***"). The Parties shall use their respective commercially reasonable efforts to cause such Independent Accountant to make its determination of the Program Option Exercise Price (the "***Final Program Option Exercise Price***") within **[*]** of accepting its selection. The decision of the Independent Accountant shall be a final, binding and conclusive resolution of the parties' dispute, shall be non-appealable and shall not be subject to further review. The costs and expenses of the Independent Accountant shall be split between the Parties in proportion to the difference between the Final Program Option Exercise Price and the Program Option Exercise Price (recalculated, if applicable, pursuant to Section 11.1(h)(i)). Notwithstanding the foregoing, in any case, each Party shall be responsible for the payment of its respective costs and expenses, including any attorneys' and accountants' fees (other than any accountants' fees payable to the Independent Accountant, which shall be split between the Parties in accordance with this Section 11.1(h)) incurred in

connection with the dispute. If the Final Program Option Exercise Price is less than the Program Option Exercise Price paid on the Program Option Closing Date, then Symphony Evolution shall promptly, and in any event within **[*]** of the date on which the Independent Accountant makes its determination of the Final Program Option Exercise Price, pay to Exelixis the amount by which the Final Program Option Exercise Price is less than the Program Option Exercise Price paid on the Program Option Closing Date. If the Final Program Option Exercise Price is greater than the Program Option Exercise Price paid on the Program Option Closing Date, then Exelixis shall promptly, and in any event within **[*]** of the date on which the Independent Accountant makes its determination of the Final Program Option Exercise Price, pay to Symphony Evolution the amount by which the Final Program Option Exercise Price is greater than the Program Option Exercise Price paid on the Program Option Closing Date. In the event that neither of the conditions set forth in the previous two sentences exist, then no payment shall be made.

11.2 Discontinuation Option.

(a) A Program may only be discontinued or abandoned in accordance with Section 4.2(g). In the event of such a Program discontinuation or abandonment during the Term, (i) Symphony Evolution shall so notify Exelixis and GlaxoSmithKline promptly and in writing of such discontinuance or abandonment, and (ii) Exelixis shall have the right and option (the "***Discontinuation Option***"), exercisable for **[*]** after receipt of written notice from Symphony Evolution of such discontinuance or abandonment, to buy back the Licensed Intellectual Property related to such discontinued or abandoned Program for a price (the "***Discontinuation Price***") to be determined between the Parties, or, if the Parties are unable to come to a resolution, for a Discontinuation Price determined in accordance with Section 11.2(c) hereof. If the Discontinuation Price is determined in accordance with Section 11.2(c), then such **[*]** period shall be extended by the time needed by the Experts for such determination. Any Discontinuation Price paid under this Section 11.2(a) shall reduce the Purchase Option Exercise Price in the amount of such payment.

(b) Following the expiration of the Discontinuation Option without exercise by Exelixis, if Symphony Evolution proposes to transfer or license the discontinued Program to a third party, then (i) Symphony Evolution shall so notify GlaxoSmithKline (with a copy to Exelixis) of its intention promptly and in writing, and (ii) GlaxoSmithKline shall have, for a period of **[*]** after receipt of such written notice, the exclusive right to negotiate with Symphony Evolution for the acquisition or the license of the rights to such discontinued or abandoned Program. At GlaxoSmithKline's request, Symphony Evolution shall negotiate in good faith with GlaxoSmithKline the terms of such acquisition or license and upon any agreement of terms, shall enter into a binding agreement setting forth such terms. Following such **[*]** period, Symphony Evolution may transfer or license such rights relating to such discontinued or abandoned Program to any third party. If Symphony Evolution so transfers or licenses such Program rights before the termination of the Term, all amounts that Symphony Evolution receives from such third party shall reduce the Purchase Option Exercise Price in the amount of such payment. During the Term, under no circumstances may Symphony Evolution or Exelixis (unless Exelixis has exercised a Discontinuation Option in respect of such Program) reinitiate work on a discontinued or abandoned Program.

(c) If Exelixis and Symphony Evolution cannot agree on the Discontinuation Price, with respect to Section 11.2(a), Exelixis and Symphony Evolution shall each appoint a nationally recognized expert in the field of pharmaceutical technology and licensing (each, an "***Expert***") (that, in each case, has had no prior dealings with either of Exelixis and Symphony Evolution in the preceding twelve (12) months), and such two (2) Experts shall appoint a third Expert. In accordance with this Section 11.2(c), such three (3) Experts shall jointly determine, or, if all three (3) Experts shall not be able to agree on such Discontinuation Price as applicable, two (2) of such three (3) Experts shall jointly determine, the Discontinuation Price, which determination shall be made within **[*]** of the appointment of the third Expert and, absent manifest error, shall be (i) binding and conclusive and (ii) the Discontinuation Price at which the Discontinuation Option shall be exercised by Exelixis. All costs and expenses incurred in appointing the Experts shall be shared equally between Exelixis and Symphony Evolution.

11.3 Post-Term. Following the expiration or termination of the Term without exercise of the Purchase Option by Exelixis, Symphony Evolution may offer to transfer or license any of the Programs for which Exelixis has not exercised its Program Option or Discontinuation Option to any third party, provided that, if Symphony Evolution proposes to transfer or license any such Program (other than a Program that was the subject of a Discontinuation Option) to a third party, then (a) Symphony Evolution shall so notify GlaxoSmithKline (with a copy to Exelixis) of its intention promptly and in writing, and (b) GlaxoSmithKline shall have, for a period of **[*]** after receipt of such written notice, the exclusive right to negotiate with Symphony Evolution for the acquisition or the license of the rights to any such Program (and Licensed Intellectual Property relating thereto, including without limitation Symphony Evolution Enhancements), and for an additional **[*]** the right to negotiate on a non-exclusive basis for such rights. If such **[*]** period ends without Symphony Evolution and GlaxoSmithKline entering into an agreement governing the terms and conditions of such acquisition or license, then Symphony Evolution may subsequently transfer or license such rights relating to such Program to any third party; provided, however, that if any new data is gained subsequent to such **[*]** period relating to a Program, Symphony shall, as soon as practicable thereafter and subject to the Operative Documents and customary confidentiality restrictions, disclose such new data to GlaxoSmithKline, to enable GlaxoSmithKline to determine if it is interested in acquiring or licensing such Program within an additional **[*]** period, but only if Symphony Evolution has not, as of such time, entered into a binding agreement (including a binding letter of intent) for the transfer or license of such Program to a third party.

12. Representations and Warranties.

12.1 Exelixis Representations and Warranties. Exelixis hereby represents and warrants to Symphony Evolution and Holdings that, as of the Effective Date:

(a) Organization. Exelixis is a corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware.

(b) Authority and Validity. Other than in respect of the exercise of the Program Option pursuant to Section 11.1 hereof and the Discontinuation Option pursuant to Section 11.2 hereof (which are subject to future approval by Exelixis' board of directors and potentially Exelixis' stockholders if required by applicable NASDAQ or other stock exchange

rules), Exelixis has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and the Novated and Restated Technology License Agreement and to consummate the transactions contemplated thereby. The execution, delivery and performance by Exelixis of this Agreement and the Novated and Restated Technology License Agreement and the consummation of the transactions contemplated thereby have been duly and validly authorized by all necessary action required on the part of Exelixis (other than as set forth in the Operative Documents, and in respect of the exercise of the Program Option pursuant to Section 11.1 hereof and the Discontinuation Option pursuant to Section 11.2 hereof (which are subject to future approval by Exelixis' board of directors and potentially Exelixis' stockholders if required by applicable NASDAQ or other stock exchange rules)), and no other proceedings on the part of Exelixis are necessary to authorize this Agreement or the Novated and Restated Technology License Agreement or for Exelixis to perform its obligations under this Agreement or the Novated and Restated Technology License Agreement. This Agreement and the Novated and Restated Technology License Agreement constitute the lawful, valid and legally binding obligations of Exelixis, enforceable in accordance with their terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles regardless of whether such enforceability is considered in a proceeding at law or in equity.

(c) No Violation or Conflict. The execution, delivery and performance of this Agreement and the Novated and Restated Technology License Agreement and the transactions contemplated thereby do not and will not (i) violate, conflict with or result in the breach of any provision of the Organizational Documents of Exelixis, (ii) conflict with or violate any law or Governmental Order applicable to Exelixis or any of its assets, properties or businesses, or (iii) conflict with, result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any Encumbrance on any of the assets or properties of Exelixis, pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Exelixis is a party except, in the case of clauses (ii) and (iii), to the extent that such conflicts, breaches, defaults or other matters would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis.

(d) Governmental Consents and Approvals. Other than any HSR Act Filings and Additional Regulatory Filings which, if the Program Option or Discontinuation Option is exercised by Exelixis, will be obtained on or prior to the Program Option Closing Date or Discontinuation Option Closing Date, the execution, delivery and performance of this Agreement and the Novated and Restated Technology License Agreement by Exelixis do not, and the consummation of the transactions contemplated thereby do not and will not, require any Governmental Approval which has not already been obtained, effected or provided, except with respect to which the failure to so obtain, effect or provide would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis.

(e) Litigation. There are no actions by or against Exelixis pending before any Governmental Authority or, to the knowledge of Exelixis, threatened to be brought by or before

any Governmental Authority, that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis. There are no pending or, to the knowledge of Exelixis, threatened actions, to which Exelixis is a party (or is threatened to be named as a party) to set aside, restrain, enjoin or prevent the execution, delivery or performance of this Agreement or the Operative Documents or the consummation of the transactions contemplated hereby or thereby by any party hereto or thereto. Exelixis is not subject to any Governmental Order (nor, to the knowledge of Exelixis, is there any such Governmental Order threatened to be imposed by any Governmental Authority) that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis or a material adverse effect on the Programs.

(f) No Contracts. Except as disclosed on Schedule 12.1(f) hereto, there are no material contracts between Exelixis and any third party, including contractors, manufacturers or suppliers, used with or otherwise necessary for the Programs. With respect to the contracts disclosed on Schedule 12.1(f) hereto, the absence of such contracts (due to the inability or impracticability of assigning such contracts to Symphony Evolution following a termination of this Agreement without the exercise of the Purchase Option) would not have a material adverse effect on any of the Programs or on Symphony Evolution's rights under the Novated and Restated Technology License Agreement.

12.2 Symphony Evolution Representations and Warranties. Symphony Evolution hereby represents and warrants to Exelixis that, as of the Effective Date:

(a) Organization. Symphony Evolution is a corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware.

(b) Authority and Validity. Symphony Evolution has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and the Novated and Restated Technology License Agreement and to consummate the transactions contemplated thereby. The execution, delivery and performance by Symphony Evolution of this Agreement and the Novated and Restated Technology License Agreement and the consummation of the transactions contemplated thereby have been duly and validly authorized by all necessary action required on the part of Symphony Evolution, and no other proceedings on the part of Symphony Evolution are necessary to authorize this Agreement or the Novated and Restated Technology License Agreement or for Symphony Evolution to perform its obligations under this Agreement or the Novated and Restated Technology License Agreement. This Agreement and the Novated and Restated Technology License Agreement constitute the lawful, valid and legally binding obligations of Symphony Evolution, enforceable in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles regardless of whether such enforceability is considered in a proceeding at law or in equity.

(c) No Violation or Conflict. The execution, delivery and performance of this Agreement and the Novated and Restated Technology License Agreement and the transactions contemplated thereby do not and will not (i) violate, conflict with or result in the breach of any provision of the Organizational Documents of Symphony Evolution, (ii) conflict with or violate

any law or Governmental Order applicable to Symphony Evolution or any of its assets, properties or businesses, or (iii) conflict with, result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any Encumbrance on any of the assets or properties of Symphony Evolution, pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Symphony Evolution is a party except, in the case of clauses (ii) and (iii), to the extent that such conflicts, breaches, defaults or other matters would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Symphony Evolution.

(d) Governmental Consents and Approvals. The execution, delivery and performance of this Agreement and the Novated and Restated Technology License Agreement by Symphony Evolution do not, and the consummation of the transactions contemplated thereby do not and will not, require any Governmental Approval which has not already been obtained, effected or provided, except with respect to which the failure to so obtain, effect or provide would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Symphony Evolution.

(e) Litigation. There are no actions by or against Symphony Evolution pending before any Governmental Authority or, to the knowledge of Symphony Evolution, threatened to be brought, by or before any Governmental Authority that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Symphony Evolution. There are no pending or, to the knowledge of Symphony Evolution, threatened actions to which Symphony Evolution is a party (or is threatened to be named as a party) to set aside, restrain, enjoin or prevent the execution, delivery or performance of this Agreement or the Operative Documents or the consummation of the transactions contemplated hereby or thereby by any party hereto or thereto. Symphony Evolution is not subject to any Governmental Order (nor, to the knowledge of Symphony Evolution, is there any such Governmental Order threatened to be imposed by any Governmental Authority) that would, individually or in the aggregate reasonably be expected to have a Material Adverse Effect on Symphony Evolution or a material adverse effect on the Programs.

13. Relationship Between Exelixis and Symphony Evolution. Nothing contained in this Agreement or any acts or omissions hereunder shall constitute or be construed so as to create any joint venture or partnership relationship between Exelixis and Symphony Evolution, and the Parties acknowledge and agree that Exelixis is acting as an independent contractor in the performance of its obligations under this Agreement.

14. Change of Control. Exelixis will not, at any time during the Term, undergo a Change of Control, unless:

(a) the Surviving Entity **[*]**; or

(b) such Surviving Entity shall (i) **[*]**; (ii) have provided to Symphony Evolution and Holdings a certificate executed by a duly authorized officer of such entity to the

effect that (A) the **[*]** referred to in clause (i) above are **[*]**, (B) such Change of Control does not **[*]**, and (C) **[*]**, except to the extent that failure to make such **[*]** would not reasonably be expected to have a material adverse effect on the Programs or Symphony Evolution's rights under the Operative Documents; and (iii) arranged for an appropriate senior executive of the Surviving Entity to **[*]**, including, but not limited to, the Surviving Entity's commitment to **[*]** under the Operative Documents, as well as the strategic importance of the **[*]** to the Surviving Entity.

15. No Restrictions; Indemnification.

15.1 No Restrictions. Nothing in this Agreement shall limit or restrict the right of any director, officer or employee of Exelixis or any director, officer, or employee of any of its subsidiaries or its Affiliates to engage in any other business or to devote his or her time and attention to the management or other aspects of any other business, whether of a similar or dissimilar nature, nor limit or restrict the right of Exelixis or any of its affiliates to engage in any other business or to render services of any kind to any other Person.

15.2 Indemnification.

(a) To the greatest extent permitted by applicable law, Exelixis shall indemnify and hold harmless Symphony Evolution and RRD and each of their respective Affiliates, officers, directors, employees, agents, members, managers, successors and assigns (each, a "***Symphony Indemnified Party***"), and Symphony Evolution shall indemnify and hold harmless Exelixis, and its Affiliates and each of their respective officers, directors, employees, agents (other than Subcontractors), members, managers, successors and assigns (each, an "***Exelixis Indemnified Party***"), from and against any and all claims, losses, diminution in value, costs, interest, awards, judgments, penalties, fees (including reasonable fees for attorneys and other professionals), court costs, liabilities, damages and expenses incurred by any Symphony Indemnified Party or Exelixis Indemnified Party (irrespective of whether any such Indemnified Party is a party to the action for which indemnification hereunder is sought) (hereinafter, a "***Loss***") as a result of, or arising out of, or relating to any and all third party suits, claims, actions, proceedings or demands based upon:

(i) in the case of Exelixis being the Indemnifying Party, (A) any breach of any representation or warranty made by Exelixis herein or in any certificate, instrument or document delivered hereunder, (B) any breach of any covenant, agreement or obligation of Exelixis contained herein, or in any certificate, instrument or document delivered hereunder, except to the extent such covenant, agreement or obligation relates to Exelixis' performance under the Development Plan, (C) any gross negligence or willful misconduct of Exelixis (and not that of its Subcontractors) in connection with Exelixis' performance of its obligations under this Agreement (including the Development Plan), (D) any action undertaken or performed by or on behalf of Exelixis prior to, and including, the Closing Date that relates to the Programs or the Products, (E) the negligence or willful misconduct of a Subcontractor or a

Subcontractor's failure to follow applicable law, regulations or protocols, in each case solely to the extent that such Subcontractor is obligated pursuant to the applicable Subcontracting Agreement to indemnify Exelixis for such Loss, it being understood and agreed by the Parties that (1) if both Symphony Indemnified Parties and Exelixis Indemnified Parties incur Losses addressed in this Section 15.2(a)(i)(E) and the total amount received from such Subcontractor as a result of such indemnification obligation is less than the total applicable Losses suffered by the Symphony Indemnified Parties and Exelixis Indemnified Parties, then Exelixis shall distribute among the relevant Symphony Indemnified Parties a total amount equal to **[*]** of the such amount received from such Subcontractor (which amount shall be decreased to the extent that the total applicable Losses suffered by the Symphony Indemnified Parties is less that such **[*]** or increased to the extent that the total applicable Losses suffered by the Exelixis Indemnified Parties is less than the **[*]** otherwise to be retained by Exelixis hereunder) and (2) if the Symphony Indemnified Parties and Exelixis Indemnified Parties are held to be joint and severally liable with respect to any Losses under this Section 15.2(a)(i)(E) and such Losses exceed the total amount received from such Subcontractor as a result of such indemnification obligation, the recovery from such Subcontractor shall first be applied to such Losses and notwithstanding the joint and several liability judgment, the remainder of such Losses shall be shared equally by Symphony Evolution and Exelixis, (F) activities that are solely related to Exelixis funded research pursuant to Section 4.3, provided that such research pertains to a new Protocol developed by Exelixis, rather than an extension, continuation or modification of any Protocol included in the Development Plan, or (G) in the event Licensor exercises a Program Option or Discontinuation Option for a Program, any action undertaken and/or performed by or on behalf of Licensor after the Program Option Closing Date or Discontinuation Closing Option Date and relating to the Product that was the subject of such Program (including the development, manufacture, use, handling, storage, sale or other disposition of such Product); in each case, except (1) with respect to Losses for which Exelixis is entitled to indemnification under this Article 15 or (2) to the extent such Loss arises from the gross negligence or willful misconduct of a Symphony Indemnified Party; and

(ii) in the case of Symphony Evolution being the Indemnifying Party, (A) any breach of any representation or warranty made by Symphony Evolution herein or in any certificate, instrument or document delivered hereunder, (B) any breach of any covenant, agreement or obligation of Symphony Evolution contained herein or in any certificate, instrument or document delivered hereunder, (C) any and all activities by or on behalf of the Parties under the Development Plan (including (1) any activities performed by RRD pursuant to the Management Services Agreement and (2) any claim arising out of any condition caused by XL647, XL784, XL999 or the Products after the Closing Date but prior to the expiration of the Term), (D) any gross negligence or willful misconduct of Symphony Evolution (and not that of its subcontractors) in connection with Symphony Evolution's performance of its obligations under this Agreement, or (E) the development, manufacture, use, handling, storage, sale or other disposition of the Products (including in the course of conducting the Programs) during the Term (except with respect to the development, manufacture, use, handling, storage, sale or other disposition, after Exelixis' exercise of the Program Option or Discontinuation Option as applicable, of Products covered under Section 15.2(a)(i)(G)); in each case, except (1) with respect to Losses for which Symphony Evolution is entitled to indemnification under this Article 15, or (2) Losses deemed to have arisen from the breach by Exelixis of any covenant, agreement

or obligation under this Agreement that relates to Exelixis' performance under the Development Plan, as determined by a court, arbitrator or pursuant to a settlement agreement, or (3) to the extent such Loss arises from the gross negligence or willful misconduct of an Exelixis Indemnified Party. Solely for the purposes of claims arising under (C) above, Subcontractors shall also be deemed to be Exelixis Indemnified Parties.

To the extent that the foregoing undertaking by Exelixis or Symphony Evolution may be unenforceable for any reason, such Party shall make the maximum contribution to the payment and satisfaction of any Loss that is permissible under applicable law.

(b) Notice of Claims. Any Indemnified Party that proposes to assert a right to be indemnified under this Section 15.2 shall notify Exelixis or Symphony Evolution, as applicable (the "***Indemnifying Party***"), promptly after receipt of notice of commencement of any action, suit or proceeding against such Indemnified Party (an "***Indemnified Proceeding***") in respect of which a claim is to be made under this Section 15.2, or the incurrence or realization of any Loss in respect of which a claim is to be made under this Section 15.2, of the commencement of such Indemnified Proceeding or of such incurrence or realization, enclosing a copy of all relevant documents, including all papers served and claims made, but the omission so to notify the applicable Indemnifying Party promptly of any such Indemnified Proceeding or incurrence or realization shall not relieve (x) such Indemnifying Party from any liability that it may have to such Indemnified Party under this Section 15.2 or otherwise, except, as to such Indemnifying Party's liability under this Section 15.2, to the extent, but only to the extent, that such Indemnifying Party shall have been prejudiced by such omission, or (y) any other indemnitor from liability that it may have to any Indemnified Party under the Operative Documents.

(c) Defense of Proceedings. In case any Indemnified Proceeding shall be brought against any Indemnified Party, it shall notify the applicable Indemnifying Party of the commencement thereof as provided in Section 15.2(b), and such Indemnifying Party shall be entitled to participate in, and provided such Indemnified Proceeding involves a claim solely for money damages and does not seek an injunction or other equitable relief against the Indemnified Party and is not a criminal or regulatory action, to assume the defense of, such Indemnified Proceeding with counsel reasonably satisfactory to such Indemnified Party, and after notice from such Indemnifying Party to such Indemnified Party of such Indemnifying Party's election so to assume the defense thereof and the failure by such Indemnified Party to object to such counsel within **[*]** following its receipt of such notice, such Indemnifying Party shall not be liable to such Indemnified Party for legal or other expenses related to such Indemnified Proceedings incurred after such notice of election to assume such defense except as provided below and except for the reasonable costs of investigating, monitoring or cooperating in such defense subsequently incurred by such Indemnified Party reasonably necessary in connection with the defense thereof. Such Indemnified Party shall have the right to employ its counsel in any such Indemnified Proceeding, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless:

(i) the employment of counsel by such Indemnified Party at the expense of the applicable Indemnifying Party has been authorized in writing by such Indemnifying Party;

(ii) such Indemnified Party shall have reasonably concluded in its good faith (which conclusion shall be determinative unless a court determines that such conclusion was not reached reasonably and in good faith) that there is or may be a conflict of interest between the applicable Indemnifying Party and such Indemnified Party in the conduct of the defense of such Indemnified Proceeding or that there are or may be one or more different or additional defenses, claims, counterclaims, or causes of action available to such Indemnified Party (it being agreed that in any case referred to in this clause (ii) such Indemnifying Party shall not have the right to direct the defense of such Indemnified Proceeding on behalf of the Indemnified Party);

(iii) the applicable Indemnifying Party shall not have employed counsel reasonably acceptable to the Indemnified Party to assume the defense of such Indemnified Proceeding within a reasonable time after notice of the commencement thereof (provided, however, that this clause shall not be deemed to constitute a waiver of any conflict of interest that may arise with respect to any such counsel); or

(iv) any counsel employed by the applicable Indemnifying Party shall fail to timely commence or diligently conduct the defense of such Indemnified Proceeding;

in each of which cases the fees and expenses of counsel for such Indemnified Party shall be at the expense of such Indemnifying Party. Only one counsel shall be retained by all Indemnified Parties with respect to any Indemnified Proceeding, unless counsel for any Indemnified Party reasonably concludes in good faith (which conclusion shall be determinative unless a court determines that such conclusion was not reached reasonably and in good faith) that there is or may be a conflict of interest between such Indemnified Party and one or more other Indemnified Parties in the conduct of the defense of such Indemnified Proceeding or that there are or may be one or more different or additional defenses, claims, counterclaims, or causes or action available to such Indemnified Party.

(d) Settlement. Without the prior written consent of such Indemnified Party, such Indemnifying Party shall not settle or compromise, or consent to the entry of any judgment in, any pending or threatened Indemnified Proceeding, unless such settlement, compromise, consent or related judgment (i) includes an unconditional release of such Indemnified Party from all liability for Losses arising out of such claim, action, investigation, suit or other legal proceeding, (ii) provides for the payment of money damages as the sole relief for the claimant (whether at law or in equity), (iii) involves no finding or admission of any violation of law or the rights of any Person by the Indemnified Party, and (iv) is not in the nature of a criminal or regulatory action. No Indemnified Party shall settle or compromise, or consent to the entry of any judgment in, any pending or threatened Indemnified Proceeding in respect of which any payment would result hereunder or under the Operative Documents without the prior written consent of the Indemnifying Party, such consent not to be unreasonably conditioned, withheld or delayed.

16. LIMITATION OF LIABILITIES.

16.1 Between the Parties. TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY NOR ANY OF THEIR RESPECTIVE DIRECTORS,

OFFICERS, MEMBERS, MANAGERS, EMPLOYEES, INDEPENDENT CONTRACTORS OR AGENTS (INCLUDING RRD) SHALL HAVE ANY LIABILITY OF ANY TYPE (INCLUDING, BUT NOT LIMITED TO, CLAIMS IN CONTRACT, NEGLIGENCE AND TORT LIABILITY) FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, THE LOSS OF OPPORTUNITY, LOSS OF USE OR LOSS OF REVENUE OR PROFIT IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE SERVICES PERFORMED HEREUNDER, EVEN IF SUCH DAMAGES MAY HAVE BEEN FORESEEABLE. THE FOREGOING SHALL NOT LIMIT EITHER PARTY'S INDEMNIFICATION OBLIGATIONS PURSUANT TO SECTION 15.2 AND SHALL NOT APPLY TO BREACHES OF ITS CONFIDENTIALITY OBLIGATIONS PURSUANT TO ARTICLE 10.

16.2 Pursuant to the Management Services Agreement. Each Party hereby acknowledges and agrees that, pursuant to Sections 9(g) and (h) of the Management Services Agreement, RRD has expressly disclaimed all liability for (a) any claim arising out of any condition caused by or allegedly caused by the activities carried out by (or within the authority of) Exelixis (and such Subcontractors and vendors it may retain) hereunder, or for any liability arising under the Novated and Restated Technology License Agreement with respect to any license or sublicense thereunder in relation to the activities carried out by (or within the authority of) Exelixis (and such Subcontractors and vendors it may retain) hereunder, and (b) supervising, compensating or discharging, or any other liability to or with respect to, any vendor retained by Exelixis (or, in the case of a vendor engaged by both RRD and Exelixis, to and for such vendor to the extent that such vendor performs services for Exelixis), except that RRD shall make payments out of an account held in the name of Symphony Evolution to reimburse Exelixis, in accordance with Article 8 and Annex E of this Agreement, for costs and expenses incurred by Exelixis in connection with the engagement of such vendors by Exelixis for the performance of services contemplated under the Development Plan.

17. Term and Termination.

17.1 Term. This Agreement shall be effective as of the Closing Date and shall expire on the last day of the Term, unless the Agreement is earlier terminated as specified in this Article 17.

17.2 Termination for Exelixis' Breach.

(a) At any time if Exelixis is in material default or breach of this Agreement that has resulted in, or would reasonably be expected to result in, a material adverse effect on the Programs or Symphony Evolution's rights under the Operative Documents, and Exelixis does not cure such breach within **[*]** after its receipt of written notice thereof from Symphony Evolution, then Symphony Evolution may by subsequent written notice to Exelixis terminate this Agreement. Such cure period may be extended to **[*]** if (i) Exelixis believes that such breach can be cured within **[*]** of Exelixis' receipt of Symphony Evolution's written notice of such breach (and notifies Symphony Evolution in writing of such belief and the basis for such belief) and (ii) Symphony Evolution, acting reasonably, agrees.

(b) In the event that Symphony Evolution terminates this Agreement pursuant to Section 17.2(a) above, Exelixis may exercise its Purchase Option, pursuant to Section 1(c)(v) of the Purchase Option Agreement, within **[*]** of receiving such notice of termination from Symphony Evolution.

17.3 Termination for Symphony Evolution's Breach. Exelixis may terminate this Agreement at any time upon written notice to Symphony Evolution if Symphony Evolution is in material default or breach of this Agreement that has resulted in, or would reasonably be expected to result in, a material adverse effect on the Programs or Exelixis' rights under the Operative Documents, and such material default or breach continues unremedied for a period of **[*]** after written notice thereof is delivered to Symphony Evolution.

17.4 Termination of License Agreement. This Agreement shall automatically terminate upon the termination of the Novated and Restated Technology License Agreement.

17.5 Survival.

(a) The agreements and covenants of the Parties set forth in Articles 10, 15, 16 and 18 and Section 6.8 shall survive any expiration or termination of this Agreement.

(b) If Exelixis does not exercise the Purchase Option, in addition to the provisions specified in Section 17.5(a), the following agreements and covenants of the Parties shall also survive such expiration: Sections 5.4 and 11.3.

(c) In the event that Exelixis terminates this Agreement pursuant to Section 17.3 above, in addition to the provisions specified in Section 17.5(a), the following agreements and covenants of the Parties shall also survive such expiration: Section 8.2 (to the extent such costs and expenses have been incurred or become uncancellable prior to such termination).

18. Miscellaneous.

18.1 No Petition. Exelixis covenants and agrees that, prior to the date which is one (1) year and one (1) day after the expiration of the Term, Exelixis will not institute or join in the institution of any bankruptcy, insolvency, reorganization or similar proceeding against Symphony Evolution. The provisions of this Section 18.1 shall survive the termination of this Agreement.

18.2 Notices. Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted to be given to any Party shall be in writing and shall be deemed given only if delivered to the Party personally or sent to the Party by

facsimile transmission (promptly followed by a hard-copy delivered in accordance with this Section 18.2), by next Business Day delivery by a nationally recognized courier service, or by registered or certified mail (return receipt requested), with postage and registration or certification fees thereon prepaid, addressed to the Party at its address set forth below:

Exelixis:

Exelixis, Inc.
170 Harbor Way
South San Francisco, CA 94083
Attention: Corporate Secretary
Facsimile: (650) 837-7951

Symphony Evolution:

Symphony Evolution, Inc.
7361 Calhoun Place, Suite 325
Rockville, MD 20850
Attn: Charles W. Finn, Ph.D.
Facsimile: (301) 762-6154

Holdings:

Symphony Evolution Holdings LLC
7361 Calhoun Place, Suite 325
Rockville, MD 20850
Attn: Joseph P. Clancy
Facsimile: (301) 762-6154

with copies to:

Symphony Capital Partners, L.P.
875 Third Avenue
18th Floor
Attn: Mark Kessel
New York, NY 10022
Facsimile: (212) 632-5401

and

Symphony Strategic Partners, LLC
875 Third Avenue
18th Floor
New York, NY 10022
Attn: Mark Kessel
Facsimile: (212) 632-5401

or to such other address as such Party may from time to time specify by notice given in the manner provided herein to each other Party entitled to receive notice hereunder.

18.3 Governing Law; Consent to Jurisdiction and Service of Process.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

(b) Each of the Parties hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court or federal court of the United States of America sitting in The City of New York, Borough of Manhattan, and any appellate court from any jurisdiction thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the Parties hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in any such New York State court or, to the fullest extent permitted by law, in such federal court. Each of the Parties agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any Party may otherwise have to bring any action or proceeding relating to this Agreement.

(c) Each of the Parties irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any New York State or federal court. Each of the Parties hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

18.4 Third-Party Beneficiary. Each of the Parties hereto agrees that GlaxoSmithKline shall be a third-party beneficiary as to Sections 10.2, 11.1(f) and 11.3 of this Agreement, Symphony Evolution's investors shall be third-party beneficiaries as to Section 7.5, RRD shall be a third-party beneficiary as to Sections 9.1(f), 15.2, 16.1 and 16.2, and Subcontractors shall be third-party beneficiaries as to Section 15.2(a)(ii)(C). This provision shall survive the termination of this Agreement.

18.5 Waiver of Jury Trial. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.

18.6 Entire Agreement. This Agreement (including any Annexes, Schedules, Exhibits or other attachments hereto) constitutes the entire agreement between the Parties with respect to the matters covered hereby, and no oral or written statement may be used to interpret or vary the meaning of the terms and conditions hereof. This Agreement supersedes all prior agreements and understanding with respect to such matters between the Parties, including the Research and Development Agreement but excluding the Operative Documents.

18.7 Amendment; Successors; Assignment; Counterparts.

(a) The terms of this Agreement shall not be altered, modified, amended, waived or supplemented in any manner whatsoever except by a written instrument signed by each of the Parties.

(b) Except as set forth in Section 18.4 hereof, nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any Person, other than the Parties, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the Parties and their successors and permitted assigns.

(c) This Agreement may not be assigned by either Party hereto without the prior written consent of the other part; provided that, in the event Exelixis undergoes a Change of Control in compliance with Article 14 hereof, Exelixis may assign this Agreement to its Successor Entity.

(d) This Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original but all of which taken together shall constitute one and the same Agreement.

18.8 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to either party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

[SIGNATURES FOLLOW ON NEXT PAGE **]**

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year above written.

SYMPHONY EVOLUTION HOLDINGS LLC

By: Symphony Capital Partners, L.P.,
its Manager

By: Symphony Capital GP, L.P.,
its general partner

By: Symphony GP, LLC,
its general partner

By: /s/ Mark Kessel

Name: Mark Kessel
Title: Managing Member

SYMPHONY EVOLUTION, INC.

By: /s/ Harri V. Taranto

Name: Harri V. Taranto
Title: Chairman of the Board

EXELIXIS, INC.

By: /s/ Christoph Pereira

Name: Christoph Pereira
Title: Vice President, Legal Affairs and Secretary

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

CERTAIN DEFINITIONS

"$" means United States dollars.

"***Accredited Investor***" has the meaning set forth in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended.

"***Act***" means the Delaware Limited Liability Company Act, *6 Del. C. § 18-101 et seq*.

"***Additional Funds***" has the meaning set forth in Section 2(b) of the Funding Agreement.

"***Additional Funding Date***" has the meaning set forth in Section 3 of the Funding Agreement.

"***Additional Party***" has the meaning set forth in Section 12 of the Confidentiality Agreement.

"***Additional Regulatory Filings***" means such Governmental Approvals as required to be made under any law applicable to the purchase of the Symphony Evolution Equity Securities under the Agreement.

"***Ad Hoc Meeting***" has the meaning set forth in Paragraph 6 of Annex B to the Amended and Restated Research and Development Agreement.

"***Adjusted Capital Account Deficit***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Affected Member***" has the meaning set forth in Section 27 of the Investors LLC Agreement.

"***Affiliate***" means, with respect to any Person (i) any Person directly or indirectly controlling, controlled by or under common control with such Person, (ii) any officer, director, general partner, member or trustee of such Person, or (iii) any Person who is an officer, director, general partner, member or trustee of any Person described in clauses (i) or (ii) of this sentence. For purposes of this definition, the terms "controlling," "controlled by" or "under common control with" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person or entity, whether through the ownership of voting securities, by contract or otherwise, or the power to elect at least 50% of the directors, managers, general partners, or persons exercising similar authority with respect to such Person or entities.

"***Amended and Restated Research and Development Agreement***" means the Amended and Restated Research and Development Agreement dated as of June 9, 2005, among Exelixis, Holdings and Symphony Evolution.

"***Asset Value***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Auditors***" means an independent certified public accounting firm of recognized national standing.

"***A Warrant Date***" has the meaning set forth in Section 2.04 of the Warrant Purchase Agreement.

"***A Warrants***" has the meaning set forth in Section 2.01 of the Warrant Purchase Agreement.

"***A Warrant Shares***" has the meaning set forth in Section 2.01 of the Warrant Purchase Agreement.

"***Bankruptcy Code***" means the United States Bankruptcy Code.

"***Bloomberg***" means Bloomberg L.P., a multimedia based distributor of information services, including data and analysis for financial markets and businesses.

"***Bloomberg Screen***" means the display page designated on the Bloomberg service (or such other page as may replace that page on that service) for the purpose of displaying prices or bids of Exelixis Common Stock.

"***Business Day***" means any day other than Saturday, Sunday or any other day on which commercial banks in The City of New York or the City of San Francisco are authorized or required by law to remain closed.

"***B Warrants***" has the meaning set forth in Section 2.02 of the Warrant Purchase Agreement.

"***B Warrant Date***" has the meaning set forth in Section 2.02 of the Warrant Purchase Agreement.

"***B Warrant Shares***" has the meaning set forth in Section 2.05 of the Warrant Purchase Agreement.

"***Capital Contributions***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Capitalized Leases***" means all leases that have been or should be, in accordance with GAAP, recorded as capitalized leases.

"***Cash Available for Distribution***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Chair***" has the meaning set forth in Paragraph 4 of Annex B to the Amended and Restated Research and Development Agreement.

"***Change of Control***" means and includes the occurrence of any of the following events, but specifically excludes (i) acquisitions of capital stock directly from Exelixis for cash, whether in a public or private offering, (ii) sales of capital stock by stockholders of Exelixis, and (iii) acquisitions of capital stock by or from any employee benefit plan or related trust:

(a) the merger, reorganization or consolidation of Exelixis into or with another corporation or legal entity in which Exelixis' stockholders holding the right to vote with respect to matters generally immediately preceding such merger, reorganization or consolidation, own less than fifty percent (50%) of the voting securities of the surviving entity; or

(b) the sale of all or substantially all of Exelixis' assets or business.

"***Class A Member***" means a holder of a Class A Membership Interest.

"***Class A Membership Interest***" means a Class A Membership Interest in Holdings.

"***Class B Member***" means a holder of a Class B Membership Interest.

"***Class B Membership Interest***" means a Class B Membership Interest in Holdings.

"***Class C Member***" means a holder of a Class C Membership Interest.

"***Class C Membership Interest***" means a Class C Membership Interest in Holdings.

"***Class D Member***" means a holder of a Class D Membership Interest.

"***Class D Membership Interest***" means a Class D Membership Interest in Holdings.

"***Clinical Budget***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Clinical Plan***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Closing Date***" means June 9, 2005.

"***CMC***" means the chemistry, manufacturing and controls documentation as required for filings with Regulatory Authority relating to the manufacturing, production and testing of drug products.

"***Code***" means the Internal Revenue Code of 1986, as amended from time to time.

"***Committed* Capital**" means $80,000,000.00.

"***Common Stock***" means the common stock, par value $0.01 per share, of Symphony Evolution.

"***Company Expenses***" has the meaning set forth in Section 5.09 of the Holdings LLC Agreement.

"***Company Property***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Confidential Information***" has the meaning set forth in Section 2 of the Confidentiality Agreement.

"***Confidentiality Agreement***" means the Confidentiality Agreement, dated as of June 9, 2005, among Symphony Evolution, Holdings, Exelixis, each Symphony Fund, SCP, SSP, Investors, Symphony Capital, RRD and Daniel F. Hoth, M.D., Herbert J. Conrad, and Alastair J.J. Wood, M.D.

"***Conflict Transaction***" has the meaning set forth in Article IX of the Symphony Evolution Charter.

"***Control***" means, with respect to any material, information or intellectual property right, that a Party owns or has a license to such item or right, and has the ability to grant the other Party access, a license or a sublicense (as applicable) in or to such item or right as provided in the Operative Documents without violating the terms of any agreement or other arrangement with any third party.

"***C Warrants***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***C Warrant Date***" has the meaning set forth in Section 2.06 of the Warrant Purchase Agreement.

"***C Warrant Shares***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***Debt***" of any Person means, without duplication:

(a) all indebtedness of such Person for borrowed money,

(b) all obligations of such Person for the deferred purchase price of property or services (other than any portion of any trade payable obligation that shall not have remained unpaid for 91 days or more from the later of (A) the original due date of such portion and (B) the customary payment date in the industry and relevant market for such portion),

(c) all obligations of such Person evidenced by bonds, notes, debentures or other similar instruments,

(d) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (whether or not the rights and remedies of the seller or lender under such agreement in an event of default are limited to repossession or sale of such property),

(e) all Capitalized Leases to which such Person is a party,

(f) all obligations, contingent or otherwise, of such Person under acceptance, letter of credit or similar facilities,

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value any Equity Securities of such Person,

(h) the net amount of all financial obligations of such Person in respect of Hedge Agreements,

(i) the net amount of all other financial obligations of such Person under any contract or other agreement to which such Person is a party,

(j) all Debt of other Persons of the type described in clauses (a) through (i) above guaranteed, directly or indirectly, in any manner by such Person, or in effect guaranteed, directly or indirectly, by such Person through an agreement (A) to pay or purchase such Debt or to advance or supply funds for the payment or purchase of such Debt, (B) to purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Debt or to assure the holder of such Debt against loss, (C) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered) or (D) otherwise to assure a creditor against loss, and

(k) all Debt of the type described in clauses (a) through (i) above secured by (or for which the holder of such Debt has an existing right, contingent or otherwise, to be secured by) any Encumbrance on property (including accounts and contract rights) owned or held or used under lease or license by such Person, even though such Person has not assumed or become liable for payment of such Debt.

"***Development Budget***" means the budget for the implementation of the Development Plan that is agreed upon by Exelixis and Symphony Evolution as of the Effective Date, as may be revised from time to time in accordance with the Development Committee Charter and the Amended and Restated Research and Development Agreement.

"***Development Committee***" has the meaning set forth in Article 3 of the Amended and Restated Research and Development Agreement.

"***Development Committee Charter***" has the meaning set forth in Article 3 of the Amended and Restated Research and Development Agreement.

"***Development Committee Member***" has the meaning set forth in Paragraph 1 of Annex B to the Amended and Restated Research and Development Agreement.

"***Development Plan***" means the development plan, covering all the Programs, agreed to by Exelixis and Symphony Evolution as of the Effective Date, as may be revised from time to time in accordance with the Development Committee Charter and the Amended and Restated Research and Development Agreement.

"***Directors***" has the meaning set forth in the Preliminary Statement of the Indemnification Agreement.

"***Disclosing Party***" has the meaning set forth in Section 3 of the Confidentiality Agreement.

"***Discontinuation Closing Date***" means the date of Symphony's receipt of the Discontinuation Price.

"***Discontinuation Option***" has the meaning set forth in Section 11.2(a) of the Amended and Restated Research and Development Agreement.

"***Discontinuation Price***" has the meaning set forth in Section 11.2(a) of the Amended and Restated Research and Development Agreement.

"***Discontinued Program***" has the meaning set forth in Section 2.10 of the Novated and Restated Technology License Agreement.

"***Disinterested Directors***" has the meaning set forth in Article IX of the Symphony Evolution Charter.

"***Distribution***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Effective Date***" has the meaning set forth in the Novated and Restated Technology License Agreement.

"***Effective Registration Date***" has the meaning set forth in the Registration Rights Agreement

"***Encumbrance***" means (i) any security interest, pledge, mortgage, lien (statutory or other), charge or option to purchase, lease or otherwise acquire any interest, (ii) any adverse claim, restriction, covenant, title defect, hypothecation, assignment, deposit arrangement or other encumbrance of any kind, preference or priority, or (iii) any other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement).

"***Enhancements***" means findings, improvements, discoveries, inventions, additions, modifications, enhancements, derivative works, clinical development data, or changes to the Licensed Intellectual Property and Regulatory Files.

"***Equity Securities***" means, with respect to any Person, shares of capital stock of (or other ownership or profit interests in) such Person, warrants, options or other rights for the purchase or other acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or other acquisition from such Person of such shares (or such other interests), and other ownership or profit interests in such Person (including, without limitation, partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are authorized or otherwise existing on any date of determination.

"***ERISA***" means the United States Employee Retirement Income Security Act of 1974, as amended.

"***Exchange Act***" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"***Exelixis***" means Exelixis, Inc., a Delaware corporation.

"***Exelixis Common Stock***" means the common stock, par value $0.001 per share, of Exelixis.

"***Exelixis Common Stock Valuation***" has the meaning set forth in Section 2(e) of the Purchase Option Agreement.

"***Exelixis-GlaxoSmithKline Collaboration Committee***" means the committee established by Exelixis and GlaxoSmithKline pursuant to Section 2.2 of the GSK Agreement.

"***Exelixis Member***" has the meaning set forth in Section 2(c) of the Management Services Agreement.

"***Exelixis Obligations***" has the meaning set forth in Section 6.1 of the Amended and Restated Research and Development Agreement.

"***Exelixis Personnel***" has the meaning set forth in Section 8.4 of the Amended and Restated Research and Development Agreement.

"***Existing NDA***" has the meaning set forth in Section 2 of the Confidentiality Agreement.

"***Expert***" has the meaning set forth in Section 11.2(c) of the Amended and Restated Research and Development Agreement.

"***Extension Funding***" has the meaning set forth in Section 2 of the Research Cost Sharing and Extension Agreement.

"***External Directors***" has the meaning set forth in the preamble of the Confidentiality Agreement.

"***FDA***" means the United States Food and Drug Administration or its successor agency in the United States.

"***FDA Sponsor***" has the meaning set forth in Section 5.1 of the Amended and Restated Research and Development Agreement.

"***Final Purchase Price***" has the meaning set forth in Section 2(j)(ii) of the Purchase Option Agreement.

"***Financial Audits***" has the meaning set forth in Section 6.7 of the Amended and Restated Research and Development Agreement.

"***Financing***" has the meaning set forth in the Preliminary Statement of the Purchase Option Agreement.

"***Fiscal Year***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Form S-3***" means the Registration Form S-3 as defined under the Securities Act.

"***FTE"*** has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Funded Capital***" has the meaning set forth in Section 2.02(b) of the Warrant Purchase Agreement.

"***Funding Agreement***" means the Funding Agreement, dated June 9, 2005, among Exelixis, SCP and Investors.

"***Funding Notice***" has the meaning set forth in Section 2(a) of the Funding Agreement.

"***Funds Price***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***GAAP***" means generally accepted accounting principles in effect in the United States of America from time to time.

"***GlaxoSmithKline***" means SmithKline Beecham Corporation, a Pennsylvania corporation, doing business as GlaxoSmithKline.

"***Governmental Approvals***" means authorizations, consents, orders, declarations or approvals of, or filings with, or terminations or expirations of waiting periods imposed by any Governmental Authority.

"***Governmental Authority***" means any United States or non-United States federal, national, supranational, state, provincial, local, or similar government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body.

"***Governmental Order***" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"***GSK Agreement***" has the meaning set forth in Section 4.10 of the Novated and Restated Technology License Agreement.

"***Hedge Agreement***" means any interest rate swap, cap or collar agreement, interest rate future or option contract, currency swap agreement, currency future or option contract or other similar hedging agreement.

"***HHMI***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Holdings***" means Symphony Evolution Holdings LLC, a Delaware limited liability company.

"***Holdings Claims***" has the meaning set forth in Section 5.01 of the Warrant Purchase Agreement.

"***Holdings LLC Agreement***" means the Second Amended and Restated Limited Liability Company Agreement of Holdings dated June 9, 2005.

"***HSR Act Filings***" means the premerger notification and report forms required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"***IND***" means an Investigational New Drug Application, as described in 21 U.S.C. § 355(i)(1) and 21 C.F.R. § 312 in the regulations promulgated by the United States Food and Drug Administration, or any foreign equivalent thereof.

"***Indemnification Agreement***" means the Indemnification Agreement among Symphony Evolution and the Directors named therein, dated June 9, 2005.

"***Independent Accountant***" has the meaning set forth in Section 2(i)(ii) of the Purchase Option Agreement.

"***Initial Funds***" has the meaning set forth in Section 2(a) of the Funding Agreement.

"***Initial Holdings LLC Agreement***" means the Agreement of Limited Liability Company of Holdings, dated March 30, 2005.

"***Initial Investors LLC Agreement***" means the Agreement of Limited Liability Company of Investors, dated May 20, 2005.

"***Initial LLC Member***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Interest Certificate***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Interim Holdings LLC Agreement***" means the Amended and Restated Agreement of Limited Liability Company of Holdings, dated June 2, 2005.

"***Investment Company Act***" means the Investment Company Act of 1940, as amended.

"***Investment Overview***" means the investment overview describing the transactions entered into pursuant to the Operative Documents.

"***Investment Policy***" has the meaning set forth in Section 1(a)(viii) of the Management Services Agreement.

"***Investors***" means Symphony Evolution Investors LLC.

"***Investors LLC Agreement***" means Amended and Restated Agreement of Limited Liability Company of Investors dated June 9, 2005.

"***IRS***" means the U.S. Internal Revenue Service.

"***Knowledge***" means the actual (and not imputed) knowledge of the executive officers of Exelixis, without the duty of inquiry or investigation.

"***Law***" means any law, statute, treaty, constitution, regulation, rule, ordinance, order or Governmental Approval, or other governmental restriction, requirement or determination, of or by any Governmental Authority.

"***Ledger Fee***" has the meaning set forth in Section 6(b) of the Management Services Agreement.

"***License***" has the meaning set forth in the Preliminary Statement of the Purchase Option Agreement.

"***Licensed Intellectual Property***" means the Licensed Patent Rights, Symphony Evolution Enhancements, Licensor Enhancements and the Licensed Know-How.

"***Licensed Know-How***" means any and all proprietary technology (other than the University IP) that is [*]

"***Licensed Patent Rights***" means:[*]

"***Licensor***" means Exelixis.

"***Licensor Enhancements***" means [*]

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

"***Lien***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Liquidating Event***" has the meaning set forth in Section 8.01 of the Holdings LLC Agreement.

"***LLC Agreements***" means the Initial Holdings LLC Agreement, the Interim Holdings LLC Agreement, the Holdings LLC Agreement, the Initial Investors LLC Agreement and the Investors LLC Agreement.

"***Loss***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Management Budget***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Management Fee***" has the meaning set forth in Section 6(a) of the Management Services Agreement.

"***Management Plan***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Management Services***" has the meaning set forth in Section 1(a) of the Management Services Agreement.

"***Management Services Agreement***" means the Management Services Agreement between Symphony Evolution and RRD, dated as of June 9, 2005.

"***Manager***" means (i) for each LLC Agreement in which it appears, the meaning set forth in such LLC Agreement, and (ii) for each other Operative Document in which it appears, RRD.

"***Manager Event***" has the meaning set forth in Section 3.01(f) of the Holdings LLC Agreement.

"***Material Adverse Effect***" means, with respect to any Person, a material adverse effect on (i) the business, assets, property or condition (financial or otherwise) of such Person or, (ii) its ability to comply with and satisfy its respective agreements and obligations under the Operative Documents or, (iii) the enforceability of the obligations of such Person of any of the Operative Documents to which it is a party.

"***Material Change***" has the meaning set forth in Paragraph 12 of Annex B of the Amended and Restated Research and Development Agreement.

"***Material Contract***" has the meaning set forth in Section 3(j) of the Management Services Agreement.

"Material Subsidiary" means, at any time, a Subsidiary of Exelixis having assets in an amount equal to at least 5% of the amount of total consolidated assets of Exelixis and its

Subsidiaries (determined as of the last day of the most recent fiscal quarter of Exelixis) or revenues or net income in an amount equal to at least 5% of the amount of total consolidated revenues or net income of Exelixis and its Subsidiaries for the 12-month period ending on the last day of the most recent fiscal quarter of Exelixis.

"***Maximum Committed Capital***" has the meaning set forth in Section 2.02(b) of the Warrant Purchase Agreement.

"***Medical Discontinuation Event***" means (a) as specified in each Protocol, those data that, if collected in such Protocol, demonstrate that such Protocol should not be continued or (b) a series of adverse events, side effects or other undesirable outcomes that, when collected in a Protocol, would cause a reasonable FDA Sponsor to discontinue such Protocol.

"***Membership Interest***" means (i) for each LLC Agreement in which it appears, the meaning set forth in such LLC Agreement, and (ii) for each other Operative Document in which it appears, the meaning set forth in the Holdings LLC Agreement.

"***NASDAQ***" means the National Association of Securities Dealers Automatic Quotation System.

"***NDA***" means a New Drug Application, as defined in the regulations promulgated by the United States Food and Drug Administration, or any foreign equivalent thereof.

"***Net Debt***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***Non-Exelixis Capital Transaction***" means any (i) sale or other disposition of all or part of the Symphony Evolution Shares or all or substantially all of the operating assets of Symphony Evolution, to a Person other than Exelixis or an Affiliate of Exelixis or (ii) distribution in kind of the Symphony Evolution Shares following the expiration of the Purchase Option.

"***Novated and Restated Technology License Agreement***" means the Novated and Restated Technology License Agreement, dated as of June 9, 2005, among Exelixis, Symphony Evolution and Holdings.

"***Operative Documents***" means, collectively, the Indemnification Agreement, the Holdings LLC Agreement, the Purchase Option Agreement, the Warrant Purchase Agreement, the Registration Rights Agreement, the Subscription Agreement, the Technology License Agreement, the Novated and Restated Technology License Agreement, the Management Services Agreement, the Research and Development Agreement, the Amended and Restated Research and Development Agreement, the Research Cost Sharing and Extension Agreement, the Confidentiality Agreement, the Funding Agreement and each other certificate and agreement executed in connection with any of the foregoing documents.

"***Organizational Documents***" means any certificates or articles of incorporation or formation, partnership agreements, trust instruments, bylaws or other governing documents.

"***Parties***" means, for each Operative Document or other agreement in which it appears, the parties to such Operative Document or other agreement, as set forth therein (each a "***Party***"). With respect to any agreement in which a provision is included therein by reference to a provision in another agreement, the term "Party" shall be read to refer to the parties to the document at hand, not the agreement that is referenced.

"***Payment Terms***" has the meaning set forth in Section 8.2 of the Amended and Restated Research and Development Agreement.

"***Percentage***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Permitted Investments***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Permitted Investments Letter***" means the Permitted Investments Letter dated as of June 9, 2005, from Symphony Evolution to RRD, as set forth in Exhibit B to the Management Services Agreement.

"***Permitted Lien***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Person***" means any individual, partnership (whether general or limited), limited liability company, corporation, trust, estate, association, nominee or other entity.

"***Personnel***" of a Party means such Party, its employees, subcontractors, consultants, representatives and agents.

"Prime Rate" means the quoted "Prime Rate" at JPMorgan Chase Bank or, if such bank ceases to exist or is not quoting a base rate, prime rate reference rate or similar rate for United States dollar loans, such other major money center commercial bank in New York City selected by the Manager.

"***Product***" means any product that contains or comprises XL647, XL784 or XL999 or any Structurally Related Compound thereof.

"***Profit***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Program Option***" has the meaning set forth in Section 11.1(a) of the Amended and Restated Research and Development Agreement.

"***Program Option Closing Date***" has the meaning set forth in Section 11.1(d) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Date***" has the meaning set forth in Section 11.1(b) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Notice***" has the meaning set forth in Section 11.1(b) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Price***" has the meaning set forth in Section 11.1(c) of the Amended and Restated Research and Development Agreement.

"***Program Option Period***" has the meaning set forth in Section 11.1(a) of the Amended and Restated Research and Development Agreement.

"***Programs***" means those certain clinical programs pursuing indications for XL647, XL784, and XL999 in accordance with the Development Plan (each a "***Program***").

"Protocol" means a written protocol that meets the substantive requirements of Section 6 of the ICH Guideline for Good Clinical Practice as adopted by the FDA, effective May 9, 1997 and is included within the Clinical Plan or later modified or added to the Clinical Plan pursuant to Section 4.2 of the Amended and Restated Research and Development Agreement.

"***Public Companies***" has the meaning set forth in Section 5(e) of the Purchase Option Agreement.

"***Purchase Option***" has the meaning set forth in Section 1(a) of the Purchase Option Agreement.

"***Purchase Option Agreement***" means this Purchase Option Agreement dated as of June 9, 2005, among Exelixis, Holdings and Symphony Evolution.

"***Purchase Option Closing Date***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Dispute Notice***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***Purchase Option Exercise Date***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Exercise Notice***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Period***" has the meaning set forth in Section 1(c)(iii) of the Purchase Option Agreement.

"***Purchase Price***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***QA Audits***" has the meaning set forth in Section 6.6 of the Amended and Restated Research and Development Agreement.

"***Quarterly Meeting***" has the meaning set forth in Paragraph 6 of Annex B of the Amended and Restated Research and Development Agreement.

"***Regents***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Regents Agreement***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Regents Claims***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Regents Indemnitees***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Regents Technology***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Registration Rights Agreement***" means the Registration Rights Agreement dated as of the Closing Date, between Exelixis and Holdings.

"***Registration Statement***" has the meaning set forth in Section 1(b) of the Registration Rights Agreement.

"***Regulatory Authority***" means the United States Food and Drug Administration, or any successor agency in the United States, or any health regulatory authority(ies) in any other country that is a counterpart to the FDA and has responsibility for granting registrations or other regulatory approval for the marketing, manufacture, storage, sale or use of drugs in such other country.

"***Regulatory Allocation***" has the meaning set forth in Section 3.06 of the Holdings LLC Agreement.

"***Regulatory Files***" means any IND, NDA or any other filings filed with any Regulatory Authority with respect to XL647, XL784, XL999 or the Programs.

"***Removed Director***" has the meaning set forth in Section 3.01(h)(i) of the Holdings LLC Agreement.

"***Representative***" of any Person means such Person's shareholders, principals, directors, officers, employees, members, managers and/or partners.

"***Research and Development Agreement***" means the Research and Development Agreement dated as of June 9, 2005, between Exelixis and Holdings.

"***Research Cost Sharing and Extension Agreement***" means the Research Cost Sharing and Extension Agreement dated as of June 9, 2005, between Exelixis, Holdings, and Symphony Evolution.

"***RRD***" means RRD International, LLC, a Delaware limited liability company.

"***RRD Indemnified Party***" has the meaning set forth in Section 10(a)(i) of the Management Services Agreement.

"***RRD Loss***" has the meaning set forth in Section 10(a)(i) of the Management Services Agreement.

"***Schedule K-1***" has the meaning set forth in Section 9.02(a) of the Holdings LLC Agreement.

"***Scientific Discontinuation Event***" has the meaning set forth in Section 4.2(f) of the Amended and Restated Research and Development Agreement.

"***SCP***" means Symphony Capital Partners, L.P., a Delaware limited partnership.

"***SEC***" means the United States Securities and Exchange Commission.

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

"***Shareholder***" means any Person who owns any Symphony Evolution Shares.

"***Solvent***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***SSP***" means Symphony Strategic Partners, LLC, a Delaware limited liability company.

"***Stock Payment Date***" has the meaning set forth in Section 2 of the Subscription Agreement.

"***Stock Purchase Price***" has the meaning set forth in Section 2 of the Subscription Agreement.

"***Structurally Related Compound***" means:

(a) with respect to XL647, any compound that is [*]

(b) with respect to XL784, any compound that is [*]

(c) with respect to XL999, any compound that is [*]

"***Subcontracting Agreement***" has the meaning set forth in Section 6.3 of the Amended and Restated Research and Development Agreement.

"***Subcontractor***" has the meaning set forth in Section 6.3 of the Amended and Restated Research and Development Agreement.

"***Subscription Agreement***" means the Subscription Agreement between Symphony Evolution and Holdings, dated as of June 9, 2005.

"***Subsidiary***" of any Person means any corporation, partnership, joint venture, limited liability company, trust or estate of which (or in which) more than 50% of (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency); (b) the interest in the capital or profits of such partnership, joint venture or limited liability company; or (c) the beneficial interest in such trust or estate is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person's other Subsidiaries.

"***Surviving* Entity**" means the surviving legal entity which is surviving entity to Exelixis after giving effect to a Change of Control.

"***Symphony Capital***" means Symphony Capital LLC, a Delaware limited liability company.

"***Symphony Evolution***" means Symphony Evolution, Inc., a Delaware corporation.

"***Symphony Evolution Board***" means the Symphony Evolution board of directors.

"***Symphony Evolution By-laws***" means the By-laws of Symphony Evolution, as adopted by resolution of the Symphony Evolution Board on June 9, 2005.

"***Symphony Evolution Charter***" means the Amended and Restated Certificate of Incorporation of Symphony Evolution, dated as of June 9, 2005.

"***Symphony Evolution Director Event***" has the meaning set forth in Section 3.01(h)(i) of the Holdings LLC Agreement.

"***Symphony Evolution Enhancements***" means [*]

"***Symphony Evolution Equity Securities***" means the Common Stock and any other stock or shares issued by Symphony Evolution.

"***Symphony Evolution Loss***" has the meaning set forth in Section 10(b) of the Management Services Agreement.

"***Symphony Evolution Securities Encumbrance***" has the meaning set forth in Section 4(b)(ii) of the Purchase Option Agreement.

"***Symphony Evolution Shares***" has the meaning set forth in Section 2.02 of the Holdings LLC Agreement.

"***Symphony Funds***" means Symphony Capital Partners, L.P., a Delaware limited partnership, and Symphony Strategic Partners, LLC, a Delaware limited liability company (each a "***Symphony Fund***").

"***Symphony Member***" has the meaning set forth in Section 4.2(d) of the Amended and Restated Research and Development Agreement.

"***Tangible Materials***" means [*].

"***Tax Amount***" has the meaning set forth in Section 4.02 of the Holdings LLC Agreement.

"***Technology License Agreement***" means the Technology License Agreement, dated as of June 9, 2005, between Exelixis and Holdings.

"***Term***" means the period starting on the Closing Date and ending upon the termination or expiration of the Purchase Option Period.

"***Territory***" means the world.

"***Third Party IP***" has the meaning set forth in Section 2.9 of the Novated and Restated Technology License Agreement.

"***Third Party Licensor***" means (a) a third party from which Exelixis has received a license or sublicense to Licensed Intellectual Property or (b) a third party to which Exelixis has granted a license or sublicense to the Licensed Intellectual Property. As of the Closing Date, GlaxoSmithKline is the only Third Party Licensor.

"***Transfer***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Transferee***" has, for each Operative Document in which it appears, the meaning set forth in such Operative Document.

"***University Agreements***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***University IP***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Voluntary Bankruptcy***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Warrant Closing***" has the meaning set forth in Section 2.07 of the Warrant Purchase Agreement.

"***Warrant Date***" has the meaning set forth in Section 2.06 of the Warrant Purchase Agreement.

"***Warrant Purchase Agreement***" means the Warrant Purchase Agreement dated as of the Closing Date, between Exelixis and Holdings.

"***Warrants***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***Warrant Share Legend***" has the meaning set forth in Section 6.02 of the Warrant Purchase Agreement.

"***Warrant Shares***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***XL647***" means: [*]

"***XL784***" means: [*]

"***XL999***" means: [*]

"***Yale***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Yale Agreement***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Yale Claims***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Yale Indemnitees***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Yale Technology***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

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ANNEX B

SYMPHONY EVOLUTION, INC.

DEVELOPMENT COMMITTEE CHARTER

Purpose

The Development Committee (the "***Development Committee***") is established by Symphony Evolution, Inc. ("***Symphony Evolution***") and Exelixis, Inc. ("***Exelixis***", and together with Symphony Evolution, the "***Parties***" and each a "***Party***") to oversee a clinical development plan (the "***Development Plan***") and a development budget (the "***Development Budget***") of the Programs (each as defined in that certain Novated and Restated Technology License Agreement, dated as of June 9, 2005, among Symphony Evolution, Exelixis and Symphony Evolution Holdings LLC ("***Holdings***")) pursuing indications for XL647, XL784 and XL999. Capitalized terms used herein and not defined herein shall have the meanings assigned to such terms in the Amended and Restated Research and Development Agreement, dated as of June 9, 2005, among Symphony Evolution, Holdings and Exelixis.

Composition

1. The Development Committee shall have an even number of members and consist of an equal number of members from each Party (the "***Development Committee Members***"). Each Party may bring additional employees or representatives to each meeting as non-voting representatives, but only if such employees or representatives are bound by confidentiality obligations at least as stringent as those described in the Confidentiality Agreement. The size and composition of the Development Committee provided herein may not be changed without the consent of both the Symphony Evolution Board and Exelixis.

2. One-half (1/2) of the Development Committee Members shall be designated by Exelixis and one-half (1/2) shall be designated by Symphony Evolution.

3. Each Development Committee Member shall have the requisite background, experience and training to carry out the duties and obligations of the Development Committee. Development Committee Members need not be directors of Symphony Evolution.

4. The chair of the Development Committee shall be, initially, Jeffrey R. Latts, the Chief Medical Officer of Exelixis, and any succeeding chair shall be such person as may be appointed to the position of Chief Medical Officer of Exelixis (or an equivalent successor position) (the "***Chair***"). If Exelixis wishes to appoint a Chair other than the then-current Chief Medical Officer of Exelixis (or the holder of an equivalent successor position), then such appointment shall require the consent of the Symphony Evolution Board, in the form of an affirmative vote of at least three-fifths of the members of the Symphony Evolution Board.

5. The Development Committee Members may be removed or replaced, and any vacancies on the Development Committee shall be filled, by the Symphony Evolution Board, solely with respect to any such Development Committee Members selected by Symphony Evolution, and by Exelixis, solely with respect to any such Development Committee Members selected by Exelixis.

Operations

6. The Development Committee shall meet once per calendar quarter during the Term (each, a ***"Quarterly Meeting"***). Quarterly Meetings may be held in person or by teleconference when appropriate, but at least one-half (1/2) of such meetings in each year must be in person. The location of the in-person Quarterly Meetings shall alternate between South San Francisco, CA and either Rockville, MD or New York City, NY (as may be decided among the Members selected by Symphony Evolution). Each of Symphony Evolution and Exelixis shall be solely responsible for the costs associated with its employees and/or representatives attending and participating in such Quarterly Meetings. In addition, any two (2) members of the Development Committee may jointly call for an ad hoc meeting of the Development Committee by teleconference at any time, by giving the other members of the Development Committee advance written notice of at least five (5) Business Days (each, an "***Ad Hoc Meeting***"). The purpose of the Ad Hoc Meetings shall be to update the Development Committee on the progress of the development of the Programs and to address any other time-sensitive matters including, without limitation, additional expenditure requests brought to the Development Committee's attention pursuant to Section 8.3(b) or 8.3(c) of the Amended and Restated Research and Development Agreement, and additional expenditure requests brought to the Development Committee's attention pursuant to the Management Services Agreement.

7. The Chair shall, in consultation with other Development Committee Members and the management of Symphony Evolution, develop and set the Development Committee's agenda for each Quarterly Meeting. The Chair shall include on such agenda each item requested by a Development Committee member at least two (2) weeks before the applicable Quarterly Meeting. The agenda and information concerning the business to be conducted at each Quarterly Meeting shall be communicated in writing to the Development Committee Members at least one (1) week in advance of such Quarterly Meeting to permit meaningful review. Such agenda shall not be required for an Ad Hoc Meeting.

8. Each Party's Development Committee Members shall collectively have three (3) votes, regardless of the number of its Development Committee Members participating in such meeting. No votes shall be taken unless there is at least one (1) Development Committee Member participating representing each of Exelixis and Symphony Evolution. Each Party may allocate its three (3) votes among its participating Development Committee Members in any manner, at such Party's discretion. If only one (1) Development Committee Member is participating for a given Party, such member may cast all three (3) votes. Unless otherwise specified

herein, all actions taken by the Development Committee as a committee shall be by majority vote. If the Development Committee Members reach deadlock on any vote, then such deadlock shall be resolved in accordance with Paragraph 11 of this Development Committee Charter.

9. Notwithstanding anything herein to the contrary, during the Term, this Development Committee Charter may be amended only with the unanimous consent of the Development Committee and the approval of the Symphony Evolution Board and Exelixis.

10. The Chair shall prepare, and distribute to all Development Committee Members, draft committee minutes within ten (10) days after each Quarterly Meeting of the Development Committee, and after each Ad Hoc Meeting only if the Development Committee has taken any action, made any decision or adopted any resolution during such Ad Hoc Meeting. The Chair shall revise such minutes to reflect all reasonable comments received from Development Committee Members within ten (10) days after such distribution and shall re-circulate such revised minutes until the Development Committee approves them at a future meeting of the Development Committee.

11. If the Development Committee is unable to decide by a majority vote on any issue within the scope of its authority and duties, then the Development Committee shall promptly raise such issue to the chief executive officers (or equivalent officer) of Exelixis and Symphony Evolution. The chief executive officers shall have ten (10) days to mutually agree on how to resolve such issue. If the parties' chief executive officers are unable to resolve such issue within the ten (10) day period, then such issue shall be brought to the Symphony Evolution Board, and the Symphony Evolution Board shall promptly resolve such issue, which resolution shall be binding on Symphony Evolution and Exelixis.

Authority and Duties

12. The Development Committee shall decide on all changes in the Management Plan and the Management Budget that are subject to approval pursuant to Section 2 of the Management Services Agreement, and all changes in the Clinical Plan and Clinical Budget that are subject to approval pursuant to Sections 4.2 and 8.3 of the Amended and Restated Research and Development Agreement (each such change, a "***Material Change***" to the Development Plan or Development Budget, as applicable). In addition, the Development Committee shall decide on any other matters that are identified in the Amended and Restated Research and Development Agreement or the Management Services Agreement as requiring the approval of the Development Committee. Unless otherwise approved pursuant to Paragraph 11 above, or discontinued or modified pursuant to Sections 4.2(f) or 5.1 of the Amended and Restated Research and Development Agreement, no Material Change to the Development Plan or Development Budget will be adopted by Symphony Evolution unless and until the Development Committee approves such Material Change.

13. The Development Committee shall report at least quarterly to the Symphony Evolution Board regarding progress relative to the Development Plan and/or Development Budget, and any changes in the Development Plan and/or Development Budget, and shall respond promptly to any reasonable requests for additional information made by the Symphony Evolution Board. The Development Committee shall also submit its decisions regarding the Development Plan and Development Budget to the Symphony Evolution Board, including regulatory strategies and discontinuation or modification of the Programs, if warranted.

14. The Development Committee shall continuously evaluate the funding requirements of the Programs, and shall recommend to the Symphony Evolution Board an appropriate date to request that Holdings submit to Investors a Funding Notice with respect to a request for the Additional Funds, and that Holdings make an additional capital contribution to Symphony Evolution from the funds Holdings receives from Investors pursuant thereto.

The foregoing list of duties is not exhaustive, and the Development Committee may, in addition, perform such other functions as may be necessary or appropriate for the performance of its duties and the furtherance of the development of Programs, including as may be required under any Operative Document. In no event shall the Development Committee have the power to amend any of the Operative Documents. The Development Committee shall have the power to delegate its authority and duties to sub-committees as it deems appropriate; provided, however, that any such sub-committee shall have at least one (1) Development Committee Member who is appointed to the Development Committee by the Symphony Evolution Board and at least one Development Committee Member who is appointed by Exelixis.

ANNEX C

DEVELOPMENT PLAN

[*]

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ANNEX D

DEVELOPMENT BUDGET

[*]

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ANNEX E

PAYMENT TERMS

1. Exelixis will invoice Symphony Evolution monthly, in arrears, for out-of-pocket fees, expenses and costs actually incurred by Exelixis (including without limitation all costs associated with Subcontracting Agreements entered into by Exelixis pursuant to Section 6.2) or Exelixis resources used, in each case with respect to the performance of Clinical Plan-related activities.

2. Exelixis' monthly invoices must include receipts, third party invoices or other reasonable documentation for all out-of-pocket fees, expenses and costs. Exelixis' invoices not in accordance with the requirements of this section may incur delays in payment. No administrative fee shall be charged to Symphony Evolution in connection with any out-of-pocket fees, expenses or costs. Unless the Development Committee provides Exelixis with prior approval, Exelixis employees shall use coach (economy) class travel for all daytime air travel within North America and business class travel for all overnight air travel within North America or air travel outside North America.

3. Exelixis' invoices will include a report summarizing the amount of time devoted by Exelixis employees during the invoice period. Symphony Evolution will reimburse Exelixis based on an annual fully burdened FTE rate of **[*]**.

4. Invoices must be submitted by Exelixis to Symphony Evolution by the **[*]** of each month. Invoices not received by Symphony Evolution on the required date may result in delays in payment to Exelixis.

5. Prior to any payments being made to Exelixis, Exelixis agrees to complete a W-9 form and supply Exelixis' social security or TIN number to Symphony Evolution, as appropriate, or supply a written declaration of foreign resident status and ineligibility for U.S. withholding taxes. Exelixis is responsible for maintaining adequate records for tax purposes. If Exelixis requests summaries or break-downs of compensation in addition to the 1099 form or analogous form that Symphony Evolution provides, Symphony Evolution will charge Exelixis a fee for preparing the requested documents, based on the amount of time expended by Symphony Evolution.

6. Symphony Evolution shall pay each invoice within **[*]** of receipt. All fees will be payable in US Dollars. If Symphony Evolution disputes in good faith any portion of an invoice, then Symphony Evolution shall pay the undisputed amounts as set forth in the preceding sentence and the Parties shall use good faith efforts to reconcile the disputed amount as soon as practicable.

7. Exelixis will mail invoices to Symphony Evolution at the following address:
   Symphony Evolution, Inc.
   7361 Calhoun Place, Suite 325
   Rockville, MD 20855
   Attn: Accounts Payable

8. All payments to Exelixis shall be sent to Exelixis by wire transfer to the following account: **[*]**

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Schedule 6.3

[*]

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Schedule 12.1(f)

[*]

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Exhibit 10.6

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EXECUTION COPY

PURCHASE OPTION AGREEMENT

by and among

EXELIXIS, INC.,

SYMPHONY EVOLUTION HOLDINGS LLC

and

SYMPHONY EVOLUTION, INC.

Dated as of June 9, 2005

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PURCHASE OPTION AGREEMENT

This PURCHASE OPTION AGREEMENT (this "***Agreement***") is entered into as of June 9, 2005 (the "***Closing Date***") by and among EXELIXIS, INC., a Delaware corporation ("***Exelixis***"), SYMPHONY EVOLUTION HOLDINGS LLC, a Delaware limited liability company ("***Holdings***"), and SYMPHONY EVOLUTION, INC., a Delaware corporation ("***Symphony Evolution***"). Capitalized terms used herein and not defined herein shall have the meanings assigned to such terms in Annex A attached hereto.

PRELIMINARY STATEMENT

WHEREAS, Exelixis and Holdings have entered into a Technology License Agreement pursuant to which Exelixis has granted Holdings an exclusive license (the "***License***") to the use of certain intellectual property related to the Programs owned or controlled by Exelixis;

WHEREAS, contemporaneously with the execution of this Agreement, Exelixis, Holdings and Symphony Evolution are entering into a Novated and Restated Technology License Agreement, pursuant to which, among other things, Holdings will assign by way of novation the License to Symphony Evolution;

WHEREAS, Exelixis and Holdings have entered into a Research and Development Agreement pursuant to which Exelixis has agreed, amongst other things, to perform, on behalf of Holdings, research and development of the Programs;

WHEREAS, contemporaneously with the execution of this Agreement, Exelixis, Holdings and Symphony Evolution are entering into an Amended and Restated Research and Development Agreement, pursuant to which, among other things, Holdings will assign its rights and obligations under the Research and Development Agreement to Symphony Evolution;

WHEREAS, contemporaneously with the execution of this Agreement, in order to fund such research and development, institutional investors are committing to invest up to $80,000,000.00 in Holdings (the "***Financing***") in exchange for membership interests in Holdings and for certain warrants (the "***Warrants***"), to purchase up to a total of 2,000,000 shares of Exelixis Common Stock, to be initially issued to Holdings, and Holdings will agree to contribute the net proceeds of the Financing to Symphony Evolution;

WHEREAS, the allocations of purchasable shares of Exelixis Common Stock subject to the Warrants is based on a Committed Capital amount of $80,000,000.00, and if the Funded Capital is less than $80,000,000.00, then the allocation of purchasable Exelixis Common Stock subject to the Warrants shall be adjusted proportionately;

WHEREAS, Holdings desires, in consideration for the opportunity to receive A Warrants, B Warrants and C Warrants, to grant Exelixis an option to purchase all of the Common Stock of Symphony Evolution and any other Equity Securities issued by Symphony Evolution (together, the "***Symphony Evolution Equity Securities***") owned, or hereinafter acquired, by Holdings on the terms described in this Agreement; and

WHEREAS, Symphony Evolution and Holdings have determined that it is in each of its best interest to perform and comply with certain agreements and covenants relating to each of its ongoing operations contained in this Agreement;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto (the "***Parties***") agree as follows:

Section 1. Grant of Purchase Option.

(a) Holdings hereby grants to Exelixis an exclusive option (the "***Purchase Option***") to purchase all, but not less than all, of the outstanding Symphony Evolution Equity Securities owned or hereinafter acquired by Holdings, in accordance with the terms of this Agreement.

(b) Symphony Evolution hereby covenants and agrees that all Symphony Evolution Equity Securities issued by Symphony Evolution at any time prior to the expiration of the Term (including to Holdings on, prior to, or after the date hereof or to any other Person at any time whatsoever, in all cases prior to the expiration of the Term) shall be subject to a purchase option on the same terms as the Purchase Option (except as provided by the immediately following sentence) and all of the other terms and conditions of this Agreement without any additional action on the part of Exelixis or Holdings. Further, to the extent Symphony Evolution shall issue any Symphony Evolution Equity Securities (including any issuance in respect of a transfer of Symphony Evolution Equity Securities by any holder thereof, including Holdings) after the date hereof to any Person (including Holdings) (any issuance of such Symphony Evolution Equity Securities being subject to the prior written consent of Exelixis as set forth in Sections 5(c) and 7(b) hereof, as applicable), Symphony Evolution hereby covenants and agrees that it shall cause such Symphony Evolution Equity Securities to be subject to the Purchase Option without the payment of, or any obligation to pay, any additional consideration in respect of such Symphony Evolution Equity Securities by Exelixis, Symphony Evolution or any Symphony Evolution Subsidiary to the Person(s) acquiring such subsequently issued Symphony Evolution Equity Securities, the Parties acknowledging and agreeing that the sole consideration payable by Exelixis for all of the outstanding Symphony Evolution Equity Securities now or hereinafter owned by any Person shall be the Purchase Price.

(c) Exelixis' right to exercise the Purchase Option granted hereby is subject to the following conditions:

(i) The Purchase Option may only be exercised for the purchase of all, and not less than all, of Holdings' Symphony Evolution Equity Securities;

(ii) The Purchase Option may only be exercised a single time;

(iii) Except as provided in Sections 1(c)(iv) and (v) below, the Purchase Option may be exercised only during the period (the "***Purchase Option Period***") commencing on and including June 9, 2006, 2006 (the "***Purchase Option Commencement Date***") and ending on and including the earlier of (x), June 9, 2009 the ("***Final Termination Date***"), and (y) the 90th calendar day (such 90th calendar day, the "***Funds Termination Date***") immediately following the first date (each, a "***Balance Sheet Deficiency Date***") on which an internally prepared, unaudited, balance sheet of Symphony Evolution (prepared in accordance with GAAP) is delivered to Exelixis stating that the aggregate amount of (A) cash and cash equivalents held by Symphony Evolution and (B) cash that will be received in connection with a pending Funding Notice provided by Holdings to the Investors pursuant to the Funding Agreement is less than $5,000,000 (unless extended in accordance with Section 1(c)(iv);

(iv) In the event that Exelixis has agreed to share the costs of additional research pursuant to the Research Cost Sharing and Extension Agreement (the "***RCSEA***"), the Purchase Option Period shall be determined in accordance with the RCSEA (for the avoidance of doubt, funds advanced by Exelixis pursuant to the RCSEA shall not be included in any calculation of the Purchase Price hereunder); and

(v) In the event that Holdings terminates the Amended and Restated Research and Development Agreement following a material breach thereof by Exelixis (as provided in Section 17.2 of the Amended and Restated Research Agreement), Exelixis shall have thirty (30) days in which to decide if it wishes to exercise the Purchase Option hereunder. Such exercise of the Purchase Option shall be effected in accordance with the terms of this Agreement, except that such exercise may occur prior to the Purchase Option Commencement Date (an "***Early Purchase Option Exercise***").

Section 2. Exercise of Purchase Option.

(a) Exercise Notice. Exelixis may exercise the Purchase Option only by delivery of a notice in the form attached hereto as Exhibit 1 (the "***Purchase Option Exercise Notice***") during the Purchase Option Period (or in the case of an Early Purchase Option Exercise, as set forth in Section 1(c)(v)). The Purchase Option Exercise Notice shall be delivered on a Business Day to Holdings and Symphony Evolution and shall be irrevocable once delivered. The date on which the Purchase Option Exercise Notice is first delivered to Holdings and Symphony Evolution is referred to as the ***"Purchase Option Exercise Date."*** The Purchase Option Exercise Notice shall contain (1) an estimated date for the settlement of the Purchase Option (the "***Purchase Option Closing***"), which date shall be estimated in accordance with this Section 2(a), (2) an estimated price for the exercise of the Purchase Option, calculated in accordance with Section 2(c) hereof, and based on the estimated date of the Purchase Option Closing and the then-current financial statements of Symphony Evolution, and (3) if Exelixis intends to pay part of the Purchase Price in Exelixis Common Stock, notice of such intent, the number of shares to be transferred as such purchase price, the valuation thereof and the percentage such portion bears to the estimated purchase price (which shall be no greater percentage than permitted under Section 2(c)). Such notice and election shall be irrevocable once given and made. If, during the period between the Purchase Option Exercise Date and the Purchase Option Closing, the amount of cash and cash equivalents held by Symphony Evolution is an amount less than or equal to

$1,000,000 then Symphony Evolution shall cease payment of any amounts owed to Exelixis in respect of its activities pursuant to the Amended and Restated Research and Development Agreement, but shall continue to pay amounts owed to all other Persons. The date of the Purchase Option Closing (the "***Purchase Option Closing Date***") shall be determined as follows:

(i) If Exelixis elects to pay the entire Purchase Price in cash, the Purchase Option Closing Date shall be the date that is the later of: (A) five (5) Business Days following the Purchase Option Exercise Date; and (B) five (5) Business Days following the date that Exelixis receives the necessary Government Approvals related to its HSR Filings; provided, however that Exelixis and Holdings shall make all necessary HSR Filings within five (5) Business Days following the Purchase Option Exercise Date and shall diligently pursue the related regulatory process; and provided, further that (1) if there is no second request from the Federal Trade Commission or the Department of Justice, as applicable, with respect to Exelixis' or Holdings' HSR Filings, then in no event shall the Purchase Option Closing Date be more than sixty (60) days following the Purchase Option Exercise Date, and (2) if there is a second request from the Federal Trade Commission or the Department of Justice, as applicable, with respect to Exelixis' or Holdings' HSR Filings, then in no event shall the Purchase Option Closing Date be more than one hundred and twenty (120) days following the Purchase Option Exercise Date. If Exelixis shall fail to make such cash payment within such sixty (60) day period or one hundred and twenty (120) day period, as applicable, then in addition to any other rights that Holdings shall have hereunder, this Agreement shall terminate and Exelixis shall relinquish all rights hereunder to purchase the Symphony Evolution Equity Securities; or

(ii) If Exelixis elects to pay a portion of the Purchase Price in Exelixis Common Stock (subject to the limitations set forth herein and in the Registration Rights Agreement), the Purchase Option Closing Date shall be the date that is the later of:

(A) five (5) Business Days following the Effective Registration Date of such Exelixis Common Stock; provided, that Exelixis shall file the Registration Statement contemplated by Section 3(b)(i) within (x) ten (10) Business Days after the Purchase Option Exercise Date if Exelixis is eligible to use Form S-3 under the Securities Act (or any successor form), or (y) twenty (20) Business Days after the Purchase Option Exercise Date if Exelixis is not eligible to use Form S-3 under the Securities Act (or any successor form); and

(B) five (5) Business Days following the date that Exelixis receives the necessary Government Approvals related to its HSR Filings; provided, however, that Exelixis and Holdings shall make all necessary HSR Filings within five (5) Business Days following the Purchase Option Exercise Date and shall diligently pursue the related regulatory process;

provided, further, that Exelixis shall use commercially reasonable efforts to have such Registration Statement declared effective by the United States Securities and Exchange Commission as promptly as possible. In the event that such Registration Statement is not declared effective within one hundred and twenty (120) days of the Purchase Option

Exercise Date, Exelixis shall pay the full Purchase Price in cash within two (2) Business Days thereafter (in which event the Purchase Option Closing Date shall be the date upon which such cash payment is made by Exelixis). If Exelixis shall fail to make such cash payment within such two (2) Business Day period, then in addition to any other rights that Holdings shall have hereunder, this Agreement shall terminate and Exelixis shall relinquish all rights hereunder to purchase the Symphony Evolution Equity Securities.

(b) Purchase Price Upon Option Exercise. Upon exercise of the Purchase Option and as complete and full consideration for the sale to Exelixis by Holdings of its Symphony Evolution Equity Securities (and for the Symphony Evolution Equity Securities of any other Person), Exelixis shall pay to Holdings the amount calculated pursuant to either clause (i), clause (ii) or clause (iii) below (an example of which calculation is attached as Schedule I hereto), calculated for the date on which the Purchase Option Closing Date occurs (the "***Funds Price***"), *minus* the aggregate amounts of any Debt or other liabilities (including any unpaid corporate tax liability resulting from an exercise of the Program Option, the exercise of the Discontinuation Option, or the sale or license of a discontinued or abandoned Program to GlaxoSmithKline or other third party) owed to parties other than Exelixis, in excess of the cash and cash equivalents outstanding two (2) Business Days prior to the Purchase Option Closing Date (the "***Net Debt***"), as such Debt, liabilities, cash and cash equivalents are reflected in the internal accounting records of Symphony Evolution (prepared in accordance with GAAP) (such amount, the "***Purchase Price***"):

(i) If the Purchase Option is exercised at any time on or after December 11, 2006 (the "***Purchase Option Interim Date***"), then the Purchase Price shall be an amount equal to the sum of (A) the Funded Capital as of the Purchase Option Closing Date, *plus* (B) an amount equal to 25% per annum, compounded daily from the Closing Date, on such Funded Capital; provided that such return thereon shall be calculated according to the dates on which the Funded Capital was advanced; or

(ii) If the Purchase Option is exercised at any time on or after the first anniversary of the Closing Date and prior to the Purchase Option Interim Date, then the Purchase Price shall be an amount equal to the Purchase Price calculated in accordance with Section 2(b)(i) hereof *plus* an amount equal to **[*]** % of the Funded Capital as of the Purchase Option Closing Date; provided, however, that in no event shall the total Purchase Price under this Section 2(b)(ii) exceed a notional price that is an amount equal to the Purchase Price, calculated pursuant to the terms of Section 2(b)(i), above, based on the actual amount of Funded Capital, and assuming that the Purchase Option Closing Date is the Purchase Option Interim Date; or

(iii) If, in the event of an Early Purchase Option Exercise (as defined in Section 1(c)(v) hereof), the Purchase Option Closing Date occurs prior to the Purchase Option Commencement Date, then the Purchase Price shall be an amount equal to the sum of (A) the Funded Capital as of the Purchase Option Closing Date, *plus* (B) an amount equal to 25% per annum, compounded daily for a term of one (1) year from the Closing Date, on such Funded Capital, *plus* (C)

an amount equal to **[*]** % of the Funded Capital as of the Purchase Option Closing Date; provided that such return thereon shall be calculated according to the dates on which the Funded Capital was advanced; provided, further, that in no event shall the total Purchase Price under this Section 2(b)(iii) exceed a notional price that is an amount equal to the Purchase Price, calculated pursuant to the terms of Section 2(b)(i), above, based on the actual amount of Funded Capital, and assuming that the Purchase Option Closing Date is the Purchase Option Interim Date.

Pursuant to clause (1) of Section (2)(a), Exelixis shall estimate the Purchase Price as of the Purchase Option Exercise Date, and shall then provide, in writing, an update of such estimate based on the ongoing and updated financial statements of Symphony Evolution, which financial statements shall be provided to Exelixis by Symphony Evolution on at least a monthly basis following the Purchase Option Exercise Date, on the fifth (5th) Business Day preceding the proposed Purchase Option Closing Date and on the Purchase Option Closing Date. The Purchase Price will be calculated (based on a final calculation of the Funds Price and an updated calculation of the Net Debt as of such date) as of the date chosen to be the Purchase Option Closing Date, and once so calculated (in accordance with this Section 2(b)) the Funds Price component of such Purchase Price shall remain unchanged for four (4) Business Dates following the Purchase Option Closing Date used in such calculation, provided, however that the Net Debt component may be subject to revision in light of actual expenditures occurring during such period. If the Purchase Option Closing Occurs five (5) or more Business Days after the Purchase Option Closing Date used to calculate such Purchase Price, then the Funds Price component of the Purchase Price shall be recalculated based on the new Purchase Option Closing Date, which recalculated Funds Price shall likewise remain in effect for the following four (4) Business Days. In the event that (A) Exelixis has elected to exercise the Program Option (in accordance with the terms of Section 11.1(b) of the Amended and Restated Research and Development Agreement), (B) Exelixis has elected to exercise the Discontinuation Option (in accordance with the terms of Section 11.2(a) of the Amended and Restated Research and Development Agreement), or (C) GlaxoSmithKline or a third party has licensed any Licensed Intellectual Property related to a discontinued or abandoned Program (in accordance with Sections 11.2(b) of the Amended and Restated Research and Development Agreement), prior to Exelixis' exercise of the Purchase Option hereunder, the Purchase Price shall be reduced from the amount otherwise calculated herein by an amount equal to the Program Option Exercise Price, Discontinuation Price or price paid by GlaxoSmithKline or other third party, as applicable, previously paid. In the event that, following the Purchase Option Closing Date, either Exelixis or Holdings objects to the calculation of Net Debt used to determine the final Purchase Price, then, within fifteen (15) Business Days of the Purchase Option Closing Date, such objecting party shall provide written notice to the other party (a "***Purchase Price Dispute Notice***") specifying the amount disputed and the basis for the dispute, together with supporting documentation reflecting the analysis of and justification for any re-computation made; provided, however, that the dispute procedure set forth herein and in Section 2(j) hereof shall only apply to a dispute regarding the Net Debt component of the Purchase Price, and shall not apply to the Funds Price component, which shall be finalized as of the Closing Date. In the event that a Purchase Price Dispute Notice is issued by either party, such dispute shall be resolved in accordance with the terms of Section 2(j) hereof. For the avoidance of doubt, nothing in this Section 2 shall restrict or delay the Holdings' distribution of the proceeds of the Purchase Option following the Purchase Option Closing Date.

(c) Form of Payment. Subject to Sections 2(a) and 2(e), the Purchase Price may be paid in cash or in a combination of cash and Exelixis Common Stock, at the sole discretion of Exelixis; provided, that in no event may the value of Exelixis Common Stock (determined in accordance with Section 2(e) hereof) delivered in connection with the exercise of the Purchase Option constitute more than 33% of the total consideration to be tendered for payment of the Purchase Option Exercise Price, calculated using the Exelixis Common Stock Valuation (as defined herein) procedure.

(d) Surrender of Symphony Evolution Equity Securities. Subject to the terms and conditions of this Agreement, on or prior to the Purchase Option Closing Date, Holdings shall surrender to Exelixis its certificates representing its Symphony Evolution Equity Securities, and shall convey good title to such Symphony Evolution Equity Securities, free from any Encumbrances and from any and all restrictions that any sale, assignment or other transfer of such Symphony Evolution Equity Securities be consented to or approved by any Person. On or prior to the Purchase Option Closing Date, Holdings shall remove all directors serving on the Symphony Board, other than the Exelixis Director (as defined in Section 4(b)(iv) hereof) from the Symphony Board as of the Purchase Option Closing Date.

(e) Valuation of Exelixis Stock. In the event that Exelixis elects to pay part of the Purchase Price through the delivery to Holdings of Exelixis Common Stock, the value per share thereof (the "***Exelixis Common Stock Valuation***") shall equal the average closing price of Exelixis Common Stock, as reported in the *Wall Street Journal*, on the NASDAQ National Market, or other national exchange that is the primary exchange on which Exelixis Common Stock is listed, for the 30 trading days immediately preceding the second trading day prior to the Purchase Option Exercise Date. If Exelixis Common Stock is not traded on a national exchange or the NASDAQ National Market, then Exelixis shall be obligated to pay the Purchase Price solely in cash on the Purchase Option Closing Date. Exelixis shall calculate the Exelixis Common Stock Valuation in accordance with this Section 2(e), subject to review and concurrence by Holdings.

(f) Share Certificates. Any stock certificate(s) issued by Exelixis for Exelixis Common Stock pursuant to this Section 2 may contain a legend (the "***33 Act Legend***") substantially as follows:

> THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE, AND THE SAME HAVE BEEN ISSUED IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. SUCH SHARES MAY NOT BE SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT AS PERMITTED UNDER SUCH SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.

This legend shall be removed by Exelixis, subject to, and in accordance with, the terms of Section 3(b)(iii) hereof.

(g) Government Approvals. On or prior to the Purchase Option Closing Date, each of Exelixis, Symphony Evolution and Holdings shall have taken all necessary action to cause all Governmental Approvals with respect to such Party (including, without limitation, the preparing and filing of the pre-merger notification and report forms required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended ("***HSR Act Filings***")) required to be in effect in connection with the transactions contemplated by this Agreement to be in effect; provided, however, that with respect to Government Approvals required by a Governmental Authority other than the United States federal government and its various branches and agencies, the Parties' obligations under this Section 2(g) shall be limited to causing to be in effect only those Government Approvals, the failure of which to be in effect would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on any of the Parties. Each of Symphony Evolution and Exelixis shall pay its own costs associated with taking such action. Symphony Evolution shall pay any costs of Holdings associated with obtaining Government Approvals required in connection with the exercise of the Purchase Option. All other costs and expenses of Holdings shall be paid by Holdings pursuant to Section 8(b) hereof, including any costs arising from any error in Holdings' initial valuation of its investment in Symphony Evolution.

(h) Transfer of Title. Transfer of title to Exelixis of all of the Symphony Evolution Equity Securities shall be deemed to occur automatically on the Purchase Option Closing Date, subject to the payment by Exelixis on such date of the Purchase Price and its performance of its other obligations herein required to be performed under Sections 2(e) and (g), and under the Registration Rights Agreement, as applicable, on or prior to the Purchase Option Closing Date to the satisfaction of Holdings, and thereafter Symphony Evolution shall be entitled to treat Exelixis as the sole holder of all Symphony Evolution Equity Securities, notwithstanding the failure of Holdings to tender certificates representing such shares to Exelixis in accordance with Section 2(d) hereof. After the Purchase Option Closing Date, Holdings shall have no rights in connection with such Symphony Evolution Equity Securities other than the right to receive the Purchase Price; provided, however, that nothing in this Section 2(h) shall affect the survivability of any indemnification provision in this Agreement upon termination of this Agreement.

(i) Consents and Authorizations. On or prior to the Purchase Option Closing Date, Exelixis shall have obtained all consents and authorizations necessary from stockholders and/or its board of directors for the consummation of the exercise and closing of the Purchase Option, as may be required under the organizational documents of Exelixis, any prior stockholders or board resolution, any stock exchange or similar rules or any applicable law; provided, however, that with respect to consents or authorizations required by a Governmental Authority other than the United States federal government and its various branches and agencies, the Parties' obligations under this Section 2(i) shall be limited to obtaining only those consents and authorizations, the failure of which to be obtained would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on any of the Parties.

(j) Purchase Price Adjustment.

(i) In the event that either Holdings or Exelixis delivers to the other a Purchase Price Dispute Notice within the time limit set forth in Section 2(b) hereof, then both Holdings and Exelixis shall make good faith efforts to resolve any dispute relating to

the calculation of the Net Debt component of the Purchase Price through negotiations for a period of five (5) Business Days following the date on which a Purchase Price Dispute Notice is delivered. If Holdings and Exelixis agree on the calculation of the Net Debt component of the Purchase Price (or a revision thereto) before or within such five (5) Business Day period, and (x) the recalculated Net Debt results in a recalculated Purchase Price (including as revised through negotiations) that is less than the Purchase Price paid on the Purchase Option Closing Date, then Holdings shall promptly, and in any event within five (5) Business Days of the date on which the Purchase Price recalculation becomes final, pay to Exelixis the amount by which the recalculated Purchase Price is less than Purchase Price paid on the Purchase Option Closing Date, or (y) the recalculated Net Debt results in a recalculated Purchase Price (including as revised through negotiations) that is greater than the Purchase Price paid on the Purchase Option Closing Date, then Exelixis shall promptly, and in any event within five (5) Business Days of the date on which the recalculated Purchase Price becomes final, pay to Holdings the amount by which the recalculated Purchase Price is greater than the Purchase Price paid on the Purchase Option Closing Date. In the event that neither of the conditions set forth in the previous clauses (x) and (y) exist, then no payment shall be made.

(ii) To the extent that any matter remains unresolved following negotiations during such five (5) Business Day period (as determined by notice by any party to the other party), Exelixis and Holdings shall jointly select an independent accountant of recognized national standing to resolve any remaining disagreements, which independent accountant shall not have provided services to either of Exelixis, Holdings or any of their respective Affiliates during the five-year period preceding the date of its selection (the "***Independent Accountant***"). Exelixis and Holdings shall use their respective commercially reasonable efforts to cause such Independent Accountant to make its determination of the Purchase Price (the "***Final Purchase Price***") within sixty (60) days of accepting its selection. The decision of the Independent Accountant shall be a final, binding and conclusive resolution of the parties' dispute, shall be non-appealable and shall not be subject to further review. The costs and expenses of the Independent Accountant shall be split between Holdings and Exelixis in proportion to the difference between the Final Purchase Price and the Purchase Price (recalculated, if applicable, pursuant to Section 2(j)(i)). Notwithstanding the foregoing, in any case, each of Exelixis and Holdings shall be responsible for the payment of its respective costs and expenses, including any attorneys' and accountants' fees (other than any accountants' fees payable to the Independent Accountant, which shall be split between the parties in accordance with this Section 2(j)) incurred in connection with the dispute. If the Final Purchase Price is less than the Purchase Price paid on the Purchase Option Closing Date, then Holdings shall promptly, and in any event within five (5) Business Days of the date on which the Independent Accountant makes its determination of the Final Purchase Price, pay to Exelixis the amount by which the Final Purchase Price is less than the Purchase Price paid on the Purchase Option Closing Date. If the Final Purchase Price is greater than the Purchase Price paid on the Purchase Option Closing Date, then Exelixis shall promptly, and in any event within five (5) Business Days of the date on which the Independent Accountant makes its determination of the Final Purchase Price, pay to Holdings the amount by which the Final Purchase Price is greater than the Purchase Price paid on the Purchase Option Closing Date. In the event that neither of the conditions set forth in the previous two sentences exist, then no payment shall be made.

Section 3. Exelixis Representations, Warranties and Covenants.

(a) As of the date hereof, Exelixis hereby represents and warrants, and, except to the extent that any of the following representations and warranties is limited to the date of this Agreement or otherwise limited, on the Purchase Option Closing Date, shall be deemed to have represented and warranted, to Holdings and Symphony Evolution that:

(i) Organization. Exelixis is a corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware.

(ii) Authority and Validity. Other than in respect of the exercise of the Purchase Option pursuant to Section 2(a) (which is subject to future approval by Exelixis' board of directors and potentially Exelixis' stockholders if required by applicable NASDAQ or other stock exchange rules), Exelixis has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Exelixis of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action required on the part of Exelixis (other than in respect of the exercise of the Purchase Option pursuant to Section 2(a) which is subject to future approval by Exelixis' board of directors and potentially Exelixis' stockholders if required by applicable NASDAQ or other stock exchange rules), and no other proceedings on the part of Exelixis are necessary to authorize this Agreement or for Exelixis to perform its obligations under this Agreement. This Agreement constitutes the lawful, valid and legally binding obligation of Exelixis, enforceable in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles regardless of whether such enforceability is considered in a proceeding at law or in equity.

(iii) No Violation or Conflict. The execution, delivery and performance of this Agreement and the transactions contemplated hereby do not (A) violate, conflict with or result in the breach of any provision of the Organizational Documents of Exelixis, (B) as of the date of this Agreement, and as of the Purchase Option Closing Date if Exelixis elects to pay part of the Purchase Price through the delivery of Exelixis Common Stock (a "***Partial Stock Payment***"), conflict with or violate any law or Governmental Order applicable to Exelixis or any of its assets, properties or businesses, or (C) conflict with, result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any Encumbrance on any of the assets or properties of Exelixis, pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Exelixis is a party except, in the case of clauses (B) and (C), to the extent that such conflicts, breaches, defaults or other matters would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis.

(iv) Governmental Consents and Approvals. Other than any HSR Act Filings and Additional Regulatory Filings which, if the Purchase Option is exercised by Exelixis, will be obtained on or prior to the Purchase Option Closing Date, and any Governmental Approvals relating to federal securities or state "blue sky" laws, the execution, delivery and performance of this Agreement by Exelixis do not, and the consummation of the transactions contemplated hereby do not and will not, require any Governmental Approval which has not already been obtained, effected or provided, except with respect to which the failure to so obtain, effect or provide would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis.

(v) Litigation. As of the date of this Agreement, and as of the Purchase Option Closing Date if Exelixis elects to make a Partial Stock Payment, there are no actions by or against Exelixis pending before any Governmental Authority or, to the knowledge of Exelixis, threatened to be brought by or before any Governmental Authority, that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis. There are no pending or, to the knowledge of Exelixis, threatened actions, to which Exelixis is a party (or is threatened to be named as a party) to set aside, restrain, enjoin or prevent the execution, delivery or performance of this Agreement or the Operative Documents or the consummation of the transactions contemplated hereby or thereby by any party hereto or thereto. As of the date of this Agreement, and as of the Purchase Option Closing Date if Exelixis elects to make a Partial Stock Payment, Exelixis is not subject to any Governmental Order (nor, to the knowledge of Exelixis, is there any such Governmental Order threatened to be imposed by any Governmental Authority) that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis.

(b) Exelixis hereby covenants and agrees with Holdings as follows:

(i) Immediately prior to the Purchase Option Closing Date, Exelixis shall have sufficient amounts of cash and, if applicable, authorized but unissued, freely transferable and nonassessable Exelixis Common Stock available to satisfy the portion of the Purchase Price to be paid in cash or Exelixis Common Stock pursuant to Sections 2(b) and 2(c). In the event that Exelixis elects to satisfy any portion of the Purchase Price in Exelixis Common Stock, Exelixis shall have available, on the Purchase Option Closing Date, a Registration Statement declared effective by the Securities and Exchange Commission for the resale of any such shares of Exelixis Common Stock to be delivered in partial satisfaction of the Purchase Price, accompanied by evidence reasonably acceptable to Holdings that such Exelixis Common Stock has been approved for listing on the NASDAQ national market.

(ii) If Exelixis elects to satisfy any portion of the Purchase Price in Exelixis Common Stock, Exelixis shall convey good and marketable title to such Exelixis Common Stock, free from any Encumbrances and, except as otherwise contemplated in Section 2(f) of this Agreement, from any and all restrictions that any issuance, sale, assignment or other transfer of such Exelixis Common Stock be consented to or approved by any Person.

(iii) If the share certificates representing such Exelixis Common Stock include the 33 Act Legend (as set forth in Section 2(f) hereof), Exelixis shall, within three (3) Business Days of receiving a request from Holdings or any "***Investor***" (as defined in the Registration Rights Agreement), remove or cause to be removed the 33 Act Legend from the such share certificates as Holdings or such Investor shall designate, so long as (x) the Exelixis Common Stock represented by such share certificates has been transferred to a third party in compliance with the registration requirements of the Securities Act or an available exemption therefrom, and (y) Exelixis receives a certification from Holdings, such Investor or a securities broker designated by Holdings or such Investor to the effect that the sale of such Exelixis Common Stock was made under a Registration Statement and accompanied by the delivery of a current prospectus.

(iv) Upon the termination of this Agreement without the exercise of the Purchase Option, or as soon thereafter as is practical, Exelixis shall deliver to Symphony Evolution all regulatory submissions, clinical master files, development plans, consultant inputs, manufacturing reports and, to the extent requested by Symphony, other materials, documents, files and other information relating to the Programs and necessary to enable Symphony Evolution to continue the development of the Programs (or, where necessary, copies thereof).

(v) In the event that Exelixis exercises the Purchase Option, then Exelixis shall maintain the separate corporate existence of Symphony Evolution for a minimum of two (2) years following such exercise, unless such maintenance would have a Material Adverse Effect on Exelixis or any of its Affiliates.

Section 4. Holdings Representations, Warranties and Covenants.

(a) As of the date hereof, Holdings hereby represents and warrants, and, except to the extent that any of the following representations and warranties is limited to the date of this Agreement or otherwise limited, and on the Purchase Option Closing Date, shall be deemed to have represented and warranted, to Exelixis and Symphony Evolution that:

(i) Organization. Holdings is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Delaware.

(ii) Authority and Validity. Holdings has all requisite limited liability company power and authority to execute, deliver and perform its obligations under this Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Holdings of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action required on the part of Holdings, and no other proceedings on the part of Holdings are necessary to authorize this Agreement or for Holdings to perform its obligations under this Agreement. This Agreement constitutes the lawful, valid and legally binding obligation of Holdings, enforceable in accordance with its terms, except as the same may

be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles regardless of whether such enforceability is considered in a proceeding at law or in equity.

(iii) No Violation or Conflict. The execution, delivery and performance of this Agreement and the transactions contemplated hereby do not (A) violate, conflict with or result in the breach of any provision of the Organizational Documents of Holdings, (B) as of the date of this Agreement, conflict with or violate any law or Governmental Order applicable to Holdings or any of its assets, properties or businesses, or (C) as of the date of this Agreement, conflict with, result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any Encumbrance on any of the assets or properties of Holdings, pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Holdings is a party except, in the case of clauses (B) and (C), to the extent that such conflicts, breaches, defaults or other matters would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Holdings.

(iv) Governmental Consents and Approvals. The execution, delivery and performance of this Agreement by Holdings do not, and the consummation of the transactions contemplated hereby do not and will not, require any Governmental Approval which has not already been obtained, effected or provided, except with respect to which the failure to so obtain, effect or provide would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Holdings.

(v) Litigation. As of the date of this Agreement, there are no actions by or against Holdings pending before any Governmental Authority or, to the knowledge of Holdings, threatened to be brought by or before any Governmental Authority, that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Holdings. There are no pending or, to the knowledge of Holdings, threatened actions to which Holdings is a party (or is threatened to be named as a party) to set aside, restrain, enjoin or prevent the execution, delivery or performance of this Agreement or the Operative Documents or the consummation of the transactions contemplated hereby or thereby by any party hereto or thereto. As of the date of this Agreement, Holdings is not subject to any Governmental Order (nor, to the knowledge of Holdings, is there any such Governmental Order threatened to be imposed by any Governmental Authority) that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Holdings.

(vi) Stock Ownership. All of Symphony Evolution's issued and outstanding Symphony Evolution Equity Securities are owned beneficially and of record by Holdings, free and clear of any and all encumbrances.

(vii) Interim Operations. Holdings was formed solely for the purpose of engaging in the transactions contemplated by the Operative Documents, has engaged in no other business activities and has conducted its operations only as contemplated by the Operative Documents.

(viii) Accredited Investor.

(A) Holdings is and will remain at all relevant times an Accredited Investor.

(B) Holdings has relied completely on the advice of, or has consulted with or has had the opportunity to consult with, its own personal tax, investment, legal or other advisors and has not relied on Exelixis or any of its Affiliates for advice related to any offer and sale of Exelixis Common Stock in connection with the Purchase Option. Holdings has reviewed the Investment Overview and is aware of the risks disclosed therein. Holdings acknowledges that it has had a reasonable opportunity to conduct its own due diligence with respect to the Products, the Programs, Symphony Evolution, Exelixis and the transactions contemplated by the Operative Documents.

(C) Holdings is able to bear the economic risk of such investment for an indefinite period and to afford a complete loss thereof

(D) Holdings agrees that the Exelixis Common Stock may not be resold (A) without registration thereof under the Securities Act (unless an exemption from such registration is available), or (B) in violation of any law.

(E) No person or entity acting on behalf of, or under the authority of, Holdings is or will be entitled to any broker's, finder's, or similar fees or commission payable by Exelixis or any of its Affiliates.

(b) Holdings hereby covenants and agrees with Exelixis as follows:

(i) Contribution to Symphony Evolution. On or prior to June 21, 2005, Holdings shall, pursuant to the Subscription Agreement, use the Initial Funds (as defined in the Funding Agreement) to pay to Symphony Evolution the Stock Purchase Price (in accordance with, and as defined in, the Subscription Agreement), in respect of the 50,000 shares of Common Stock delivered to Holdings by Symphony Evolution as of the Closing Date. Additionally, (1) upon receipt of a request for additional funds from Symphony Evolution, Holdings shall, promptly (but in no event later than the fifth (5^{th}) day after the receipt of such request) and in accordance with the terms of Section 2 of the Funding Agreement, submit to Investors a Funding Notice; provided, that if Holdings has received a Purchase Option Exercise Notice, it shall not submit to Investors a Funding Notice, and (2) upon Holdings receiving any additional net proceeds from any financing received from Investors in accordance with the Funding Agreement for the purpose of the contribution of such proceeds to Symphony Evolution, Holdings shall contribute such proceeds thereof to Symphony Evolution.

(ii) Encumbrance. Holdings will not, and will not permit any of its Subsidiaries to, create, assume or suffer to exist any Encumbrance on any of its Symphony Evolution Equity Securities (each, a "***Symphony Evolution Securities Encumbrance***") except with the prior written consent of Exelixis.

(iii) Transfer and Amendment. Commencing upon the date hereof and ending upon the earlier to occur of (x) the Purchase Option Closing Date and (y) the expiration of the Purchase Option Period (such period, the "***Term***"), the manager of Holdings shall not (A) transfer, or permit the transfer of, any Membership Interest without the prior written consent of Exelixis or (B) amend, or permit the amendment of, any provisions relating to the transfer of Membership Interests, as set forth in Section 7.02 of the Holdings LLC Agreement, to the extent such amendment would adversely affect Exelixis' right of consent set forth in Sections 7.02(b)(i) and 7.02(c) of the Holdings LLC Agreement.

(iv) Symphony Evolution Directors. During the Term, Holdings agrees to vote all of its Symphony Evolution Equity Securities (or to exercise its right with respect to such Symphony Evolution Equity Securities to consent to action in writing without a meeting) in favor of, as applicable, the election, removal and replacement of one director of the Symphony Evolution Board, and any successor thereto, designated by Exelixis (the "***Exelixis Director***") as directed by Exelixis, and the appointment of one representative of GlaxoSmithKline, designated by Exelixis, as a non-voting observer on the Symphony Evolution Board, and any successor thereto. In furtherance and not in limitation of the foregoing, Holdings hereby grants to Exelixis an irrevocable proxy, with respect to all Symphony Evolution Equity Securities now owned or hereafter acquired by Holdings, to vote such Symphony Evolution Equity Securities or to exercise the right to consent to action in writing without a meeting with respect to such Symphony Evolution Equity Securities, such irrevocable proxy to be exercised solely for the limited purpose of (i) electing, removing and replacing the Exelixis Director and (ii) the appointment of a representative of GlaxoSmithKline chosen by Exelixis as a non-voting observer on the Symphony Evolution Board, in the event of the failure or refusal of Holdings to elect, remove or replace such Exelixis Director, or appoint a representative of GlaxoSmithKline chosen by Exelixis as a non-voting observer on the board of directors of Symphony Evolution, as directed by Exelixis. Additionally, Holdings agrees, during the Term, to allow Exelixis to consent (such consent not to be unreasonably delayed or withheld) to the selection of two (2) of the four (4) directors of Symphony Evolution not chosen by Holdings at the direction of Exelixis, and any successors thereto.

(v) Symphony Evolution Board. During the Term, Holdings shall not vote any of its Symphony Evolution Equity Securities (or exercise its rights with respect to such Symphony Evolution Equity Securities by written consent without a meeting) to increase the size of the Symphony Evolution Board to more than five (5) members without the prior written consent of Exelixis.

(vi) Symphony Evolution Charter. During the Term, Holdings shall not approve or permit any amendment to Article IV, Paragraphs (1) and (3); Article VI; Article VII; Article X; Article XI or Article XIII of the Symphony Evolution Charter without the prior written consent of Exelixis.

Section 5. Symphony Evolution Representations, Warranties and Covenants.

(a) As of the date hereof, Symphony Evolution hereby represents and warrants, and, except to the extent that any of the following representations and warranties is limited to the date of this Agreement or otherwise limited, on the Purchase Option Closing Date, shall be deemed to have represented and warranted, to Exelixis and Holdings that:

(i) Organization. Symphony Evolution is a corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware.

(ii) Authority and Validity. Symphony Evolution has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Symphony Evolution of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action required on the part of Symphony Evolution, and no other proceedings on the part of Symphony Evolution are necessary to authorize this Agreement or for Symphony Evolution to perform its obligations under this Agreement. This Agreement constitutes the lawful, valid and legally binding obligation of Symphony Evolution, enforceable in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles regardless of whether such enforceability is considered in a proceeding at law or in equity.

(iii) No Violation or Conflict. The execution, delivery and performance of this Agreement and the transactions contemplated hereby do not (A) violate, conflict with or result in the breach of any provision of the Organizational Documents of Symphony Evolution, (B) conflict with or violate any law or Governmental Order applicable to Symphony Evolution or any of its assets, properties or businesses, or (C) conflict with, result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any Encumbrance on any of the assets or properties of Symphony Evolution, pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Symphony Evolution is a party except, in the case of clauses (B) and (C), to the extent that such conflicts, breaches, defaults or other matters would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Symphony Evolution.

(iv) Governmental Consents and Approvals. The execution, delivery and performance of this Agreement by Symphony Evolution do not, and the consummation of the transactions contemplated hereby do not and will not, require any Governmental Approval which has not already been obtained, effected or provided, except with respect

to which the failure to so obtain, effect or provide would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Symphony Evolution.

(v) Litigation. There are no actions by or against Symphony Evolution pending before any Governmental Authority or, to the knowledge of Symphony Evolution, threatened to be brought by or before any Governmental Authority that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Symphony Evolution. There are no pending or, to the knowledge of Symphony Evolution, threatened actions to which Symphony Evolution is a party (or is threatened to be named as a party) to set aside, restrain, enjoin or prevent the execution, delivery or performance of this Agreement or the Operative Documents or the consummation of the transactions contemplated hereby or thereby by any party hereto or thereto. Symphony Evolution is not subject to any Governmental Order (nor, to the knowledge of Symphony Evolution, is there any such Governmental Order threatened to be imposed by any Governmental Authority) that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Symphony Evolution.

(vi) Capitalization. Holdings is the beneficial and record owner of all issued and outstanding Symphony Evolution Equity Securities. No shares of Symphony Evolution capital stock are held in treasury by Symphony Evolution or any Symphony Evolution Subsidiary. All of the issued and outstanding Symphony Evolution Equity Securities (A) have been duly authorized and validly issued and are fully paid and nonassessable, (B) were issued in compliance with all applicable state and federal securities laws, and (C) were not issued in violation of any preemptive rights or rights of first refusal. No preemptive rights or rights of first refusal exist with respect to any Symphony Evolution Equity Securities and no such rights will arise by virtue of or in connection with the transactions contemplated hereby (other than for the Purchase Option). Other than the Purchase Option, there are no outstanding options, warrants, call rights, commitments or agreements of any character to acquire any Symphony Evolution Equity Securities. There are no outstanding stock appreciation, phantom stock, profit participation or other similar rights with respect to Symphony Evolution. Symphony Evolution is not obligated to redeem or otherwise acquire any of its outstanding Symphony Evolution Equity Securities.

(vii) Interim Operations. Symphony Evolution was formed solely for the purpose of engaging in the transactions contemplated by the Operative Documents, has engaged in no other business activities and has conducted its operations only as contemplated by the Operative Documents.

(viii) Investment Company. Symphony Evolution is not, and after giving effect to the transactions contemplated by the Operative Documents will not be, required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(b) Symphony Evolution covenants and agrees that:

(i) Symphony Evolution will comply with all laws, ordinances or governmental rules or regulations to which it is subject and will obtain and maintain in effect all licenses, certificates, permits, franchises and other Governmental Approvals necessary to the ownership of its properties or to the conduct of its business, in each case to the extent necessary to ensure that non-compliance with such laws, ordinances or governmental rules or regulations or failures to obtain or maintain in effect such licenses, certificates, permits, franchises and other Governmental Approvals would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Symphony Evolution.

(ii) Symphony Evolution will file (or cause to be filed) all material tax returns required to be filed by it and pay all taxes shown to be due and payable on such returns and all other taxes imposed on it or its assets to the extent such taxes have become due and payable and before they have become delinquent and shall pay all claims for which sums have become due and payable that have or might become attached to the assets of Symphony Evolution; provided, that Symphony Evolution need not file any such tax returns or pay any such tax or claims if (A) the amount, applicability or validity thereof is contested by Symphony Evolution on a timely basis in good faith and in appropriate proceedings, and Symphony Evolution has established adequate reserves therefor in accordance with GAAP on the books of Symphony Evolution or (B) the failure to file such tax returns or the nonpayment of such taxes and assessments, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect on Symphony Evolution.

(iii) Symphony Evolution will at all times preserve and keep in full force and effect its corporate existence.

(iv) Symphony Evolution will keep complete, proper and separate books of record and account, including a record of all costs and expenses incurred, all charges made, all credits made and received, and all income derived in connection with the operation of the business of Symphony Evolution, all in accordance with GAAP, in each case to the extent necessary to enable Symphony Evolution to comply with the periodic reporting requirements of this Agreement.

(v) Symphony Evolution will perform and observe in all material respects all of the terms and provisions of each Operative Document to be performed or observed by it, maintain each such Operative Document to which it is a party, promptly enforce in all material respects each such Operative Document in accordance with its terms, take all such action to such end as may be from time to time reasonably requested by Holdings or Exelixis and make to each other party to each such Operative Document such demands and requests for information and reports or for action as Symphony Evolution is entitled to make under such Operative Document.

(vi) Symphony Evolution shall permit the representatives of Holdings (including Holdings' members and their respective representatives), each Symphony Fund and Exelixis, at each of their own expense and upon reasonable prior notice to Symphony Evolution, to visit the principal executive office of Symphony Evolution, to

discuss the affairs, finances and accounts of Symphony Evolution with Symphony Evolution's officers and (with the consent of Symphony Evolution, which consent will not be unreasonably withheld) its Auditors, all at such reasonable times and as often as may be reasonably requested in writing.

(vii) Symphony Evolution shall permit each Symphony Fund, at its own expense and upon reasonable prior notice to Symphony Evolution, to inspect and copy Symphony Evolution's books and records and inspect Symphony Evolution's properties at reasonable times.

(viii) Symphony Evolution shall allow Exelixis or its designated representatives to have reasonable visitation and inspection rights with regard to the Programs and materials, documents and other information relating thereto.

(ix) Symphony Evolution shall permit each Symphony Fund to consult with and advise the management of Symphony Evolution on matters relating to the research and development of the Programs in order to develop the Product.

(x) On the Purchase Option Closing Date, or as soon thereafter as is practical, Symphony Evolution shall deliver to Exelixis all materials, documents, files and other information relating to the Programs (or, where necessary, copies thereof).

(xi) During the Term, Exelixis shall have the right to consent to any increase in the size of the Symphony Evolution Board to more than five (5) directors and one (1) non-voting observer.

(xii) During the Term, Exelixis shall have the right to designate, remove and replace one (1) director of the Symphony Evolution Board, appoint a representative of GlaxoSmithKline chosen by Exelixis as a non-voting observer on the Symphony Evolution Board, and consent to the selection of two (2) of the four (4) directors of Symphony Evolution not chosen by Holdings at the direction of Exelixis, in each case including any successors thereto and in accordance with the terms of Section 4(b)(iv).

(xiii) Symphony Evolution shall indemnify the directors and officers of Symphony Evolution against liability incurred by reason of the fact that such Person is or was a director or officer of Symphony Evolution, as permitted by Article VII of the Symphony Evolution Charter and Section 9.01 of the Symphony Evolution By-laws, as set forth in, and on the terms of, the Indemnification Agreement and the Management Services Agreement, respectively.

(xiv) During the Term, Symphony Evolution shall comply with, and cause any Persons acting for it to comply with, the terms of the Investment Policy with respect to the investment of any funds held by it.

(c) Symphony Evolution covenants and agrees that, until the expiration of the Term, it shall not, and shall cause its Subsidiaries (if any) not to, without Exelixis' prior written consent (such consent, in the case of clause (x) below, not to be unreasonably withheld):

(i) issue any Symphony Evolution Equity Securities or any Equity Securities of any Subsidiary thereof (other than any issuances of Equity Securities by Symphony Evolution made in accordance with Section 1(b) hereof to Holdings so long as Symphony Evolution is a wholly owned subsidiary of Holdings, or by a Subsidiary of Symphony Evolution to Symphony Evolution or to another wholly owned Subsidiary of Symphony Evolution); provided, however, that any such Symphony Evolution Equity Securities so issued shall be subject to the Purchase Option;

(ii) redeem, repurchase or otherwise acquire, directly or indirectly, any Symphony Evolution Equity Securities or the Equity Securities of any Subsidiary of Symphony Evolution;

(iii) create, incur, assume or permit to exist any Debt other than any Debt incurred pursuant to the Operative Documents and the Development Budget ("***Excepted Debt***"); provided, however, that the aggregate outstanding principal amount of all such Excepted Debt for borrowed money shall not exceed $1,000,000 at any time;

(iv) other than any dividend declared from the proceeds of the exercise of the Program Option, the exercise of the Discontinuation Option or the sale of a discontinued or abandoned Program to GlaxoSmithKline or other third party, in respect of which Symphony Evolution shall be entitled to pay a dividend equal to the net amount (such net amount calculated as the gross proceeds received less amounts required to be paid in respect of any and all corporate taxes owed by Symphony Evolution as a result of the receipt of such gross amounts) of such Program Option Exercise Price, Discontinuation Price or the amount received from such third party, as the case may be, declare or pay dividends or other distributions on any Symphony Evolution Equity Securities;

(v) enter into any transaction of merger or consolidation, or liquidate, wind up or dissolve itself, or convey, transfer, license, lease or otherwise dispose of all, or a material portion of, its properties, assets or business;

(vi) other than in respect of the Programs, engage in the development of pharmaceutical products for any other company or engage or participate in the development of pharmaceutical products or engage in any other material line of business;

(vii) other than entering into, and performing its obligations under, the Operative Documents and participating in the Programs, engage in any action that negates or is inconsistent with any rights of Exelixis set forth herein;

(viii) other than as contemplated by the Management Services Agreement and Section 6.3 of the Amended and Restated Research and Development Agreement, hire, retain or contract for the services of, any employees until the termination of such agreements;

(ix) incur any financial commitments in respect of the development of the Programs other than those set forth in the Development Plan and the Development Budget, or those approved by the Development Committee and, if so required by the terms of Paragraph 11 of the Development Committee Charter, the Symphony Evolution Board in accordance with the Operative Documents;

(x) other than any transaction contemplated by the Operative Documents, enter into or engage in any Conflict Transactions without the prior approval of a majority of the Disinterested Directors of the Symphony Evolution Board; or

(xi) waive, alter, modify, amend or supplement in any manner whatsoever any material terms and conditions of the Management Services Agreement, the Funding Agreement, the Subscription Agreement, or Articles 4 and 6 of the Amended and Restated Research and Development Agreement, except in compliance with the terms of the Operative Documents.

(d) Symphony Evolution covenants and agrees to deliver, cause to be delivered, and provide access thereto, to each other Party, each Symphony Fund, and such auditors as Exelixis may designate, so long as such auditors shall be subject to confidentiality requirements at least as stringent as the Confidentiality Agreement (the "***Exelixis Auditors***"):

(i) copies of the then current Development Plan for each quarter, on or before March 31, June 30, September 30, and December 31 of each year;

(ii) copies of the then current Development Budget for each quarter, including a report setting forth in reasonable detail the projected expenditures by Symphony Evolution pursuant to the Development Budget, on or before March 31, June 30, September 30, and December 31 of each year;

(iii) within forty-five (45) days after the close of each fiscal year, the financial information, provided upon the Manager's completion of Symphony Evolution's audit procedures, reasonably necessary for Exelixis to consolidate the financial results of Symphony Evolution;

(iv) within sixty (60) days after the close of each fiscal year, the following financial statements, audited and certified by the Auditors: (A) a balance sheet of Symphony Evolution as of the close of such fiscal year; (B) a statement of net income for such fiscal year, and (C) a statement of cash flows for such fiscal year. Such audited annual financial statements shall set forth in comparative form the figures for the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP, and accompanied by an opinion thereon of the Auditors, which opinion shall state that such financial statements present fairly, in all material respects, the financial position of Symphony Evolution and its results of operations and cash flows and have been prepared in conformity with GAAP, and that the examination of such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards, and that such audit provides a reasonable basis for such opinion in the circumstances;

(v) within twenty five (25) days following each calendar month: (A) the unaudited balance sheet of Symphony Evolution for the previous calendar month; (B) the unaudited statement of net income for such previous calendar month; and (C) the unaudited statement of cash flows for such previous calendar month;

(vi) any other documents, materials or other information pertaining to the Programs or Symphony Evolution as Exelixis may reasonably request, including preliminary financial information;

(vii) promptly on or prior to the due date for filing thereof, a copy of each material income tax return filed by Symphony Evolution with any foreign, federal, state or local taxing authority;

(viii) promptly, and in any event within 10 days of receipt thereof, copies of any notice to Symphony Evolution from any federal or state Governmental Authority relating to any order, ruling, statute or other law or regulation that would reasonably be expected to have a Material Adverse Effect on Symphony Evolution;

(ix) promptly upon receipt thereof, notice of all actions, suits, investigations, litigation and proceedings before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, affecting Symphony Evolution;

(x) promptly upon receipt thereof, copies of any other notices, requests, reports, financial statements and other information and documents received by Symphony Evolution under or pursuant to any other Operative Document; and

(xi) with reasonable promptness, such other data and information relating to the business, operations, affairs, financial condition, assets or properties of Symphony Evolution or relating to the ability of Symphony Evolution to perform its obligations hereunder and under the Operative Documents as from time to time may be reasonably requested by Exelixis and/or Holdings;

provided, that neither Symphony Evolution, nor the Manager acting on behalf of Symphony Evolution, shall have any liability to Exelixis for the failure to deliver financial documents or other materials hereunder, if such failure was caused by a failure of Exelixis, in its role as Servicer, to provide, in a timely manner, data required to prepare such financial documents or other materials to Symphony Exelixis in a timely manner.

(e) Symphony Evolution will use commercially reasonable efforts, at its own expense (as set forth in the Management Budget), to cooperate with Exelixis in meeting Exelixis' government compliance, disclosure, and financial reporting obligations, including without limitation under the Sarbanes-Oxley Act of 2002 and any rules and regulations promulgated thereunder, and under FASB Interpretation No. 46. Without limiting the foregoing, Symphony Evolution further covenants, until the expiration of the Term, that (w) the principal executive officer and the principal financial officer of Symphony Evolution, or persons performing similar functions, shall provide certifications to Exelixis substantially similar to those required with respect to public companies for which a class of securities is registered under the Securities Exchange Act of 1934, as amended (the "***Exchange Act***") ("***Public Companies***") under Sections

302 and 906 of the Sarbanes-Oxley Act of 2002; (x) Symphony Evolution shall maintain a system of disclosure controls and internal controls (as defined under the Exchange Act) and conduct quarterly and annual evaluations of the effectiveness of such controls as required under the Exchange Act for Public Companies; (y) Symphony Evolution shall provide to Exelixis an attestation report of its Auditors with respect to Symphony Evolution management's assessment of Symphony Evolution's internal controls as required under the Exchange Act for Public Companies; and (z) Symphony Evolution will maintain, or cause to have maintained, such sufficient evidentiary support for management's assessment of the effectiveness of Symphony Evolution's internal controls as required under the Exchange Act for Public Companies.

Section 6. Notice of Material Event. Each Party agrees that, upon it receiving knowledge of a material event or development with respect to any of the transactions contemplated hereby that, to the knowledge of its executive officers, is not known to the other Parties, such Party shall notify the other Parties in writing within three (3) Business Days of the receipt of such knowledge by any executive officer of such Party; provided, that the failure to provide such notice shall not impair or otherwise be deemed a waiver of any rights any Party may have arising from such material event or development and that notice under this Section 6 shall not in itself constitute notice of any breach of any of the Operative Documents.

Section 7. Assignment, Transfers and Legend.

(a) Assignment by Exelixis and Symphony Evolution. Neither Exelixis nor Symphony Evolution may assign, delegate, transfer, sell or otherwise dispose of (collectively, "***Transfer***"), in whole or in part, any or all of their rights or obligations hereunder to any Person (a "***Transferee***") without the prior written approval of each of the other Parties; provided, however, that Exelixis, without the prior approval of each of the other Parties, acting in accordance with Article 14 of the Amended and Restated Research and Development Agreement, may make such Transfer to any Person which acquires all or substantially all of Exelixis' assets or business (or assets or business related to the Programs) or which is the surviving or resulting Person in a merger or consolidation with Exelixis; provided further, that in the event of any Transfer, Exelixis or Symphony Evolution, as applicable, shall provide written notice to the other Parties of any such Transfer not later than thirty (30) days after such Transfer setting forth the identity and address of the Transferee and summarizing the terms of the Transfer. In no event shall such assignment alter the definition of "Exelixis Common Stock" except as a result of the surviving or resulting "parent" entity in a merger being other than Exelixis, in which case any reference to Exelixis Common Stock shall be deemed to instead reference the common stock, if any, of the surviving or resulting entity.

(b) Assignment and Transfers by Holdings. Prior to the expiration of the Purchase Option, Holdings may not Transfer, in whole or in part, any or all of its Symphony Evolution Equity Securities or any or all of its rights or obligations hereunder to any Person without the prior written consent of Exelixis. In addition, any Transfer of Symphony Evolution Equity Securities by Holdings or any other Person shall be conditioned upon, and no effect shall be given to any such Transfer unless such transferee shall agree in writing in form and substance satisfactory to Exelixis to be bound by all of the terms and conditions hereunder, including the Purchase Option, as if such transferee were originally designated as "Holdings" hereunder.

(c) Legend. Any certificates evidencing Symphony Evolution Equity Securities shall bear a legend in substantially the following form:

THE SECURITIES OF SYMPHONY EVOLUTION, INC., EVIDENCED HEREBY ARE SUBJECT TO AN OPTION, HELD BY EXELIXIS, INC., AS DESCRIBED IN A PURCHASE OPTION AGREEMENT (THE "**PURCHASE OPTION AGREEMENT**") DATED AS OF JUNE 9, 2005 BY AND AMONG EXELIXIS, INC. AND THE OTHER PARTIES THERETO, TO PURCHASE SUCH SECURITIES AT A PURCHASE PRICE DETERMINED PURSUANT TO SECTION 2 OF THE PURCHASE OPTION AGREEMENT, EXERCISABLE BY WRITTEN NOTICE AT ANY TIME DURING THE PERIOD SET FORTH THEREIN. COPIES OF THE PURCHASE OPTION AGREEMENT ARE AVAILABLE AT THE PRINCIPAL PLACE OF BUSINESS OF SYMPHONY EVOLUTION, INC. AT 7361 CALHOUN PLACE, SUITE 325, ROCKVILLE, MARYLAND 20855, AND WILL BE FURNISHED TO THE HOLDER HEREOF UPON WRITTEN REQUEST WITHOUT COST.

Section 8. Costs and Expenses; Payments.

(a) Symphony Evolution Costs and Expenses. Symphony Evolution shall pay any of its ongoing legal expenses with respect to the transactions described in the Operative Documents from the funds allocated for such purpose in the Management Budget.

(b) Costs and Expenses of the Purchase Option. Except as otherwise specified in Section 2(g) hereof, each Party shall pay its own costs and expenses incurred in connection with the exercise of the Purchase Option.

(c) Payments to Holdings. Payment of the Purchase Price, plus any costs and expenses payable by Symphony Evolution under Section 2(g) hereof, shall be made to the account of Holdings contemporaneously with or prior to the payout of the Purchase Price on the Purchase Option Closing Date no later than 1:00 pm (New York time).

Section 9. Termination of Agreement.

(a) This Agreement shall terminate upon the mutual written consent of all of the Parties.

(b) Each of Holdings and Symphony Evolution may terminate this Agreement in the event that Symphony Evolution terminates the Amended and Restated Research and Development Agreement in accordance with its terms.

Section 10. Survival; Indemnification.

(a) Survival of Representations and Warranties; Expiration of Certain Covenants.

(i) The representations and warranties of the Parties contained in this Agreement shall survive for a period of one year from the making of such

representations. The liability of the Parties related to their respective representations and warranties hereunder shall not be reduced by any investigation made at any time by or on behalf of Holdings, Symphony Evolution or Exelixis, as applicable.

(ii) For the avoidance of doubt, the covenants and agreements set forth in Sections 4(b), 5(b), 5(c), 5(d) and 5(e) shall, upon the expiration of the Term, expire and end without any further obligation by Symphony Evolution or Holdings thereunder.

(b) Indemnification. To the greatest extent permitted by applicable law, Exelixis shall indemnify and hold harmless Holdings and Symphony Evolution and Holdings shall indemnify and hold harmless Exelixis, and each of their respective Affiliates, officers, directors, employees, agents, partners, members, successors, assigns, representatives of, and each Person, if any (including any officers, directors, employees, agents, partners, members of such Person) who controls Holdings, Symphony Evolution and Exelixis, as applicable, within the meaning of the Securities Act or the Exchange Act, (each, an ***"Indemnified Party"***), from and against any and all actions, causes of action, suits, claims, losses, diminution in value, costs, interest, penalties, fees, liabilities and damages, and expenses in connection therewith (irrespective of whether any such Indemnified Party is a party to the action for which indemnification hereunder is sought), and including reasonable attorneys' fees and disbursements (hereinafter, a "***Loss***"), incurred by any Indemnified Party as a result of, or arising out of, or relating to: (i) in the case of Exelixis being the Indemnifying Party, (A) any breach of any representation or warranty made by Exelixis herein or in any certificate, instrument or document delivered hereunder, or (B) any breach of any covenant, agreement or obligation of Exelixis contained herein or in any certificate, instrument or document delivered hereunder, and (ii) in the case of Holdings being the Indemnifying Party, (A) any breach of any representation or warranty made by Holdings or Symphony Evolution herein or in any certificate, instrument or document delivered hereunder, or (B) any breach of any covenant, agreement or obligation of Holdings or Symphony Evolution contained herein or in any certificate, instrument or document delivered hereunder. To the extent that the foregoing undertaking by Exelixis or Holdings may be unenforceable for any reason, such Party shall make the maximum contribution to the payment and satisfaction of any Loss that is permissible under applicable law.

(c) Notice of Claims. Any Indemnified Party that proposes to assert a right to be indemnified under this Section 10 shall notify Exelixis or Holdings, as applicable (the "***Indemnifying Party***"), promptly after receipt of notice of commencement of any action, suit or proceeding against such Indemnified Party (an "***Indemnified Proceeding***") in respect of which a claim is to be made under this Section 10, or the incurrence or realization of any Loss in respect of which a claim is to be made under this Section 10, of the commencement of such Indemnified Proceeding or of such incurrence or realization, enclosing a copy of all relevant documents, including all papers served and claims made, but the omission to so notify the applicable Indemnifying Party promptly of any such Indemnified Proceeding or incurrence or realization shall not relieve (x) such Indemnifying Party from any liability that it may have to such Indemnified Party under this Section 10 or otherwise, except, as to such Indemnifying Party's liability under this Section 10, to the extent, but only to the extent, that such Indemnifying Party shall have been prejudiced by such omission, or (y) any other indemnitor from liability that it may have to any Indemnified Party under the Operative Documents.

(d) Defense of Proceedings. In case any Indemnified Proceeding shall be brought against any Indemnified Party, it shall notify the applicable Indemnifying Party of the commencement thereof as provided in Section 10(c), and such Indemnifying Party shall be entitled to participate in, and provided such Indemnified Proceeding involves a claim solely for money damages and does not seek an injunction or other equitable relief against the Indemnified Party and is not a criminal or regulatory action, to assume the defense of, such Indemnified Proceeding with counsel reasonably satisfactory to such Indemnified Party, and after notice from such Indemnifying Party to such Indemnified Party of such Indemnifying Party's election so to assume the defense thereof and the failure by such Indemnified Party to object to such counsel within ten (10) Business Days following its receipt of such notice, such Indemnifying Party shall not be liable to such Indemnified Party for legal or other expenses related to such Indemnified Proceedings incurred after such notice of election to assume such defense except as provided below and except for the reasonable costs of investigating, monitoring or cooperating in such defense subsequently incurred by such Indemnified Party reasonably necessary in connection with the defense thereof. Such Indemnified Party shall have the right to employ its counsel in any such Indemnified Proceeding, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless:

(i) the employment of counsel by such Indemnified Party at the expense of the applicable Indemnifying Party has been authorized in writing by such Indemnifying Party;

(ii) such Indemnified Party shall have reasonably concluded in its good faith (which conclusion shall be determinative unless a court determines that such conclusion was not reached reasonably and in good faith) that there is or may be a conflict of interest between the applicable Indemnifying Party and such Indemnified Party in the conduct of the defense of such Indemnified Proceeding or that there are or may be one or more different or additional defenses, claims, counterclaims, or causes of action available to such Indemnified Party (it being agreed that in any case referred to in this clause (ii) such Indemnifying Party shall not have the right to direct the defense of such Indemnified Proceeding on behalf of the Indemnified Party);

(iii) the applicable Indemnifying Party shall not have employed counsel reasonably acceptable to the Indemnified Party, to assume the defense of such Indemnified Proceeding within a reasonable time after notice of the commencement thereof (provided, however, that this clause shall not be deemed to constitute a waiver of any conflict of interest that may arise with respect to any such counsel); or

(iv) any counsel employed by the applicable Indemnifying Party shall fail to timely commence or diligently conduct the defense of such Indemnified Proceeding;

in each of which cases the fees and expenses of counsel for such Indemnified Party shall be at the expense of such Indemnifying Party. Only one counsel shall be retained by all Indemnified Parties with respect to any Indemnified Proceeding, unless counsel for any Indemnified Party reasonably concludes in good faith (which conclusion shall be determinative unless a court determines that such conclusion was not reached reasonably and in good faith) that there is or may be a conflict of interest between such Indemnified Party and one or more other Indemnified

Parties in the conduct of the defense of such Indemnified Proceeding or that there are or may be one or more different or additional defenses, claims, counterclaims, or causes or action available to such Indemnified Party.

(e) Settlement. Without the prior written consent of such Indemnified Party, such Indemnifying Party shall not settle or compromise, or consent to the entry of any judgment in, any pending or threatened Indemnified Proceeding, unless such settlement, compromise, consent or related judgment (i) includes an unconditional release of such Indemnified Party from all liability for Losses arising out of such claim, action, investigation, suit or other legal proceeding, (ii) provides for the payment of money damages as the sole relief for the claimant (whether at law or in equity), (iii) involves no finding or admission of any violation of law or the rights of any Person by the Indemnified Party, and (iv) is not in the nature of a criminal or regulatory action. No Indemnified Party shall settle or compromise, or consent to the entry of any judgment in, any pending or threatened Indemnified Proceeding in respect of which any payment would result hereunder or under the Operative Documents without the prior written consent of the Indemnifying Party, such consent not to be unreasonably conditioned, withheld or delayed.

Section 11. No Petition. Each of Exelixis and Holdings covenants and agrees that, prior to the date which is one year and one day after the expiration of the Purchase Option Period, it will not institute or join in the institution of any bankruptcy, insolvency, reorganization or similar proceeding against Symphony Evolution. The provisions of this Section 11 shall survive the termination of this Agreement.

Section 12. Third-Party Beneficiary. Each of the Parties agrees that each Symphony Fund shall be a third-party beneficiary of this Agreement.

Section 13. Notices. Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted to be given to any Party shall be in writing and shall be deemed given only if delivered to the Party personally or sent to the Party by facsimile transmission (promptly followed by a hard-copy delivered in accordance with this Section 13), by next Business Day delivery by a nationally recognized courier service, or by registered or certified mail (return receipt requested), with postage and registration or certification fees thereon prepaid, addressed to the Party at its address set forth below:

Exelixis:

Exelixis, Inc.
170 Harbor Way
South San Francisco, CA 94083
Attention: Corporate Secretary
Facsimile: (650) 837-7951

Symphony Evolution:

Symphony Evolution, Inc.
7361 Calhoun Place, Suite 325
Rockville, MD 20850
Attn: Charles W. Finn, Ph.D.
Facsimile: (301) 762-6154

Holdings:

Symphony Evolution Holdings LLC
7361 Calhoun Place, Suite 325
Rockville, MD 20850
Attn: Joseph P. Clancy
Facsimile: (301) 762-6154

with copies to:

Symphony Capital Partners, L.P.
875 Third Avenue
18th Floor
Attn: Mark Kessel
New York, NY 10022
Facsimile: (212) 632-5401

and

Symphony Strategic Partners, LLC
875 Third Avenue
18th Floor
New York, NY 10022
Attn: Mark Kessel
Facsimile: (212) 632-5401

or to such other address as such Party may from time to time specify by notice given in the manner provided herein to each other Party entitled to receive notice hereunder.

Section 14. Governing Law; Consent to Jurisdiction and Service of Process.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York; except to the extent that this Agreement pertains to the internal governance of Symphony Evolution or Holdings, and to such extent this Agreement shall be governed and construed in accordance with the laws of the State of Delaware.

(b) Each of the Parties hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court and Delaware State court or federal court of the United States of America sitting in The City of New York, Borough of Manhattan or Wilmington, Delaware, and any appellate court from any jurisdiction

thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the Parties hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in any such New York State court, any such Delaware State court or, to the fullest extent permitted by law, in such federal court. Each of the Parties agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any Party may otherwise have to bring any action or proceeding relating to this Agreement.

(c) Each of the Parties irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any New York State or federal court, or any Delaware State or federal court. Each of the Parties hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court. Each of the parties hereby consents to service of process by mail.

Section 15. Waiver of Jury Trial. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.

Section 16. Entire Agreement. This Agreement (including any Annexes, Schedules, Exhibits or other attachments hereto) constitutes the entire agreement between the Parties with respect to the matters covered hereby and supersedes all prior agreements and understanding with respect to such matters between the Parties.

Section 17. Amendment; Successors; Counterparts.

(a) The terms of this Agreement shall not be altered, modified, amended, waived or supplemented in any manner whatsoever except by a written instrument signed by each of the Parties.

(b) Except as set forth in Section 12, nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any Person, other than the Parties, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the Parties and their successors and permitted assigns.

(c) This Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original but all of which, taken together, shall constitute one and the same Agreement.

Section 18. Specific Performance. The Parties acknowledge that irreparable damage would result if this Agreement were not specifically enforced, and they therefore agree

that the rights and obligations of the Parties under this Agreement may be enforced by a decree of specific performance issued by a court of competent jurisdiction. Such a remedy shall, however, not be exclusive, and shall be in addition to any other remedies which any Party may have under this Agreement or otherwise. The Parties further acknowledge and agree that a decree of specific performance may not be an available remedy in all circumstances.

Section 19. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to either party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

Section 20. Tax Reporting. The Parties acknowledge and agree that, for all federal and state income tax purposes,

(a) (i) Holdings shall be treated as the owner of all the Equity Securities of Symphony Evolution; (ii) the Purchase Option shall be treated as an option to acquire all the Equity Securities of Symphony Evolution; (iii) the Warrants shall be treated as option premium payable in respect of the grant of the Purchase Option; and (iv) Symphony Evolution shall be treated as the owner of all the Licensed Intellectual Property and shall be entitled to all deductions claimed under Section 174 of the Code in respect of the Licensed Intellectual Property to the extent of the amounts funded by Symphony Evolution; and

(b) no Party shall take any tax position inconsistent with any position described in Section 20(a) above, except (i) in the event of a “determination” (as defined in Section 1313 of the Code) to the contrary, or (ii) in the event either of the Parties receives an opinion of counsel to the effect that there is no reasonable basis in law for such a position or that a tax return cannot be prepared based on such a position without being subject to substantial understatement penalties; provided, however, that in the event of Exelixis, such counsel shall be reasonably satisfactory to Holdings.

{SIGNATURES FOLLOW ON NEXT PAGE}

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the day and year first above written.

EXELIXIS, INC.

By: /s/ Christoph Pereira

Name: Christoph Pereira
Title: Vice President, Legal Affairs and Secretary

SYMPHONY EVOLUTION HOLDINGS LLC

By: Symphony Capital Partners, L.P.,
its managing member

By: Symphony Capital GP, L.P.,
its general partner

By: Symphony GP, LLC,
its general partner

By: /s/ Mark Kessel

Name: Mark Kessel
Title: Managing Member

SYMPHONY EVOLUTION, INC.

By: /s/ Harri V. Taranto

Name: Harri V. Taranto
Title: Chairman of the Board

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

Schedule I

Purchase Price Calculation Example

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[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

Annex A

Certain Definitions

"***$***" means United States dollars.

"***Accredited Investor***" has the meaning set forth in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended.

"***Act***" means the Delaware Limited Liability Company Act, *6 Del. C. § 18-101 et seq*.

"***Additional Funds***" has the meaning set forth in Section 2(b) of the Funding Agreement.

"***Additional Funding Date***" has the meaning set forth in Section 3 of the Funding Agreement.

"***Additional Party***" has the meaning set forth in Section 12 of the Confidentiality Agreement.

"***Additional Regulatory Filings***" means such Governmental Approvals as required to be made under any law applicable to the purchase of the Symphony Evolution Equity Securities under the Agreement.

"***Ad Hoc Meeting***" has the meaning set forth in Paragraph 6 of Annex B to the Amended and Restated Research and Development Agreement.

"***Adjusted Capital Account Deficit***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Affected Member***" has the meaning set forth in Section 27 of the Investors LLC Agreement.

"***Affiliate***" means, with respect to any Person (i) any Person directly or indirectly controlling, controlled by or under common control with such Person, (ii) any officer, director, general partner, member or trustee of such Person, or (iii) any Person who is an officer, director, general partner, member or trustee of any Person described in clauses (i) or (ii) of this sentence. For purposes of this definition, the terms "controlling," "controlled by" or "under common control with" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person or entity, whether through the ownership of voting securities, by contract or otherwise, or the power to elect at least 50% of the directors, managers, general partners, or persons exercising similar authority with respect to such Person or entities.

"***Amended and Restated Research and Development Agreement***" means the Amended and Restated Research and Development Agreement dated as of June 9, 2005, among Exelixis, Holdings and Symphony Evolution.

"***Asset Value***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Auditors***" means an independent certified public accounting firm of recognized national standing.

"***A Warrant Date***" has the meaning set forth in Section 2.04 of the Warrant Purchase Agreement.

"***A Warrants***" has the meaning set forth in Section 2.01 of the Warrant Purchase Agreement.

"***A Warrant Shares***" has the meaning set forth in Section 2.01 of the Warrant Purchase Agreement.

"***Bankruptcy Code***" means the United States Bankruptcy Code.

"***Bloomberg***" means Bloomberg L.P., a multimedia based distributor of information services, including data and analysis for financial markets and businesses.

"***Bloomberg Screen***" means the display page designated on the Bloomberg service (or such other page as may replace that page on that service) for the purpose of displaying prices or bids of Exelixis Common Stock.

"***Business Day***" means any day other than Saturday, Sunday or any other day on which commercial banks in The City of New York or the City of San Francisco are authorized or required by law to remain closed.

"***B Warrants***" has the meaning set forth in Section 2.02 of the Warrant Purchase Agreement.

"***B Warrant Date***" has the meaning set forth in Section 2.02 of the Warrant Purchase Agreement.

"***B Warrant Shares***" has the meaning set forth in Section 2.05 of the Warrant Purchase Agreement.

"***Capital Contributions***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Capitalized Leases***" means all leases that have been or should be, in accordance with GAAP, recorded as capitalized leases.

"***Cash Available for Distribution***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Chair***" has the meaning set forth in Paragraph 4 of Annex B to the Amended and Restated Research and Development Agreement.

"***Change of Control***" means and includes the occurrence of any of the following events, but specifically excludes (i) acquisitions of capital stock directly from Exelixis for cash, whether in a public or private offering, (ii) sales of capital stock by stockholders of Exelixis, and (iii) acquisitions of capital stock by or from any employee benefit plan or related trust:

(a) the merger, reorganization or consolidation of Exelixis into or with another corporation or legal entity in which Exelixis' stockholders holding the right to vote with respect to matters generally immediately preceding such merger, reorganization or consolidation, own less than fifty percent (50%) of the voting securities of the surviving entity; or

(b) the sale of all or substantially all of Exelixis' assets or business.

"***Class A Member***" means a holder of a Class A Membership Interest.

"***Class A Membership Interest***" means a Class A Membership Interest in Holdings.

"***Class B Member***" means a holder of a Class B Membership Interest.

"***Class B Membership Interest***" means a Class B Membership Interest in Holdings.

"***Class C Member***" means a holder of a Class C Membership Interest.

"***Class C Membership Interest***" means a Class C Membership Interest in Holdings.

"***Class D Member***" means a holder of a Class D Membership Interest.

"***Class D Membership Interest***" means a Class D Membership Interest in Holdings.

"***Clinical Budget***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Clinical Plan***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Closing Date***" means June 9, 2005.

"***CMC***" means the chemistry, manufacturing and controls documentation as required for filings with Regulatory Authority relating to the manufacturing, production and testing of drug products.

"***Code***" means the Internal Revenue Code of 1986, as amended from time to time.

"***Committed Capital***" means $80,000,000.00.

"***Common Stock***" means the common stock, par value $0.01 per share, of Symphony Evolution.

"***Company Expenses***" has the meaning set forth in Section 5.09 of the Holdings LLC Agreement.

"***Company Property***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Confidential Information***" has the meaning set forth in Section 2 of the Confidentiality Agreement.

"***Confidentiality Agreement***" means the Confidentiality Agreement, dated as of June 9, 2005, among Symphony Evolution, Holdings, Exelixis, each Symphony Fund, SCP, SSP, Investors, Symphony Capital, RRD and Daniel F. Hoth, M.D., Herbert J. Conrad, and Alastair J.J. Wood, M.D.

"***Conflict Transaction***" has the meaning set forth in Article IX of the Symphony Evolution Charter.

"***Control***" means, with respect to any material, information or intellectual property right, that a Party owns or has a license to such item or right, and has the ability to grant the other Party access, a license or a sublicense (as applicable) in or to such item or right as provided in the Operative Documents without violating the terms of any agreement or other arrangement with any third party.

"***C Warrants***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***C Warrant Date***" has the meaning set forth in Section 2.06 of the Warrant Purchase Agreement.

"***C Warrant Shares***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***Debt***" of any Person means, without duplication:

(a) all indebtedness of such Person for borrowed money,

(b) all obligations of such Person for the deferred purchase price of property or services (other than any portion of any trade payable obligation that shall not have remained unpaid for 91 days or more from the later of (A) the original due date of such portion and (B) the customary payment date in the industry and relevant market for such portion),

(c) all obligations of such Person evidenced by bonds, notes, debentures or other similar instruments,

(d) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (whether or not the rights and remedies of the seller or lender under such agreement in an event of default are limited to repossession or sale of such property),

(e) all Capitalized Leases to which such Person is a party,

(f) all obligations, contingent or otherwise, of such Person under acceptance, letter of credit or similar facilities,

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value any Equity Securities of such Person,

(h) the net amount of all financial obligations of such Person in respect of Hedge Agreements,

(i) the net amount of all other financial obligations of such Person under any contract or other agreement to which such Person is a party,

(j) all Debt of other Persons of the type described in clauses (a) through (i) above guaranteed, directly or indirectly, in any manner by such Person, or in effect guaranteed, directly or indirectly, by such Person through an agreement (A) to pay or purchase such Debt or to advance or supply funds for the payment or purchase of such Debt, (B) to purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Debt or to assure the holder of such Debt against loss, (C) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered) or (D) otherwise to assure a creditor against loss, and

(k) all Debt of the type described in clauses (a) through (i) above secured by (or for which the holder of such Debt has an existing right, contingent or otherwise, to be secured by) any Encumbrance on property (including accounts and contract rights) owned or held or used under lease or license by such Person, even though such Person has not assumed or become liable for payment of such Debt.

"***Development Budget***" means the budget for the implementation of the Development Plan that is agreed upon by Exelixis and Symphony Evolution as of the Effective Date, as may be revised from time to time in accordance with the Development Committee Charter and the Amended and Restated Research and Development Agreement.

"***Development Committee***" has the meaning set forth in Article 3 of the Amended and Restated Research and Development Agreement.

"***Development Committee Charter***" has the meaning set forth in Article 3 of the Amended and Restated Research and Development Agreement.

"***Development Committee Member***" has the meaning set forth in Paragraph 1 of Annex B to the Amended and Restated Research and Development Agreement.

"***Development Plan***" means the development plan, covering all the Programs, agreed to by Exelixis and Symphony Evolution as of the Effective Date, as may be revised from time to time in accordance with the Development Committee Charter and the Amended and Restated Research and Development Agreement.

"***Directors***" has the meaning set forth in the Preliminary Statement of the Indemnification Agreement.

"***Disclosing Party***" has the meaning set forth in Section 3 of the Confidentiality Agreement.

"***Discontinuation Closing Date***" means the date of Symphony's receipt of the Discontinuation Price.

"***Discontinuation Option***" has the meaning set forth in Section 11.2(a) of the Amended and Restated Research and Development Agreement.

"***Discontinuation Price***" has the meaning set forth in Section 11.2(a) of the Amended and Restated Research and Development Agreement.

"***Discontinued Program***" has the meaning set forth in Section 2.10 of the Novated and Restated Technology License Agreement.

"***Disinterested Directors***" has the meaning set forth in Article IX of the Symphony Evolution Charter.

"***Distribution***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Effective Date***" has the meaning set forth in the Novated and Restated Technology License Agreement.

"***Effective Registration Date***" has the meaning set forth in the Registration Rights Agreement.

"***Encumbrance***" means (i) any security interest, pledge, mortgage, lien (statutory or other), charge or option to purchase, lease or otherwise acquire any interest, (ii) any adverse claim, restriction, covenant, title defect, hypothecation, assignment, deposit arrangement or other encumbrance of any kind, preference or priority, or (iii) any other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement).

"***Enhancements***" means findings, improvements, discoveries, inventions, additions, modifications, enhancements, derivative works, clinical development data, or changes to the Licensed Intellectual Property and Regulatory Files.

"***Equity Securities***" means, with respect to any Person, shares of capital stock of (or other ownership or profit interests in) such Person, warrants, options or other rights for the purchase or other acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or other acquisition from such Person of such shares (or such other interests), and other ownership or profit interests in such Person (including, without limitation, partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are authorized or otherwise existing on any date of determination.

"***ERISA***" means the United States Employee Retirement Income Security Act of 1974, as amended.

"***Exchange Act***" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"***Exelixis***" means Exelixis, Inc., a Delaware corporation.

"***Exelixis Common Stock***" means the common stock, par value $0.001 per share, of Exelixis.

"***Exelixis Common Stock Valuation***" has the meaning set forth in Section 2(e) of the Purchase Option Agreement.

"***Exelixis-GlaxoSmithKline Collaboration Committee***" means the committee established by Exelixis and GlaxoSmithKline pursuant to Section 2.2 of the GSK Agreement.

"***Exelixis Member***" has the meaning set forth in Section 2(c) of the Management Services Agreement.

"***Exelixis Obligations***" has the meaning set forth in Section 6.1 of the Amended and Restated Research and Development Agreement.

"***Exelixis Personnel***" has the meaning set forth in Section 8.4 of the Amended and Restated Research and Development Agreement.

"***Existing NDA***" has the meaning set forth in Section 2 of the Confidentiality Agreement.

"***Expert***" has the meaning set forth in Section 11.2(c) of the Amended and Restated Research and Development Agreement.

"***Extension Funding***" has the meaning set forth in Section 2 of the Research Cost Sharing and Extension Agreement.

"***External Directors***" has the meaning set forth in the preamble of the Confidentiality Agreement.

"***FDA***" means the United States Food and Drug Administration or its successor agency in the United States.

"***FDA Sponsor***" has the meaning set forth in Section 5.1 of the Amended and Restated Research and Development Agreement.

"***Final Purchase Price***" has the meaning set forth in Section 2(j)(ii) of the Purchase Option Agreement.

"***Financial Audits***" has the meaning set forth in Section 6.7 of the Amended and Restated Research and Development Agreement.

"***Financing***" has the meaning set forth in the Preliminary Statement of the Purchase Option Agreement.

"***Fiscal Year***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Form S-3***" means the Registration Form S-3 as defined under the Securities Act.

"***FTE"*** has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Funded Capital***" has the meaning set forth in Section 2.02(b) of the Warrant Purchase Agreement.

"***Funding Agreement***" means the Funding Agreement, dated June 9, 2005, among Exelixis, SCP and Investors.

"***Funding Notice***" has the meaning set forth in Section 2(a) of the Funding Agreement.

"***Funds Price***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***GAAP***" means generally accepted accounting principles in effect in the United States of America from time to time.

"***GlaxoSmithKline***" means SmithKline Beecham Corporation, a Pennsylvania corporation, doing business as GlaxoSmithKline.

"***Governmental Approvals***" means authorizations, consents, orders, declarations or approvals of, or filings with, or terminations or expirations of waiting periods imposed by any Governmental Authority.

"***Governmental Authority***" means any United States or non-United States federal, national, supranational, state, provincial, local, or similar government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body.

"***Governmental Order***" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"***GSK Agreement***" has the meaning set forth in Section 4.10 of the Novated and Restated Technology License Agreement.

"***Hedge Agreement***" means any interest rate swap, cap or collar agreement, interest rate future or option contract, currency swap agreement, currency future or option contract or other similar hedging agreement.

"***HHMI***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Holdings***" means Symphony Evolution Holdings LLC, a Delaware limited liability company.

"***Holdings Claims***" has the meaning set forth in Section 5.01 of the Warrant Purchase Agreement.

"***Holdings LLC Agreement***" means the Second Amended and Restated Limited Liability Company Agreement of Holdings dated June 9, 2005.

"***HSR Act Filings***" means the premerger notification and report forms required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"***IND***" means an Investigational New Drug Application, as described in 21 U.S.C. § 355(i)(1) and 21 C.F.R. § 312 in the regulations promulgated by the United States Food and Drug Administration, or any foreign equivalent thereof.

"***Indemnification Agreement***" means the Indemnification Agreement among Symphony Evolution and the Directors named therein, dated June 9, 2005.

"***Independent Accountant***" has the meaning set forth in Section 2(i)(ii) of the Purchase Option Agreement.

"***Initial Funds***" has the meaning set forth in Section 2(a) of the Funding Agreement.

"***Initial Holdings LLC Agreement***" means the Agreement of Limited Liability Company of Holdings, dated March 30, 2005.

"***Initial Investors LLC Agreement***" means the Agreement of Limited Liability Company of Investors, dated May 20, 2005.

"***Initial LLC Member***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Interest Certificate***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Interim Holdings LLC Agreement***" means the Amended and Restated Agreement of Limited Liability Company of Holdings, dated June 2, 2005.

"***Investment Company Act***" means the Investment Company Act of 1940, as amended.

"***Investment Overview***" means the investment overview describing the transactions entered into pursuant to the Operative Documents.

"***Investment Policy***" has the meaning set forth in Section 1(a)(viii) of the Management Services Agreement.

"***Investors***" means Symphony Evolution Investors LLC.

"***Investors LLC Agreement***" means Amended and Restated Agreement of Limited Liability Company of Investors dated June 9, 2005.

"***IRS***" means the U.S. Internal Revenue Service.

"***Knowledge***" means the actual (and not imputed) knowledge of the executive officers of Exelixis, without the duty of inquiry or investigation.

"***Law***" means any law, statute, treaty, constitution, regulation, rule, ordinance, order or Governmental Approval, or other governmental restriction, requirement or determination, of or by any Governmental Authority.

"***Ledger Fee***" has the meaning set forth in Section 6(b) of the Management Services Agreement.

"***License***" has the meaning set forth in the Preliminary Statement of the Purchase Option Agreement.

"***Licensed Intellectual Property***" means the Licensed Patent Rights, Symphony Evolution Enhancements, Licensor Enhancements and the Licensed Know-How.

"***Licensed Know-How***" means any and all proprietary technology (other than the University IP) that is [*]

"***Licensed Patent Rights***" means:[*]

"***Licensor***" means Exelixis.

"***Licensor Enhancements***" means [*]

"***Lien***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Liquidating Event***" has the meaning set forth in Section 8.01 of the Holdings LLC Agreement.

"***LLC Agreements***" means the Initial Holdings LLC Agreement, the Interim Holdings LLC Agreement, the Holdings LLC Agreement, the Initial Investors LLC Agreement and the Investors LLC Agreement.

"***Loss***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Management Budget***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Management Fee***" has the meaning set forth in Section 6(a) of the Management Services Agreement.

"***Management Plan***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Management Services***" has the meaning set forth in Section 1(a) of the Management Services Agreement.

"***Management Services Agreement***" means the Management Services Agreement between Symphony Evolution and RRD, dated as of June 9, 2005.

"***Manager***" means (i) for each LLC Agreement in which it appears, the meaning set forth in such LLC Agreement, and (ii) for each other Operative Document in which it appears, RRD.

"***Manager Event***" has the meaning set forth in Section 3.01(f) of the Holdings LLC Agreement.

"***Material Adverse Effect***" means, with respect to any Person, a material adverse effect on (i) the business, assets, property or condition (financial or otherwise) of such Person or, (ii) its ability to comply with and satisfy its respective agreements and obligations under the Operative Documents or, (iii) the enforceability of the obligations of such Person of any of the Operative Documents to which it is a party.

"***Material Change***" has the meaning set forth in Paragraph 12 of Annex B of the Amended and Restated Research and Development Agreement.

"***Material Contract***" has the meaning set forth in Section 3(j) of the Management Services Agreement.

"Material Subsidiary" means, at any time, a Subsidiary of Exelixis having assets in an amount equal to at least 5% of the amount of total consolidated assets of Exelixis and its Subsidiaries (determined as of the last day of the most recent fiscal quarter of Exelixis) or revenues or net income in an amount equal to at least 5% of the amount of total consolidated revenues or net income of Exelixis and its Subsidiaries for the 12-month period ending on the last day of the most recent fiscal quarter of Exelixis.

"***Maximum Committed Capital***" has the meaning set forth in Section 2.02(b) of the Warrant Purchase Agreement.

"***Medical Discontinuation Event***" means (a) as specified in each Protocol, those data that, if collected in such Protocol, demonstrate that such Protocol should not be continued or (b) a series of adverse events, side effects or other undesirable outcomes that, when collected in a Protocol, would cause a reasonable FDA Sponsor to discontinue such Protocol.

"***Membership Interest***" means (i) for each LLC Agreement in which it appears, the meaning set forth in such LLC Agreement, and (ii) for each other Operative Document in which it appears, the meaning set forth in the Holdings LLC Agreement.

"***NASDAQ***" means the National Association of Securities Dealers Automatic Quotation System.

"***NDA***" means a New Drug Application, as defined in the regulations promulgated by the United States Food and Drug Administration, or any foreign equivalent thereof.

"***Net Debt***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***Non-Exelixis Capital Transaction***" means any (i) sale or other disposition of all or part of the Symphony Evolution Shares or all or substantially all of the operating assets of Symphony Evolution, to a Person other than Exelixis or an Affiliate of Exelixis or (ii) distribution in kind of the Symphony Evolution Shares following the expiration of the Purchase Option.

"***Novated and Restated Technology License Agreement***" means the Novated and Restated Technology License Agreement, dated as of June 9, 2005, among Exelixis, Symphony Evolution and Holdings.

"***Operative Documents***" means, collectively, the Indemnification Agreement, the Holdings LLC Agreement, the Purchase Option Agreement, the Warrant Purchase Agreement, the Registration Rights Agreement, the Subscription Agreement, the Technology License Agreement, the Novated and Restated Technology License Agreement, the Management Services Agreement, the Research and Development Agreement, the Amended and Restated Research and Development Agreement, the Research Cost Sharing and Extension Agreement, the Confidentiality Agreement, the Funding Agreement and each other certificate and agreement executed in connection with any of the foregoing documents.

"***Organizational Documents***" means any certificates or articles of incorporation or formation, partnership agreements, trust instruments, bylaws or other governing documents.

"***Parties***" means, for each Operative Document or other agreement in which it appears, the parties to such Operative Document or other agreement, as set forth therein (each a "***Party***"). With respect to any agreement in which a provision is included therein by reference to a provision in another agreement, the term "Party" shall be read to refer to the parties to the document at hand, not the agreement that is referenced.

"***Payment Terms***" has the meaning set forth in Section 8.2 of the Amended and Restated Research and Development Agreement.

"***Percentage***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Permitted Investments***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Permitted Investments Letter***" means the Permitted Investments Letter dated as of June 9, 2005, from Symphony Evolution to RRD, as set forth in Exhibit B to the Management Services Agreement.

"***Permitted Lien***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Person***" means any individual, partnership (whether general or limited), limited liability company, corporation, trust, estate, association, nominee or other entity.

"***Personnel***" of a Party means such Party, its employees, subcontractors, consultants, representatives and agents.

"Prime Rate" means the quoted "Prime Rate" at JPMorgan Chase Bank or, if such bank ceases to exist or is not quoting a base rate, prime rate reference rate or similar rate for United States dollar loans, such other major money center commercial bank in New York City selected by the Manager.

"***Product***" means any product that contains or comprises XL647, XL784 or XL999 or any Structurally Related Compound thereof.

"***Profit***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Program Option***" has the meaning set forth in Section 11.1(a) of the Amended and Restated Research and Development Agreement.

"***Program Option Closing Date***" has the meaning set forth in Section 11.1(d) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Date***" has the meaning set forth in Section 11.1(b) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Notice***" has the meaning set forth in Section 11.1(b) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Price***" has the meaning set forth in Section 11.1(c) of the Amended and Restated Research and Development Agreement.

"***Program Option Period***" has the meaning set forth in Section 11.1(a) of the Amended and Restated Research and Development Agreement.

"***Programs***" means those certain clinical programs pursuing indications for XL647, XL784, and XL999 in accordance with the Development Plan (each a "***Program***").

"Protocol" means a written protocol that meets the substantive requirements of Section 6 of the ICH Guideline for Good Clinical Practice as adopted by the FDA, effective May 9, 1997 and is included within the Clinical Plan or later modified or added to the Clinical Plan pursuant to Section 4.2 of the Amended and Restated Research and Development Agreement.

"***Public Companies***" has the meaning set forth in Section 5(e) of the Purchase Option Agreement.

"***Purchase Option***" has the meaning set forth in Section 1(a) of the Purchase Option Agreement.

"***Purchase Option Agreement***" means this Purchase Option Agreement dated as of June 9, 2005, among Exelixis, Holdings and Symphony Evolution.

"***Purchase Option Closing Date***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Dispute Notice***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***Purchase Option Exercise Date***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Exercise Notice***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Period***" has the meaning set forth in Section 1(c)(iii) of the Purchase Option Agreement.

"***Purchase Price***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***QA Audits***" has the meaning set forth in Section 6.6 of the Amended and Restated Research and Development Agreement.

"***Quarterly Meeting***" has the meaning set forth in Paragraph 6 of Annex B of the Amended and Restated Research and Development Agreement.

"***Regents***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Regents Agreement***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Regents Claims***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Regents Indemnitees***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Regents Technology***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Registration Rights Agreement***" means the Registration Rights Agreement dated as of the Closing Date, between Exelixis and Holdings.

"***Registration Statement***" has the meaning set forth in Section 1(b) of the Registration Rights Agreement.

"***Regulatory Authority***" means the United States Food and Drug Administration, or any successor agency in the United States, or any health regulatory authority(ies) in any other country that is a counterpart to the FDA and has responsibility for granting registrations or other regulatory approval for the marketing, manufacture, storage, sale or use of drugs in such other country.

"***Regulatory Allocation***" has the meaning set forth in Section 3.06 of the Holdings LLC Agreement.

"***Regulatory Files***" means any IND, NDA or any other filings filed with any Regulatory Authority with respect to XL647, XL784, XL999 or the Programs.

"***Removed Director***" has the meaning set forth in Section 3.01(h)(i) of the Holdings LLC Agreement.

"***Representative***" of any Person means such Person's shareholders, principals, directors, officers, employees, members, managers and/or partners.

"***Research and Development Agreement***" means the Research and Development Agreement dated as of June 9, 2005, between Exelixis and Holdings.

"***Research Cost Sharing and Extension Agreement***" means the Research Cost Sharing and Extension Agreement dated as of June 9, 2005, between Exelixis, Holdings, and Symphony Evolution.

"***RRD***" means RRD International, LLC, a Delaware limited liability company.

"***RRD Indemnified Party***" has the meaning set forth in Section 10(a)(i) of the Management Services Agreement.

"***RRD Loss***" has the meaning set forth in Section 10(a)(i) of the Management Services Agreement.

"***Schedule K-1***" has the meaning set forth in Section 9.02(a) of the Holdings LLC Agreement.

"***Scientific Discontinuation Event***" has the meaning set forth in Section 4.2(f) of the Amended and Restated Research and Development Agreement.

"***SCP***" means Symphony Capital Partners, L.P., a Delaware limited partnership.

"***SEC***" means the United States Securities and Exchange Commission.

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

"***Shareholder***" means any Person who owns any Symphony Evolution Shares.

"***Solvent***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***SSP***" means Symphony Strategic Partners, LLC, a Delaware limited liability company.

"***Stock Payment Date***" has the meaning set forth in Section 2 of the Subscription Agreement.

"***Stock Purchase Price***" has the meaning set forth in Section 2 of the Subscription Agreement.

"***Structurally Related Compound***" means:

(a) with respect to XL647, any compound that is [*]

(b) with respect to XL784, any compound that is [*]

(c) with respect to XL999, any compound that is [*]

"***Subcontracting Agreement***" has the meaning set forth in Section 6.3 of the Amended and Restated Research and Development Agreement.

"***Subcontractor***" has the meaning set forth in Section 6.3 of the Amended and Restated Research and Development Agreement.

"***Subscription Agreement***" means the Subscription Agreement between Symphony Evolution and Holdings, dated as of June 9, 2005.

"***Subsidiary***" of any Person means any corporation, partnership, joint venture, limited liability company, trust or estate of which (or in which) more than 50% of (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency); (b) the interest in the capital or profits of such partnership, joint venture or limited liability company; or (c) the beneficial interest in such trust or estate is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person's other Subsidiaries.

"***Surviving Entity***" means the surviving legal entity which is surviving entity to Exelixis after giving effect to a Change of Control.

"***Symphony Capital***" means Symphony Capital LLC, a Delaware limited liability company.

"***Symphony Evolution***" means Symphony Evolution, Inc., a Delaware corporation.

"***Symphony Evolution Board***" means the Symphony Evolution board of directors.

"***Symphony Evolution By-laws***" means the By-laws of Symphony Evolution, as adopted by resolution of the Symphony Evolution Board on June 9, 2005.

"***Symphony Evolution Charter***" means the Amended and Restated Certificate of Incorporation of Symphony Evolution, dated as of June 9, 2005.

"***Symphony Evolution Director Event***" has the meaning set forth in Section 3.01(h)(i) of the Holdings LLC Agreement.

"***Symphony Evolution Enhancements***" means [*]

"***Symphony Evolution Equity Securities***" means the Common Stock and any other stock or shares issued by Symphony Evolution.

"***Symphony Evolution Loss***" has the meaning set forth in Section 10(b) of the Management Services Agreement.

"***Symphony Evolution Securities Encumbrance***" has the meaning set forth in Section 4(b)(ii) of the Purchase Option Agreement.

"***Symphony Evolution Shares***" has the meaning set forth in Section 2.02 of the Holdings LLC Agreement.

"***Symphony Funds***" means Symphony Capital Partners, L.P., a Delaware limited partnership, and Symphony Strategic Partners, LLC, a Delaware limited liability company (each a "***Symphony Fund***").

"***Symphony Member***" has the meaning set forth in Section 4.2(d) of the Amended and Restated Research and Development Agreement.

"***Tangible Materials***" means [*].

"***Tax Amount***" has the meaning set forth in Section 4.02 of the Holdings LLC Agreement.

"***Technology License Agreement***" means the Technology License Agreement, dated as of June 9, 2005, between Exelixis and Holdings.

"***Term***" means the period starting on the Closing Date and ending upon the termination or expiration of the Purchase Option Period.

"***Territory***" means the world.

"***Third Party IP***" has the meaning set forth in Section 2.9 of the Novated and Restated Technology License Agreement.

"***Third Party Licensor***" means (a) a third party from which Exelixis has received a license or sublicense to Licensed Intellectual Property or (b) a third party to which Exelixis has granted a license or sublicense to the Licensed Intellectual Property. As of the Closing Date, GlaxoSmithKline is the only Third Party Licensor.

"***Transfer***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Transferee***" has, for each Operative Document in which it appears, the meaning set forth in such Operative Document.

"***University Agreements***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***University IP***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Voluntary Bankruptcy***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Warrant Closing***" has the meaning set forth in Section 2.07 of the Warrant Purchase Agreement.

"***Warrant Date***" has the meaning set forth in Section 2.06 of the Warrant Purchase Agreement.

"***Warrant Purchase Agreement***" means the Warrant Purchase Agreement dated as of the Closing Date, between Exelixis and Holdings.

"***Warrants***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***Warrant Share Legend***" has the meaning set forth in Section 6.02 of the Warrant Purchase Agreement.

"***Warrant Shares***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***XL647***" means: [*]

"***XL784***" means: [*]

"***XL999***" means: [*]

"***Yale***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Yale Agreement***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Yale Claims***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Yale Indemnitees***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Yale Technology***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

Exhibit 1

Purchase Exercise Notice

[*]

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

Exhibit 2

Form of Opinion of Cooley Godward, LLP

June 9, 2005

Symphony Evolution Holdings LLC
7361 Calhoun Place, Suite 325
Rockville, MD 20850

Dear Ladies and Gentlemen:

We have acted as counsel for Exelixis, Inc., a Delaware corporation (the "Company"), in connection with the financing of the clinical development of certain of the Company's product candidates (the "Financing"). In connection with the Financing, the Company is entering into the agreements listed on Schedule I hereto (collectively, the "Transaction Agreements"). We are rendering this opinion pursuant to Section 3.02(d) of the Warrant Purchase Agreement.

In connection with this opinion, we have examined and relied upon the representations and warranties as to factual matters contained in and made pursuant to the Transaction Agreements by the various parties and originals, or copies certified to our satisfaction, of such records, documents, certificates, opinions, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below.

As to certain factual matters, we have relied upon certificates of officers of the Company and have not sought to independently verify such matters. Where we render an opinion "to our knowledge" or concerning an item "known to us" or our opinion otherwise refers to our knowledge, it is based solely upon (i) an inquiry of attorneys within this firm who have represented the Company in this transaction, (ii) receipt of a certificate executed by an officer of the Company covering such matters and (iii) such other investigation, if any, that we specifically set forth herein.

In rendering this opinion, we have assumed: the authenticity of all documents submitted to us as originals; the conformity to originals of all documents submitted to us as copies; the accuracy, completeness and authenticity of certificates of public officials; the due authorization, execution and delivery of all documents (except the due authorization, execution and delivery by the Company of the Transaction Agreements), where authorization, execution and delivery are prerequisites to the effectiveness of such documents; and the genuineness and authenticity of all signatures on original documents (except the signatures on behalf of the Company on the Transaction Agreements). We have also assumed: that all individuals executing and delivering documents had the legal capacity to so execute and deliver; that the Transaction Agreements are obligations binding upon the parties thereto other than the Company; that the parties to the

Transaction Agreements other than the Company have filed any required California franchise or income tax returns and have paid any required California franchise or income taxes; and that there are no extrinsic agreements or understandings among the parties to the Transaction Agreements or to the Material Agreements (as defined below) that would modify or interpret the terms of any such agreements or the respective rights or obligations of the parties thereunder.

Our opinion is expressed only with respect to the federal laws of the United States of America and the laws of the State of California and the General Corporation Law of the State of Delaware. We note that the parties to the Transaction Agreements have designated the laws of the State of New York as the laws governing the Transaction Agreements. Our opinion in paragraph 5 below as to the validity, binding effect and enforceability of the Transaction Agreements is premised upon the result that would obtain if a California court were to apply the internal laws of the State of California (notwithstanding the designation of the laws of the State of New York) to the interpretation and enforcement of the Transaction Agreements. We express no opinion as to whether the laws of any particular jurisdiction apply, and no opinion to the extent that the laws of any jurisdiction other than those identified above are applicable to the subject matter hereof.

We are not rendering any opinion as to any statute, rule, regulation, ordinance, decree or decisional law relating to antitrust, banking, land use, environmental, pension, employee benefit, tax, fraudulent conveyance, usury, laws governing the legality of investments for regulated entities, regulations T, U or X of the Board of Governors of the Federal Reserve System or local law. Furthermore, we express no opinion with respect to compliance with antifraud laws, rules or regulations relating to securities or the offer and sale thereof; compliance with fiduciary duties by the Company's Board of Directors or stockholders; compliance with safe harbors for disinterested Board of Director or stockholder approvals; compliance with state securities or blue sky laws except as specifically set forth below; or compliance with laws that place limitations on corporate distributions.

With regard to our opinion in paragraph 1 below with respect to the good standing of the Company, we have relied solely upon a certificate of the Secretary of State of the State of Delaware as of a recent date.

With regard to our opinion paragraph 3 below concerning defaults under and any material breaches of any agreement identified on Schedule II hereto, we have relied solely upon (i) a certificate of an officer of the Company, (ii) a list supplied to us by the Company of material agreements to which the Company is a party, or by which it is bound, a copy of which is attached hereto as Schedule II (the "Material Agreements") and (iii) an examination of the Material Agreements in the form provided to us by the Company. We have made no further investigation. Further, with regard to our opinion in paragraph 3 below concerning Material Agreements, we express no opinion as to (i) financial covenants or similar provisions therein requiring financial calculations or determinations to ascertain compliance, (ii) provisions therein relating to the

occurrence of a “material adverse event” or words of similar import or (iii) any statement or writing that may constitute parol evidence bearing on interpretation or construction.

With regard to our opinion in paragraph 7 below, we express no opinion to the extent that, notwithstanding its current reservation of shares of Common Stock, future issuances of securities of the Company and/or antidilution adjustments to outstanding securities of the Company may cause the Warrant Shares to be convertible for more shares of Common Stock than the number that then remain authorized but unissued.

With regard to our opinion in paragraph 8 with respect to exemption from registration, no opinion is expressed with respect to the integration of the offer and sale of the Warrants or the Warrant Shares with any offers or sales of securities occurring subsequent to the date hereof.

With regard to our opinion in paragraph 9 below, we have based our opinion, to the extent we consider appropriate, on Rule 3a-8 under the Investment Company Act of 1940, as amended, and a certificate of an officer of the Company as to compliance with each of the requirements necessary to comply with Rule 3a-8. We have conducted no further investigation.

On the basis of the foregoing, in reliance thereon and with the foregoing qualifications, we are of the opinion that:

1. The Company has been duly incorporated and is a validly existing corporation in good standing under the laws of the State of Delaware.
2. The Company has the corporate power to execute, deliver and perform its obligations under the Transaction Agreements. Each of the Transaction Agreements has been duly and validly authorized, executed and delivered by the Company.
3. The execution and delivery of the Transaction Agreements by the Company and the consummation of the transactions contemplated thereby that would occur at the closing of the sale and issuance of the Warrant (as defined on Schedule I hereto) will not, (a) violate any provision of the Company’s certificate of incorporation or by-laws, (b) violate any governmental statute, rule or regulation which in our experience is typically applicable to transactions of the nature contemplated by the Transaction Agreements, (c) violate any order, writ, judgment, injunction, decree, determination or award which has been entered against the Company and of which we are aware or (d) constitute a default under or a material breach of any Material Agreement, in the case of clause (d) to the extent such default or breach would materially and adversely affect the Company.
4. All consents, approvals, authorizations or orders of, and filings, registrations and qualifications with any U.S. Federal or California regulatory authority or governmental body required for the due execution or delivery by the Company of any Transaction Agreement and the sale and issuance of the Warrant have been made or obtained, except

(a) for the filing of a Form D pursuant to Securities and Exchange Commission Regulation D and (b) for the filing of the notice to be filed under California Corporations Code Section 25102.1(d).

5. Each of the [*] constitutes, and, if the B Warrants and C Warrants (each as defined in the Warrant Purchase Agreement) were to be issued at the closing of the sale and issuance of the Warrant in accordance with the terms of the Warrant Purchase Agreement, each of the B Warrants and the C Warrants would constitute, a valid and binding agreement of the Company, enforceable against the Company in accordance with its respective terms, except as rights to indemnity and contribution under Sections 6 and 7 of the Registration Rights Agreement, Section 10 of the Purchase Option Agreement, Article V of the Warrant Purchase Agreement, Section 15 of the Research and Development Agreement, Section 15 of the Amended and Restated Research and Development Agreement, Section 6 of the Technology License Agreement, Section 6 of the Novated and Restated Technology License Agreement, Paragraphs (c)(iv) under "Yale Agreement" in Annex C of the Technology License Agreement, Paragraph (c)(vi) under "Regents Agreement" in Annex C of the Technology License Agreement, Paragraph (c)(iv) under "Yale Agreement" in Annex C of the Novated and Restated Technology License Agreement and Paragraph (c)(vi) under "Regents Agreement" in Annex C of the Novated and Restated Technology License Agreement may be limited by applicable laws and except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, arrangement, suretyship, dissolution, moratorium, receivership or other similar laws affecting creditors' rights and the law of fraudulent transfer, and subject to state law, federal law, or general equity principles and to limitations on availability of equitable relief, including specific performance, regardless of whether enforcement is considered in a proceeding in equity or at law.

6. The offer and sale of the Warrants (as defined in the Warrant Purchase Agreement) have been duly authorized by the Company.

7. The Warrant Shares (as defined in the Warrant Purchase Agreement) and, assuming the Purchase Option (as defined in the Purchase Option Agreement) is exercised in accordance with the Purchase Option Agreement, the Exelixis Common Stock (as defined in the Purchase Option Agreement), when sold and issued in accordance with the terms of the Warrants or the Purchase Option Agreement, as applicable, will be validly issued, fully paid and non-assessable, and the issuance of the Warrant Shares is not be subject to preemptive rights pursuant to the General Corporation Law of the State of Delaware, the certificate of incorporation or by-laws of the Company or similar rights to subscribe pursuant to any Material Agreement.

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

8. The offer and sale of the Warrants and Warrant Shares are and will be exempt from the registration requirements of the Securities Act of 1933, as amended, subject to the timely filing of a Form D pursuant to Securities and Exchange Commission Regulation D.

9. The Company is not an "investment company" as defined in the Investment Company Act of 1940, as amended.

[*]

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

This opinion is intended solely for your benefit and is not to be made available to or be relied upon by any other person, firm, or entity without our prior written consent.

Very truly yours,

COOLEY GODWARD LLP

By: /s/ Robert L. Jones

Robert L. Jones

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

SCHEDULE I

LIST OF TRANSACTION AGREEMENTS

1. Warrant Purchase Agreement, dated as of June 9, 2005, between the Company and Symphony Evolution Holdings LLC (the "Warrant Purchase Agreement").
2. Warrant to purchase 750,000 shares of common stock of the Company, dated as of June 9, 2005 (the "Warrant").
3. Purchase Option Agreement, dated as of June 9, 2005, by and among the Company, Symphony Evolution Holdings LLC and Symphony Evolution, Inc. (the "Purchase Option Agreement").
4. Research and Development Agreement, dated as of June 9, 2005, between the Company and Symphony Evolution Holdings LLC (the "Research and Development Agreement").
5. Amended & Restated Research and Development Agreement, dated as of June 9, 2005, between the Company, Symphony Evolution, Inc. and Symphony Evolution Holdings LLC (the "Amended & Restated Research and Development Agreement").
6. Technology License Agreement, dated as of June 9, 2005, between the Company and Symphony Evolution Holdings LLC (the "Technology License Agreement").
7. Novated and Restated Technology License Agreement, dated as of June 9, 2005, between the Company, Symphony Evolution, Inc. and Symphony Evolution Holdings LLC (the "Novated and Restated Technology License Agreement").
8. Confidentiality Agreement, dated as of June 9, 2005, by and among the Company, Symphony Evolution, Inc. and Symphony Evolution Holdings LLC, Symphony Capital Partners, L.P., Symphony Strategic Partners, LLC, Symphony Evolution Investors, LLC, Symphony Capital LLC, RRD International, LLC, Daniel F. Hoth, M.D., Herbert J. Conrad, and Alastair J.J. Wood, M.D. (the "Confidentiality Agreement").
9. Funding Agreement, dated as of June 9, 2005, by and among the Company, Symphony Capital Partners, L.P., Symphony Evolution Holdings LLC and Symphony Evolution Investors, LLC (the "Funding Agreement").
10. Registration Rights Agreement, dated as of June 9, 2005, between the Company and Symphony Evolution Holdings LLC (the "Registration Rights Agreement").

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11. Research Cost Sharing and Extension Agreement, dated as of June 9, 2005, by and among the Company, Symphony Evolution Holdings LLC and Symphony Evolution, Inc. (the "Research Cost Sharing and Extension Agreement").

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SCHEDULE II

LIST OF MATERIAL AGREEMENTS

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Exhibit 10.7

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EXECUTION COPY

REGISTRATION RIGHTS AGREEMENT

between

EXELIXIS, INC.

and

SYMPHONY EVOLUTION HOLDINGS LLC

Dated as of June 9, 2005

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REGISTRATION RIGHTS AGREEMENT

REGISTRATION RIGHTS AGREEMENT (this "**Agreement**"), dated as of June 9, 2005, by and between EXELIXIS, INC., a Delaware corporation ("**Exelixis**"), and SYMPHONY EVOLUTION HOLDINGS LLC, a Delaware limited liability company (together with its permitted successors, assigns and transferees, "**Holdings**").

RECITALS:

WHEREAS, in connection with the exercise by Exelixis of the Purchase Option under the Purchase Option Agreement, among Exelixis, Holdings and Symphony Evolution, Inc., a Delaware corporation ("**Symphony Evolution**"), of even date herewith (the "**Purchase Option Agreement**"), Exelixis may elect to issue shares of Exelixis' common stock, par value $0.001 per share ("**Exelixis Common Stock**") (such shares of Exelixis Common Stock when and if issued, the "**Purchase Option Shares**") to Holdings in partial payment of the Purchase Price in accordance with the terms of the Purchase Option Agreement; and

WHEREAS, to induce Holdings to execute and deliver the Purchase Option Agreement, Exelixis has agreed to provide certain registration rights under the Securities Act of 1933, as amended (the "**Securities Act**"), and applicable state securities laws with respect to the Purchase Option Shares;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Exelixis and Holdings (the "***Parties***") hereby agree as follows:

Section 1. Definitions.

(a) Capitalized terms used but not defined herein are used as defined in Purchase Option Agreement.

(b) As used in this Agreement, the following terms shall have the following meanings:

(i) "**Effective Registration Date**" means the date that the Registration Statement (as defined below) is first declared effective by the SEC.

(ii) "**Investor(s)**" means Holdings, any transferee or assignee thereof to whom Holdings assigns its rights under this Agreement and who agrees to become bound by the provisions of this Agreement in accordance with Section 9 and any transferee or assignee thereof to whom a transferee or assignee assigns its rights under this Agreement and who agrees to become bound by the provisions of this Agreement in accordance with Section 9.

(iii) "**Purchase Option Related Registrable Securities**" means (i) the Purchase Option Shares, and (ii) any Exelixis Common Stock issued with respect to the

Purchase Option Shares as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise.

(iv) "**register**," "**registered**," and "**registration**" refer to a registration effected by preparing and filing one or more Registration Statements in compliance with the Securities Act and pursuant to Rule 415, and the declaration or ordering of effectiveness of such Registration Statement(s) by the SEC.

(v) "**Registrable Securities**" means the Purchase Option Related Registrable Securities; provided, however, that such securities will cease to be Registrable Securities on the earlier of (A) the date as of which the Investor(s) may sell such securities without restriction pursuant to Rule 144(k) (or successor thereto) promulgated under the Securities Act or (B) the date on which the Investor(s) shall have sold all such securities.

(vi) "**Registration Statement**" means a registration statement or registration statements of Exelixis filed under the Securities Act covering the Registrable Securities.

(vii) "**Rule 415**" means Rule 415 under the Securities Act or any successor rule providing for offering securities on a continuous or delayed basis.

Section 2. Registration.

(a) Right to Registration. In the event Exelixis elects to exercise the Purchase Option as set forth in the Purchase Option Agreement, and in so doing elects to issue Purchase Option Related Registrable Securities, Exelixis shall prepare and, in accordance with Section 2(a)(ii)(A) of the Purchase Option Agreement, file with the SEC a Registration Statement on Form S-3 covering the resale of the Purchase Option Related Registrable Securities. The Registration Statement prepared pursuant hereto shall register for resale that number of shares of Exelixis Common Stock equal to the number of Purchase Option Related Registrable Securities as would be issued pursuant to the terms of the Purchase Option Agreement. Exelixis shall use commercially reasonable efforts to have the Registration Statement declared effective by the SEC as soon as practicable following the Purchase Option Exercise Date.

(b) Ineligibility for Form S-3. In the event that Form S-3 is not available for the registration of the resale of Registrable Securities hereunder, Exelixis shall (i) in accordance with Section 2(a)(ii)(A) of the Purchase Option Agreement, register the resale of the Registrable Securities on another appropriate form reasonably acceptable to Holdings (which acceptable forms shall include Form S-1), and (ii) undertake to register the Registrable Securities on Form S-3 as soon as such form is available; provided that Exelixis shall maintain the effectiveness of the Registration Statement then in effect until such time as a Registration Statement on Form S-3 covering the Registrable Securities has been declared effective by the SEC.

Section 3. Related Obligations. At such time as Exelixis is obligated to file a Registration Statement with the SEC pursuant to Section 2(a) or 2(b), Exelixis will use commercially reasonable efforts to effect the registration of the Registrable Securities in accordance with the intended method of disposition thereof and, pursuant thereto (except at such times as Exelixis may be required to suspend the use of a prospectus forming a part of the Registration Statement pursuant to Section 3(l), at which time Exelixis' obligations under

Sections 3(a), (b), (c), (d), (i) and (k) may also be suspended, as required), Exelixis shall have the following obligations:

(a) Exelixis shall keep each Registration Statement effective pursuant to Rule 415 at all times until the earlier of (i) the date as of which the Investor(s) may sell all of the Registrable Securities covered by such Registration Statement without restriction pursuant to Rule 144(k) (or successor thereto) promulgated under the Securities Act, or (ii) the date on which the Investor(s) shall have sold all the Registrable Securities covered by such Registration Statement (the "**Registration Period**").

(b) Exelixis shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to a Registration Statement and the prospectus used in connection with such Registration Statement as may be necessary to keep such Registration Statement effective at all times during the Registration Period, and, during such period, comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities of Exelixis covered by such Registration Statement until such time as all of such Registrable Securities shall have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in such Registration Statement. In the case of amendments and supplements to a Registration Statement which are required to be filed pursuant to this Agreement (including pursuant to this Section 3(b)) by reason of Exelixis filing a report on Form 10-K, Form 10-Q or Form 8-K or any analogous report under the Securities Exchange Act of 1934, as amended (the "**1934 Act**"), Exelixis shall have incorporated such report by reference into such Registration Statement, if applicable, or shall file such amendments or supplements with the SEC on the same day on which the 1934 Act report is filed which created the requirement for Exelixis to amend or supplement such Registration Statement.

(c) Exelixis shall furnish to each Investor whose Registrable Securities are included in any Registration Statement, without charge, (i) promptly after the same is prepared and filed with the SEC, at least one copy of such Registration Statement and any amendment(s) thereto, including financial statements and schedules, and each preliminary prospectus, (ii) upon the effectiveness of any Registration Statement, ten (10) copies of the prospectus included in such Registration Statement and all amendments and supplements thereto (or such other number of copies as such Investor may reasonably request), and (iii) such other documents, including copies of any preliminary or final prospectus, as such Investor may reasonably request from time to time in order to facilitate the disposition of the Registrable Securities owned by such Investor.

(d) Exelixis shall use commercially reasonable efforts to (i) register and qualify, unless an exemption from registration and qualification applies, the resale by Investor(s) of the Registrable Securities covered by a Registration Statement under such other securities or "blue sky" laws of such jurisdictions in the United States as Investor(s) reasonably request, (ii) prepare and file in those jurisdictions such amendments (including post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Registration Period, and (iii) take such other actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period; provided, however, that Exelixis shall not be required in connection therewith or as a condition thereto to (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(d), (y) subject itself to general taxation

in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction. Exelixis shall promptly notify each Investor who holds Registrable Securities of the receipt by Exelixis of any notification with respect to the suspension of the registration or qualification of any of the Registrable Securities for sale under the securities or "blue sky" laws of any jurisdiction in the United States or its receipt of actual notice of the initiation or threatening of any proceeding for such purpose.

(e) Exelixis shall notify each Investor in writing of the happening of any event, as promptly as practicable after becoming aware of such event, as a result of which the prospectus included in a Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and, subject to Section 3(l) hereof, promptly prepare a supplement or amendment to such Registration Statement to correct such untrue statement or omission. Exelixis shall also promptly notify each Investor in writing when a prospectus or any prospectus supplement or post-effective amendment has been filed, and when a Registration Statement or any post-effective amendment has become effective.

(f) Exelixis shall use commercially reasonable efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, or the suspension of the qualification of any of the Registrable Securities for sale in any jurisdiction and, if such an order or suspension is issued, to obtain the withdrawal of such order or suspension at the earliest possible moment.

(g) In the event that any Investor is deemed to be an "underwriter" with respect to the Registrable Securities, upon the written request of such Investor in connection with such Investor's due diligence requirements, if any, Exelixis shall make available for inspection by (i) such Investor, and (ii) any legal counsel, accountants or other agents retained by the Investor (collectively, "**Inspectors**"), all pertinent financial and other records, and pertinent corporate documents and properties of Exelixis (collectively, "**Records**"), as shall be reasonably deemed necessary by each Inspector, and cause Exelixis' officers, directors and employees to supply all information which any Inspector may reasonably request; provided, however, that each Inspector and such Investor shall agree in writing to hold in strict confidence and shall not make any disclosure (except with respect to an Inspector, to the relevant Investor) or use of any Record or other information which Exelixis determines in good faith to be confidential, and of which determination the Inspectors are so notified, unless the release of such Records is ordered pursuant to a final, non-appealable subpoena or order from a court or government body of competent jurisdiction. Each Investor agrees that it shall, upon learning that disclosure of such Records is required or is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to Exelixis and allow Exelixis, at its expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, the Records deemed confidential. Nothing herein (or in any other confidentiality agreement between Exelixis and any Investor) shall be deemed to limit the Investor(s)' ability to sell Registrable Securities in a manner which is otherwise consistent with applicable laws and regulations.

(h) Exelixis shall hold in confidence and not make any disclosure of information concerning an Investor provided to Exelixis unless (i) disclosure of such information

is necessary to comply with federal or state securities laws or the rules of any securities exchange or trading market on which the Exelixis Common Stock is listed or traded, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, or (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction. Exelixis agrees that it shall, upon learning that disclosure of such information concerning an Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt written notice to such Investor and allow such Investor, at the Investor's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

(i) Exelixis shall use commercially reasonable efforts either to (i) cause all the Registrable Securities covered by a Registration Statement to be listed on each securities exchange on which securities of the same class or series issued by Exelixis are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange, or (ii) secure designation and quotation of all the Registrable Securities covered by a Registration Statement on the NASDAQ National Market. Exelixis shall pay all fees and expenses in connection with satisfying its obligation under this Section 3(i).

(j) Exelixis shall cooperate with the Investor(s) who hold Registrable Securities being offered and, to the extent applicable, facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be offered pursuant to a Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the Investor(s) may reasonably request and registered in such names as the Investor(s) may request.

(k) If requested by an Investor, Exelixis shall (i) as soon as practicable incorporate in a prospectus supplement or post-effective amendment such information as an Investor reasonably requests to be included therein relating to the sale and distribution of Registrable Securities, including, without limitation, information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering and (ii) as soon as practicable make all required filings of such prospectus supplement or post-effective amendment after being notified of the matters to be incorporated in such prospectus supplement or post-effective amendment.

(l) Notwithstanding anything to the contrary herein, at any time after the Registration Statement has been declared effective by the SEC, Exelixis may delay the disclosure of material, non-public information concerning Exelixis the disclosure of which at the time is not, in the good faith opinion of Exelixis, in the best interest of Exelixis (a "**Grace Period**"); provided, that Exelixis shall promptly notify the Investor(s) in writing of the existence of a Grace Period in conformity with the provisions of this Section 3(l) and the date on which the Grace Period will begin (such notice, a "**Commencement Notice**"; and, provided further, that no Grace Period shall exceed thirty (30) days during any ninety (90) day period and during any three hundred sixty five (365) day period such Grace Periods shall not exceed an aggregate of ninety (90) days. For purposes of determining the length of a Grace Period above, the Grace Period shall begin on and include the date specified by Exelixis in the Commencement Notice and shall

end on and include the date Investor(s) receive written notice of the termination of the Grace Period by Exelixis (which notice may be contained in the Commencement Notice). The provisions of Section 3(f) hereof shall not be applicable during any Grace Period. Upon expiration of the Grace Period, Exelixis shall again be bound by the first sentence of Section 3(e) with respect to the information giving rise thereto unless such material, non-public information is no longer applicable.

Section 4. Obligations Of The Investor(s).

(a) At least seven (7) Business Days prior to the first anticipated filing date of a Registration Statement, Exelixis shall notify each Investor in writing of the information Exelixis requires from each such Investor if such Investor elects to have any of such Investor's Registrable Securities included in such Registration Statement. It shall be a condition precedent to the obligations of Exelixis to complete the registration pursuant to this Agreement with respect to the Registrable Securities of a particular Investor that such Investor shall furnish to Exelixis such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the effectiveness of the registration of such Registrable Securities and shall execute such documents in connection with such registration as Exelixis may reasonably request.

(b) Each Investor, by such Investor's acceptance of the Registrable Securities, agrees to cooperate with Exelixis as reasonably requested by Exelixis in connection with the preparation and filing of any Registration Statement hereunder, unless such Investor has notified Exelixis in writing of such Investor's election to exclude all of such Investor's Registrable Securities from such Registration Statement.

(c) Each Investor agrees that, upon receipt of any notice from Exelixis of the happening of any event of the kind described in Section 3(f) or the first sentence of Section 3(e), such Investor will immediately discontinue disposition of Registrable Securities pursuant to any Registration Statement(s) covering such Registrable Securities until such Investor's receipt of the copies of the supplemented or amended prospectus contemplated by the second sentence of Section 3(e) or receipt of notice that no supplement or amendment is required.

(d) Each Investor covenants and agrees that it will comply with any applicable prospectus delivery requirements of the Securities Act as applicable to it in connection with sales of Registrable Securities pursuant to a Registration Statement.

Section 5. Expenses of Registration. All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3 hereof, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, and fees and disbursements of counsel for Exelixis shall be paid by Exelixis. All underwriting discounts and selling commissions applicable to the sale of the Registrable Securities shall be paid by the Investor(s), provided, however, that Exelixis shall reimburse the Investor(s) for the reasonable actual fees and disbursements of one legal counsel designated by the holders of at least a majority of the Registrable Securities in connection with registration, filing or qualification pursuant to Sections 2 and 3 of this Agreement, which amount shall be limited to $30,000 in total over the term of this Agreement.

Section 6. Indemnification. In the event any Registrable Securities are included in a Registration Statement under this Agreement:

(a) To the fullest extent permitted by law, Exelixis will, and hereby does, indemnify and hold harmless each Investor, the directors, officers, partners, members, employees, agents, representatives of, and each Person, if any, who controls any Investor within the meaning of the Securities Act or the 1934 Act (each, an "**Investor Indemnified Person**"), against any losses, claims, damages, liabilities, judgments, fines, penalties, charges, costs, reasonable attorneys' fees, amounts paid in settlement or expenses, joint or several (collectively, "**Claims**"), incurred in investigating, preparing or defending any action, claim, suit, inquiry, proceeding, investigation or appeal taken from the foregoing by or before any court or governmental, administrative or other regulatory agency, body or the SEC, whether pending or threatened, whether or not an indemnified Person is or may be a party thereto ("**Indemnified Damages**"), to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or any post-effective amendment thereto or in any filing made in connection with the qualification of the offering under the securities or other "blue sky" laws of any jurisdiction in which Registrable Securities are offered ("**Blue Sky Filing**"), or the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading; (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the Effective Registration Date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if Exelixis files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in the light of the circumstances under which the statements therein were made, not misleading; **[*]** (the matters in the foregoing clauses (i) through (iii) being, collectively, "**Violations**"). Subject to Section 6(c), Exelixis shall reimburse the Investor Indemnified Persons, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (A) shall not apply to a Claim by an Investor Indemnified Person arising out of or based upon a Violation that occurs in reliance upon and in conformity with information furnished in writing to Exelixis by or on behalf of any such Investor Indemnified Person expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto if such information was timely made available by Exelixis pursuant to Section 3(c); (B) with respect to any preliminary prospectus, shall not inure to the benefit of any such Person from whom the Person asserting any such Claim purchased the Registrable Securities that are the subject thereof (or to the benefit of any Person controlling such Person) if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected in the prospectus, as then amended or supplemented, if such prospectus was timely made available by Exelixis pursuant to Section 3(d), and the Investor Indemnified Person was promptly advised in writing not to use the incorrect prospectus prior to the use giving rise to a violation and such Investor Indemnified Person, notwithstanding such advice, used it or failed to deliver the correct prospectus as required by the Securities Act and such correct prospectus was timely made available pursuant to Section 3(d); (C) shall not be available to the extent such Claim is based on a failure of the

Investor Indemnified Person to deliver or to cause to be delivered the prospectus made available by Exelixis, including a corrected prospectus, if such prospectus or corrected prospectus was timely made available by Exelixis pursuant to Section 3(d); and (D) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of Exelixis, which consent shall not be unreasonably withheld or delayed. Such indemnity shall remain full force and effect regardless of any investigation made by or on behalf of the Investor Indemnified Person and shall survive the transfer of the Registrable Securities by the Investor(s) pursuant to Section 9.

(b) In connection with any Registration Statement in which an Investor is participating, each such Investor agrees to severally and not jointly indemnify, and hold harmless, to the same extent and in the same manner as is set forth in Section 6(a), Exelixis, each of its directors, each of its officers who signs the Registration Statement and each Person, if any, who controls Exelixis within the meaning of the Securities Act or the 1934 Act (each, a "**Company Indemnified Person**"), against any Claim or Indemnified Damages to which any of them may become subject, under the Securities Act, the 1934 Act or otherwise, insofar as such Claim or Indemnified Damages arise out of or are based upon any Violation, in each case to the extent, and only to the extent, that such Violation occurs in reliance upon and in conformity with written information furnished to Exelixis by such Investor expressly for use in connection with such Registration Statement; and, subject to Section 6(d), such Investor will reimburse, promptly as such expenses are incurred and are due and payable, any legal or other expenses reasonably incurred by a Company Indemnified Person in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(b) and the agreement with respect to contribution contained in Section 7 shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of such Investor, which consent shall not be unreasonably withheld or delayed; provided, further, however, that an Investor shall be liable under this Section 6(b) for only that amount of a Claim or Indemnified Damages as does not exceed the net proceeds to such Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Company Indemnified Person and shall survive the transfer of the Registrable Securities by the Investor(s) pursuant to Section 9. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(b) with respect to any preliminary prospectus shall not inure to the benefit of any Company Indemnified Person if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented.

(c) If either an Investor Indemnified Person or a Company Indemnified Person (an "**Indemnified Person**") proposes to assert a right to be indemnified under this Section 6, such Indemnified Person shall notify either Exelixis or the relevant Investor(s), as applicable (the "**Indemnifying Person**"), promptly after receipt of notice of commencement of any action, suit or proceeding against such Indemnified Person (an "**Indemnified Proceeding**") in respect of which a Claim is to be made under this Section 6, or the incurrence or realization of any Indemnified Damages in respect of which a Claim is to be made under this Section 6, of the commencement of such Indemnified Proceeding or of such incurrence or realization, enclosing a copy of all relevant documents, including all papers served and claims made, but the omission to so notify the applicable Indemnifying Person promptly of any such Indemnified Proceeding or

incurrence or realization shall not relieve (x) such Indemnifying Person from any liability that it may have to such Indemnified Person under this Section 6 or otherwise, except, as to such Indemnifying Person's liability under this Section 6, to the extent, but only to the extent, that such Indemnifying Person shall have been prejudiced by such omission, or (y) any other Indemnifying Person from liability that it may have to any Indemnified Person under the Operative Documents.

(d) In case any Indemnified Proceeding shall be brought against any Indemnified Person and it shall notify the applicable Indemnifying Person of the commencement thereof as provided by Section 6(c) and such Indemnifying Person shall be entitled to participate in, and provided such Indemnified Proceeding involves a claim solely for money damages and does not seek an injunction or other equitable relief against the Indemnified Person and is not a criminal or regulatory action, to assume the defense of, such Indemnified Proceeding with counsel reasonably satisfactory to such Indemnified Person, and after notice from such Indemnifying Person to such Indemnified Person of such Indemnifying Person's election so to assume the defense thereof and the failure by such Indemnified Person to object to such counsel within ten (10) Business Days following its receipt of such notice, such Indemnifying Person shall not be liable to such Indemnified Person for legal or other expenses related to such Indemnified Proceedings incurred after such notice of election to assume such defense except as provided below and except for the reasonable costs of investigating, monitoring or cooperating in such defense subsequently incurred by such Indemnified Person reasonably necessary in connection with the defense thereof. Such Indemnified Person shall have the right to employ its counsel in any such Indemnified Proceeding, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless:

(i) the employment of counsel by such Indemnified Person at the expense of the applicable Indemnifying Person has been authorized in writing by such Indemnifying Person;

(ii) such Indemnified Person shall have reasonably concluded in its good faith (which conclusion shall be determinative unless a court determines that such conclusion was not reached reasonably and in good faith) that there is or may be a conflict of interest between the applicable Indemnifying Person and such Indemnified Person in the conduct of the defense of such Indemnified Proceeding or that there are or may be one or more different or additional defenses, claims, counterclaims, or causes of action available to such Indemnified Person (it being agreed that in any case referred to in this clause (ii) such Indemnifying Person shall not have the right to direct the defense of such Indemnified Proceeding on behalf of the Indemnified Person);

(iii) the applicable Indemnifying Person shall not have employed counsel reasonably acceptable to the Indemnified Person, to assume the defense of such Indemnified Proceeding within a reasonable time after notice of the commencement thereof (provided, however, that this clause shall not be deemed to constitute a waiver of any conflict of interest that may arise with respect to any such counsel); or

(iv) any counsel employed by the applicable Indemnifying Person shall fail to timely commence or diligently conduct the defense of such Indemnified Proceeding;

in each of which cases the fees and expenses of counsel for such Indemnified Person shall be at the expense of such Indemnifying Person. Only one counsel shall be retained by all Indemnified Persons with respect to any Indemnified Proceeding, unless counsel for any Indemnified Person reasonably concludes in good faith (which conclusion shall be determinative unless a court determines that such conclusion was not reached reasonably and in good faith) that there is or may be a conflict of interest between such Indemnified Person and one or more other Indemnified Persons in the conduct of the defense of such Indemnified Proceeding or that there are or may be one or more different or additional defenses, claims, counterclaims, or causes or action available to such Indemnified Person.

(e) Without the prior written consent of such Indemnified Person, such Indemnifying Person shall not settle or compromise, or consent to the entry of any judgment in, any pending or threatened Indemnified Proceeding, unless such settlement, compromise, consent or related judgment (i) includes an unconditional release of such Indemnified Person from all liability for Losses arising out of such claim, action, investigation, suit or other legal proceeding, (ii) provides for the payment of money damages as the sole relief for the claimant (whether at law or in equity), (iii) involves no finding or admission of any violation of law or the rights of any Person by the Indemnified Person, and (iv) is not in the nature of a criminal or regulatory action. No Indemnified Person shall settle or compromise, or consent to the entry of any judgment in, any pending or threatened Indemnified Proceeding in respect of which any payment would result hereunder or under the Operative Documents without the prior written consent of the Indemnifying Person, such consent not to be unreasonably conditioned, withheld or delayed.

(f) The indemnification required by this Section 6 shall be made by periodic payments of the amount of Claims during the course of the investigation or defense, as and when Indemnified Damages are incurred.

Section 7. Contribution. To the extent any indemnification by an indemnifying Person is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that: (i) no Person involved in the sale of Registrable Securities which Person is guilty of fraudulent misrepresentation (within the meaning Section 11(f) of the Securities Act) in connection with such sale shall be entitled to contribution from any Person involved in such sale of Registrable Securities who was not guilty of fraudulent misrepresentation; and (ii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities pursuant to such Registration Statement.

Section 8. Reports Under The 1934 Act. With a view to making available to the Investor(s) the benefits of Rule 144 promulgated under the Securities Act or any other similar rule or regulation of the SEC that may at any time permit the Investor(s) to sell securities of Exelixis to the public without registration ("**Rule 144**"), Exelixis agrees to use commercially reasonable efforts to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144;

(b) file with the SEC in a timely manner all reports and other documents

required of Exelixis under the Securities Act and the 1934 Act so long as Exelixis remains subject to such requirements and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

(c) furnish to each Investor so long as such Investor owns Registrable Securities, promptly upon request, (i) a written statement by Exelixis, if true, that it has complied with the reporting requirements of Rule 144, the Securities Act and the 1934 Act, (ii) a copy of the most recent annual or quarterly report of Exelixis and such other reports and documents so filed by Exelixis, and (iii) such other information as may be reasonably requested to permit the Investor(s) to sell such securities pursuant to Rule 144 without registration.

Section 9. Assignment of Registration Rights. The rights under this Agreement shall be automatically assignable by the Investor(s) to any transferee of all or at least 50,000 shares of such Investor's Registrable Securities (or if an Investor shall hold less than 50,000 such shares, then a transfer of all such shares) if: (i) the Investor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to Exelixis within a reasonable time after such assignment; (ii) Exelixis is, within a reasonable time after such transfer or assignment, furnished with written notice of (A) the name and address of such transferee or assignee, and (B) the securities with respect to which such registration rights are being transferred or assigned; (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the Securities Act and applicable state securities laws; (iv) at or before the time Exelixis receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with Exelixis to be bound by all of the provisions contained herein; and (v) such transfer shall have been made in accordance with the applicable requirements, if any, of the Purchase Option Agreement.

Section 10. Amendment of Registration Rights.

(a) The terms of this Agreement shall not be altered, modified, amended, waived or supplemented in any manner whatsoever except by a written instrument signed by each of (i) Exelixis and (ii) Investor(s) holding a majority of the Registrable Securities (other than in the case of any alteration, modification, amendment, waiver or supplement which affects any individual Investor in a manner that is less favorable or more detrimental to such Investor than to the other Investor(s) solely based on the face of such alteration, modification, amendment, waiver or supplement and without regard to the number of Registrable Securities held by such Investor, in which case, such alteration, modification, amendment, waiver or supplement must also be approved by such less favorably or more detrimentally treated Investor).

(b) Notwithstanding Section 10(a), any party hereto may waive, solely with respect to itself, any one or more of its rights hereunder without the consent of any other party hereto; provided that no such waiver shall be effective unless set forth in a written instrument executed by the party against whom such waiver is to be effective.

Section 11. Miscellaneous.

(a) A Person is deemed to be a holder of Registrable Securities whenever such

Person owns or is deemed to own of record such Registrable Securities. If Exelixis receives conflicting instructions, notices or elections from two or more Persons with respect to the same Registrable Securities, Exelixis shall act upon the basis of instructions, notice or election received from the such record owner of such Registrable Securities.

(b) Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted to be given to any party hereto shall be in writing and shall be deemed given only if delivered to the party personally or sent to the party by facsimile transmission (promptly followed by a hard-copy delivered in accordance with this Section 11(b)), by next Business Day delivery by a nationally recognized courier service, or by registered or certified mail (return receipt requested), with postage and registration or certification fees thereon prepaid, addressed to the party at its address set forth below:

If to Exelixis:

Exelixis, Inc.
170 Harbor Way
South San Francisco, CA 94083
Attention: Corporate Secretary
Facsimile: (650) 837-7951

with a copy to:

Cooley Godward LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306
Attention: Suzanne Sawochka Hooper
Facsimile: (650) 849-7400

If to Holdings:

Symphony Evolution Holdings LLC
7361 Calhoun Place, Suite 325
Rockville, MD 20850
Attn: Joseph P. Clancy
Facsimile: (301) 762-6154

with a copy to:

Symphony Capital Partners, L.P.
875 Third Avenue, 18th Floor
New York, NY 10022
Facsimile: (212) 632-5401

and

Symphony Strategic Partners, LLC
875 Third Avenue, 18th Floor
New York, NY 10022
Facsimile: (212) 632-5401

or to such other address as such party may from time to time specify by notice given in the manner provided herein to each other party entitled to receive notice hereunder.

(c) This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York; except to the extent that this Agreement pertains to the internal governance of Holdings, and to such extent this Agreement shall be governed and construed in accordance with the laws of the State of Delaware.

(d) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court, any Delaware State court or federal court of the United States of America sitting in The City of New York, Borough of Manhattan or Wilmington, Delaware, and any appellate court from any jurisdiction thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in any such New York State court, any such Delaware State court or, to the fullest extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any party hereto may otherwise have to bring any action or proceeding relating to this Agreement.

(e) Each of the parties hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any New York State or federal court, or any Delaware State or Federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court. Each of the parties hereby consent to service of process by mail.

(f) WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.

(g) Entire Agreement. This Agreement (including any Annexes, Schedules, Exhibits or other attachments hereto) constitutes the entire agreement between the parties hereto with respect to the matters covered hereby and supersedes all prior agreements and understandings with respect to such matters between the parties hereto.

(h) Amendment; Successors; Assignment; Counterparts.

(i) The terms of this Agreement shall not be waived, altered, modified, amended or supplemented in any manner whatsoever except by a written instrument signed by each of the parties hereto.

(ii) Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any Person, other than the parties hereto, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and permitted assigns provided, however, that, subject to the requirements of Section 9, this Agreement shall inure to the benefit of and be binding upon the permitted successors and assigns of each of the parties hereto.

(iii) Any party hereto may waive, solely with respect to itself, any one or more of its rights hereunder without the consent of any other party hereto; provided, that no such waiver shall be effective unless set forth in a written instrument executed by the party hereto against whom such waiver is to be effective.

(iv) This Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original but all of which taken together shall constitute one and the same Agreement.

(i) Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

(j) All consents and other determinations required to be made by the Investor(s) pursuant to this Agreement shall be made, unless otherwise specified in this Agreement, by Investor(s) holding at least a majority of the Registrable Securities.

{SIGNATURES FOLLOW ON NEXT PAGE}

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers or other representatives thereunto duly authorized, as of the date first above written.

EXELIXIS, INC.

By: /s/ Christoph Pereira

Name: Christoph Pereira
Title: Vice President, Legal Affairs and Secretary

SYMPHONY EVOLUTION HOLDINGS LLC

By: Symphony Capital Partners, L.P.,
its managing member

By: Symphony Capital GP, L.P.,
its general partner

By: Symphony GP, LLC,
its general partner

By: /s/ Mark Kessel

Name: Mark Kessel
Title: Managing Member

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

Exhibit 10.8

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

EXECUTION COPY

WARRANT PURCHASE AGREEMENT

between

EXELIXIS, INC.

and

SYMPHONY EVOLUTION HOLDINGS, LLC

Dated as of June 9, 2005

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WARRANT PURCHASE AGREEMENT

This WARRANT PURCHASE AGREEMENT is dated as of June 9, 2005 (this "***Agreement***") by and between Exelixis, Inc., a Delaware corporation ("***Exelixis***"), and Symphony Evolution Holdings LLC, a Delaware limited liability company (together with its permitted successors, assigns and transferees, "***Holdings***").

WHEREAS, contemporaneously with the execution of this Agreement, Holdings, Exelixis, and Symphony Evolution, Inc., a Delaware corporation ("***Symphony Evolution***") are entering into a Purchase Option Agreement (the "***Purchase Option Agreement***") pursuant to which, among other things, Holdings is granting to Exelixis an option to purchase (the "***Purchase Option***") all of the equity securities of Symphony Evolution (the "***Symphony Evolution Equity Securities***") owned, or hereafter acquired, by Holdings on the terms set forth in the Purchase Option Agreement; and

WHEREAS, in consideration for Holdings' grant of the Purchase Option to Exelixis, Exelixis desires to issue and sell to Holdings the Warrants described herein;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto (the "***Parties***") agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. Capitalized terms used but not defined herein are used as defined in Annex A hereto.

ARTICLE II

PURCHASE AND SALE OF WARRANTS

Section 2.01 Authorization to Issue A Warrants.

(a) Exelixis has authorized the issuance of certain warrants (the "***A Warrants***") representing the right to purchase 750,000 shares of Exelixis' common stock ("***Exelixis Common Stock***"), par value $0.001 per share, at a price per share that shall be an amount equal to 125% of the average closing price of Exelixis Common Stock, as reported in the *Wall Street Journal*, on the NASDAQ National Market, or other national exchange that is the primary exchange on which Exelixis Common Stock is listed, over a continuous period of sixty (60) trading days immediately proceeding the second trading day prior to the Closing Date (as defined in Section 2.04 hereof) (such shares, the "***A Warrant Shares***"). The A Warrants shall be evidenced by certificates issued pursuant to this Agreement in the form set forth in Exhibit B hereto, with such appropriate insertions, omissions, substitutions, and other variations as are required or permitted by this Agreement.

Section 2.02 Authorization to Issue the B Warrants.

(a) Exelixis has authorized the issuance of certain warrants (the "***B Warrants***") representing the right to purchase up to 750,000 shares of Exelixis Common Stock, par value $0.001 per share, at a price per share that shall be an amount equal to 125% of the average closing price of Exelixis Common Stock, as reported in the *Wall Street Journal*, on the NASDAQ National Market, or other national exchange that is the primary exchange on which Exelixis Common Stock is listed, over a continuous period of sixty (60) trading days immediately proceeding the second trading day prior to the Closing Date (such shares, the "***B Warrant Shares***"). The B Warrants shall be evidenced by certificates issued pursuant to this Agreement in the form set forth in Exhibit C hereto, with such appropriate insertions, omissions, substitutions, and other variations as are required or permitted by this Agreement.

(b) In the event that at any time on or prior to the Additional Funding Date (as defined in the Funding Agreement), less than an aggregate amount equal to $80,000,000.00 million (the "***Maximum Committed Capital***") has been contributed by Holdings to Symphony Evolution (such contributed capital, the "***Funded Capital***"), either through the purchase of Symphony Evolution Equity Securities or other means of equity investment, the number of shares of Exelixis Common Stock subject to the B Warrants shall be reduced, for each dollar that the Funded Capital is less than the Maximum Committed Capital, by decreasing the number of shares represented by the B Warrants by 0.01875 shares per dollar.

Section 2.03 Authorization to Issue C Warrants.

(a) Exelixis has authorized the issuance of certain warrants (the "***C Warrants***", and together with the A Warrants and the B Warrants, the "***Warrants***"), representing the right to purchase up to 500,000 shares of Exelixis Common Stock, par value $0.001 per share, at a price per share that shall be an amount equal to 125% of the average closing price of Exelixis Common Stock, as reported in the *Wall Street Journal*, on the NASDAQ National Market, or other national exchange that is the primary exchange on which Exelixis Common Stock is listed, over a continuous period of sixty (60) trading days immediately proceeding the second trading day prior to the C Warrant Date (as defined below) (such shares, the "***C Warrant Shares***", and together with the A Warrant Shares and the B Warrant Shares, the "***Warrant Shares***"). The C Warrants shall be evidenced by certificates issued pursuant to this Agreement in the form set forth in Exhibit D hereto, with such appropriate insertions, omissions, substitutions, and other variations as are required or permitted by this Agreement.

(b) In the event that the Funded Capital is less than the Maximum Committed Capital, the number of shares of Exelixis Common Stock subject to the C Warrants shall be reduced, for each dollar that the Funded Capital is less than the Maximum Committed Capital, by decreasing the number of shares represented by the C Warrants by 0.00625 shares per dollar.

Section 2.04 Purchase and Sale of A Warrants. Exelixis hereby agrees to issue to Holdings, and Holdings hereby agrees to acquire from Exelixis, the A Warrants on the

Closing Date (hereinafter, the "***A Warrant Date***"), subject to the fulfillment of the conditions precedent described in Article III below. The A Warrants will be issued to Holdings as consideration for the execution and delivery by Holdings of the Purchase Option Agreement.

Section 2.05 Purchase and Sale of B Warrants. Exelixis hereby agrees to issue to Holdings, and Holdings hereby agrees to acquire from Exelixis, the B Warrants on the second Business Day immediately following the Additional Funding Date (the "***B Warrant Date***"). The issuance to Holdings of the B Warrants shall not be subject to any further conditions precedent hereunder, other than (i) the continued existence of the Purchase Option, and (ii) the satisfaction of the specified conditions precedent set forth in Article III, on or prior to the B Warrant Date. The B Warrants will be issued to Holdings as deferred consideration for the execution and delivery by Holdings of the Purchase Option Agreement.

Section 2.06 Purchase and Sale of C Warrants. Exelixis hereby agrees to issue to Holdings, and Holdings hereby agrees to acquire from Exelixis, the C Warrants on the first Business Day immediately following the expiration of the Purchase Option (the "***C Warrant Date***", and collectively with the A Warrant Date and the B Warrant Date, the "***Warrant Dates***"). The issuance to Holdings of the C Warrants shall not be subject to any further conditions precedent hereunder, other than (i) the unexercised expiration of the Purchase Option and (ii) the satisfaction of the specified conditions precedent set forth in Article III, on or prior to the C Warrant Date. The C Warrants will be issued to Holdings as deferred consideration for the execution and delivery by Holdings of the Purchase Option Agreement. In the event that Exelixis exercises the Purchase Option prior to its expiry, the C Warrants shall not be issued to Holdings.

Section 2.07 Warrant Dates. Subject to the terms and conditions of this Agreement, the issuance, sale and purchase of the A, B and C Warrants contemplated by this Agreement shall take place at a closing on each Warrant Date (each a "***Warrant Closing***") to be held at the offices of Shearman & Sterling, 599 Lexington Avenue, New York, New York 10022, at 10:00 A.M., Eastern Time, following the satisfaction or waiver of all other conditions to the obligations of the Parties set forth in Section 2.04, 2.05 or 2.06 hereof, as applicable, or at such other place or at such other time or such other date as Holdings and Exelixis shall mutually agree upon in writing.

ARTICLE III

CONDITIONS OF PURCHASE

Section 3.01 Conditions Precedent to Each Party's Obligations. The respective obligations of Exelixis and Holdings to effect the transactions contemplated hereby shall be subject to the satisfaction of the conditions precedent contained in this Section 3.01 or the waiver thereof in writing by Holdings and Exelixis prior to or on the A Warrant Date, the B Warrant Date or the C Warrant Date, as applicable.

(a) Approvals. All Governmental Approvals imposed by any Governmental Authority in connection with the transactions contemplated by this Agreement and the other Operative Documents required to be in effect prior to or on the A Warrant Date shall be in effect,

the failure of which to be in effect would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on either of the Parties.

(b) Litigation. No Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any law or Governmental Order (whether temporary, preliminary or permanent) that is in effect and restrains, enjoins or otherwise prohibits the consummation of the transactions contemplated hereby or in the other Operative Documents.

Section 3.02 Conditions Precedent to Holdings' Obligations. The obligation of Holdings to effect the transactions contemplated hereby shall be subject to the satisfaction of the further conditions precedent contained in this Section 3.02, or the waiver thereof in writing by Holdings, prior to or on the A Warrant Date.

(a) Authorization, Execution and Delivery of Documents. This Agreement and each of the other Operative Documents (including all schedules, annexes and exhibits thereto) required to be entered into on or prior to the A Warrant Date shall have been duly authorized, executed and delivered by each of the parties thereto (other than Holdings) and shall be in full force and effect.

(b) Issuance of Warrants. All actions required by any applicable law to issue the Warrants shall have been duly taken by Exelixis (or provisions therefor shall have been made), including, without limitation, the making of all registrations and filings required to be made prior to or on the A Warrant Date, and all necessary consents shall have been received, the failure to take, or the absence of which, would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Holdings.

(c) Performance of Obligations by Exelixis; Representations and Warranties. Exelixis shall have performed in all material respects and complied in all material respects with all agreements and conditions contained in this Agreement and the other Operative Documents that are required to be performed or complied with by it prior to or on such A Warrant Date. Exelixis' representations and warranties set forth in Section 4.02 of this Agreement shall be true and correct in all respects as of such A Warrant Date with the same effect as though such representations and warranties were made on and as of the A Warrant Date (or if stated to have been made as of an earlier date, as of such date).

(d) Opinions of Counsel. Holdings shall have received an opinion letter from Cooley Godward LLP, counsel for Exelixis, substantially in the form attached hereto as Exhibit A.

(e) Closing Certificate. At the A Warrant Date, Holdings shall have received a certificate from Exelixis executed by its Chief Financial Officer or other duly authorized executive officer, dated as of the A Warrant Date, in form and substance reasonably satisfactory to Holdings, certifying:

(i) (A) that the Operative Documents to which Exelixis is a party have been duly authorized, executed and delivered by Exelixis, and (B) that Exelixis has satisfied all

conditions precedent contained in the Operative Documents to which it is a party required to be satisfied by it on or prior to the A Warrant Date; and

(ii) as to (A) the accuracy and completeness of the contents of Exelixis' charter documents, (B) the resolutions of Exelixis' board of directors, duly authorizing Exelixis' execution, delivery and performance of each Operative Document to which it is or is to be a party and each other document required to be executed and delivered by it in accordance with the provisions hereof or thereof, and (C) the incumbency and signature of Exelixis' representatives authorized to execute and deliver documents on its behalf in connection with the obligations contemplated hereby and by the other Operative Documents.

(f) Further Documents, Certificates, Etc. Holdings shall have received such other documents, certificates or opinions as Holdings may reasonably request in connection with the consummation of the transactions contemplated by this Agreement.

(g) No Events of Default. No breach, default, event of default or other similar event by Exelixis, and no event which with the giving of notice, the passage of time, or both, would constitute any of the foregoing, under any Operative Document or any other material contract or agreement to which Exelixis is a party, shall have occurred and be continuing, and no condition shall exist that constitutes, or with the giving of notice, the passage of time, or both, would constitute such default, event of default or other similar event.

(h) No Violation. The transactions contemplated hereby shall comply with all applicable law in effect as of the A Warrant Date, and no party (other than Holdings) to such transactions shall be in violation of any such applicable law, the failure to comply with which would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Holdings. Holdings shall not be subject to any penalty or liability pursuant to any violation of applicable law in effect as of such A Warrant Date by virtue of the transactions contemplated hereby and by each of the other Operative Documents.

(i) Change in Law. There shall have been no change in any law, rule or regulation or the interpretation thereof (including any law, rule or regulation relating to taxes) that prohibits or prevents the consummation of this Agreement or any of the transactions contemplated hereby (including the sale and purchase of the Warrants) or by the Operative Documents or that results in any material increase in taxes payable by Holdings or Investors.

(j) Other Conditions Precedent. Exelixis shall have satisfied and complied with all applicable conditions precedent set forth in each other Operative Document to which Exelixis is a party required to be satisfied and complied with prior to or on the A Warrant Date.

Section 3.03 Conditions Precedent to Exelixis' Obligations. The obligation of Exelixis to effect the transactions contemplated hereby shall be subject to the satisfaction of the further conditions precedent contained in this Section 3.03, or the waiver thereof in writing by Exelixis, prior to or on the A Warrant Date, and in the case of Sections 3.03(a), (b)(ii), (c)(ii), (e) and (f), the satisfaction thereof or the waiver thereof by Exelixis, prior to or on the B Warrant Date and the C Warrant Date.

(a) Authorization, Execution and Delivery of Documents. This Agreement and each of the other Operative Documents (including all schedules and exhibits thereto) required to be entered into on or prior to the A Warrant Date (or the B Warrant Date or the C Warrant Date, as applicable) shall have been duly authorized, executed and delivered by each of the parties thereto (other than Exelixis) and shall be in full force and effect.

(b) Performance of Obligations by Holdings; Representations and Warranties.

(i) As of the A Warrant Date, Holdings shall have performed in all material respects and complied in all material respects with all agreements and conditions contained in this Agreement and the other Operative Documents required to be performed or complied with by it prior to or at the A Warrant Date. Each of Holdings' representations and warranties set forth in Section 4.01 of this Agreement shall be true and correct in all respects as of the A Warrant Date with the same effect as though such representations and warranties were made on and as of the A Warrant Date (or if stated to have been made as of an earlier date, as of such date).

(ii) As of the B Warrant Date or the C Warrant Date, as applicable, each of Holdings' representations and warranties set forth in Section 4.01(a)(vi) of this Agreement shall be true and correct in all respects, with the same effect as though such representations and warranties were made on and as of the B Warrant Date or the C Warrant Date, as applicable (or if stated to have been made as of an earlier date, as of such date). Holdings shall not be in material default or breach of any Operative Document that has resulted in, or would reasonably be expected to result in, a material adverse effect on the Programs or Exelixis' rights under the Operative Documents, as of the B Warrant Date or the C Warrant Date, as applicable.

(c) Warrant Date Certificates. At the A Warrant Date, or the B Warrant Date or the C Warrant Date, as applicable and in accordance with the opening sentence of this Section 3.03, Exelixis shall have received a certificate from Holdings executed by its Chief Financial Officer or other executive officer, dated the date of such Warrant Date, in form and substance reasonably satisfactory to Exelixis, certifying:

(i) as of the A Warrant Date:

(A) that (1) the Operative Documents to which Holdings is a party have been duly authorized, executed and delivered by Holdings, (2) Holdings has satisfied all conditions precedent contained in the Operative Documents to which it is a party required to be satisfied by it on or prior to the A Warrant Date, and (3) Holdings has performed in all material respects and complied in all material respects with all covenants, agreements and obligations that are required to be performed or complied with by it prior to or on the A Warrant Date; and

(B) to (1) the accuracy and completeness of the contents of Holdings' charter documents, (2) the resolutions of Holdings' members, duly authorizing Holdings' execution, delivery and performance of each Operative Document to which it is or is to be a party and each other document required to be executed and

delivered by it in accordance with the provisions hereof or thereof, and (3) the incumbency and signature of Holdings' representatives authorized to execute and deliver documents on its behalf in connection with the obligations contemplated hereby and by the other Operative Documents; or

(ii) as of the B Warrant Date or the C Warrant Date, as applicable (A) that the Operative Documents to which Holdings is a party have been duly authorized, executed and delivered by Holdings; (B) that Holdings has satisfied all conditions precedent contained in the Operative Documents to which it is a party required to be satisfied by it on or prior to the Closing Date; and (C) that Holdings is not in material default or breach of any Operative Document that has resulted in, or would reasonably be expected to result in, a material adverse effect on the Programs or Exelixis' rights under the Operative Documents, as of the B Warrant Date or the C Warrant Date, as applicable.

(d) No Events of Default. No default, event of default or other similar event by Holdings, and no event which with the giving of notice, the passage of time, or both, would constitute any of the foregoing, under any Operative Document or any other material contract or agreement to which Holdings is a party, shall have occurred and be continuing, and no condition shall exist that constitutes, or with the giving of notice, the passage of time, or both, would constitute such default, event of default or other similar event.

(e) No Violation. The transactions contemplated hereby shall comply in all material respects with all applicable law in effect as of the A Warrant Date (or the B Warrant Date or the C Warrant Date, as applicable), and no party (other than Exelixis) to such transactions shall be in material violation of any such applicable law, the failure to comply with which would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis. Exelixis shall not be subject to any penalty or liability pursuant to any violation of applicable law in effect as of such A Warrant Date by virtue of the transactions contemplated hereby and by each of the other Operative Documents.

(f) Change in Law. There shall have been no change in any law, rule or regulation or the interpretation thereof (including any law, rule or regulation relating to taxes) that prohibits or prevents the consummation of this Agreement or any of the transactions contemplated hereby (including the sale and purchase of the Warrants) or by the Operative Documents.

(g) Other Conditions Precedent. Holdings shall have satisfied and complied with all applicable conditions precedent set forth in each other Operative Document to which Holdings is a party required to be satisfied and complied with prior to or on the A Warrant Date.

ARTICLE IV

REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 4.01 Representations, Warranties and Covenants of Holdings.

(a) Holdings hereby represents and warrants to Exelixis that:

(i) Organization. Holdings is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Delaware.

(ii) Authority and Validity. Holdings has all requisite limited liability company power and authority to execute, deliver and perform its obligations under this Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Holdings of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action required on the part of Holdings, and no other proceedings on the part of Holdings are necessary to authorize this Agreement or for Holdings to perform its obligations under this Agreement. This Agreement constitutes the lawful, valid and legally binding obligation of Holdings, enforceable in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles regardless of whether such enforceability is considered in a proceeding at law or in equity.

(iii) No Violation or Conflict. The execution, delivery and performance of this Agreement and the transactions contemplated hereby do not (A) violate, conflict with or result in the breach of any provision of the Organizational Documents of Holdings, (B) conflict with or violate any law or Governmental Order applicable to Holdings or any of its assets, properties or businesses, or (C) conflict with, result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any Encumbrance on any of the assets or properties of Holdings, pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Holdings is a party except, in the case of clauses (B) and (C), to the extent that such conflicts, breaches, defaults or other matters would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Holdings.

(iv) Governmental Consents and Approvals. The execution, delivery and performance of this Agreement by Holdings do not, and the consummation of the transactions contemplated hereby do not and will not, require any Governmental Approval which has not already been obtained, effected or provided, except with respect to which the failure to so obtain, effect or provide would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Holdings.

(v) Litigation. There are no actions by or against Holdings pending before any Governmental Authority or, to the knowledge of Holdings, threatened to be brought by or before any Governmental Authority, that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Holdings. There are no pending or, to the knowledge of Holdings, threatened actions to which Holdings is a party (or threatened to be named as a party) to set aside, restrain, enjoin or prevent the execution, delivery or performance of this Agreement or the Operative Documents or the

consummation of the transactions contemplated hereby or thereby by any party hereto or thereto. Holdings is not subject to any Governmental Order (nor, to the knowledge of Holdings, is there any such Governmental Order threatened to be imposed by any Governmental Authority) that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Holdings.

(vi) Accredited Investor.

(A) Holdings is and will remain at all relevant times an "Accredited Investor".

(B) Holdings has relied completely on the advice of, or has consulted with or has had the opportunity to consult with, its own personal tax, investment, legal or other advisors and has not relied on Exelixis or any of its Affiliates for advice. Holdings has reviewed the Investment Overview and is aware of the risks disclosed therein. Holdings acknowledges that it has had a reasonable opportunity to conduct its own due diligence with respect to the Products, the Programs, Symphony Evolution, Exelixis and the transactions contemplated by the Operative Documents.

(C) Holdings has been advised and understands that the offer and sale of the A Warrants, the B Warrants, the C Warrants, the A Warrant Shares, the B Warrant Shares and the C Warrant Shares have not been registered under the Securities Act. Holdings is able to bear the economic risk of such investment for an indefinite period and to afford a complete loss thereof.

(D) Holdings is acquiring the A Warrants, the B Warrants, the C Warrants, the A Warrant Shares, the B Warrant Shares and the C Warrant Shares solely for Holdings' own account for investment purposes as a principal and not with a view to the resale of all or any part thereof; provided, that Holdings may transfer the A Warrants, the B Warrants and the C Warrants as set forth in Section 6.01 hereof. Holdings agrees that the A Warrants, the B Warrants, the C Warrants, the A Warrant Shares, the B Warrant Shares and the C Warrant Shares may not be resold (1) without registration thereof under the Securities Act (unless an exemption from such registration is available), or (2) in violation of any law. Holdings acknowledges that Exelixis is not required to register the A Warrants, the B Warrants, the C Warrants, the A Warrant Shares, the B Warrant Shares or the C Warrant Shares under the Securities Act. Holdings is not and will not be an underwriter within the meaning of Section 2(11) of the Securities Act with respect to the A Warrants, the B Warrants, the C Warrants, the A Warrant Shares, the B Warrant Shares or the C Warrant Shares.

(E) No person or entity acting on behalf of, or under the authority of, Holdings is or will be entitled to any broker's, finder's, or similar fees or commission payable by Exelixis or any of its Affiliates.

(F) Holdings acknowledges and agrees to treat the warrants for federal, state and local income tax purposes as option premium paid in return for the grant of the Purchase Option.

Section 4.02 Representations, Warranties and Covenants of Exelixis.

(a) Exelixis hereby represents and warrants to Holdings that:

(i) Organization. Exelixis is a corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware.

(ii) Authority and Validity. Exelixis has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Exelixis of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action required on the part of Exelixis, and no other proceedings on the part of Exelixis are necessary to authorize this Agreement or for Exelixis to perform its obligations under this Agreement. This Agreement constitutes the lawful, valid and legally binding obligation of Exelixis, enforceable in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles regardless of whether such enforceability is considered in a proceeding at law or in equity.

(iii) No Violation or Conflict. The execution, delivery and performance of this Agreement and the transactions contemplated hereby do not (A) violate, conflict with or result in the breach of any provision of the Organizational Documents of Exelixis, (B) conflict with or violate any law or Governmental Order applicable to Exelixis or any of its assets, properties or businesses, or (C) conflict with, result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any Encumbrance on any of the assets or properties of Exelixis, pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Exelixis is a party except, in the case of clauses (B) and (C), to the extent that such conflicts, breaches, defaults or other matters would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis.

(iv) Governmental Consents and Approvals. Other than any HSR Act Filings and Additional Regulatory Filings which, if the Purchase Option is exercised by Exelixis, will be obtained on or prior to the Purchase Option Closing Date and any Governmental Approvals relating to federal securities or state "blue sky" laws, the execution, delivery and performance of this Agreement by Exelixis do not, and the consummation of the transactions contemplated hereby do not and will not, require any Governmental Approval which has not already been obtained, effected or provided, except with respect

to which the failure to so obtain, effect or provide would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis.

(v) Litigation. There are no actions by or against Exelixis pending before any Governmental Authority or, to the knowledge of Exelixis, threatened to be brought by or before any Governmental Authority, that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis. There are no pending or, to the knowledge of Exelixis, threatened actions, to which Exelixis is a party (or is threatened to be named as a party) to set aside, restrain, enjoin or prevent the execution, delivery or performance of this Agreement or the Operative Documents or the consummation of the transactions contemplated hereby or thereby by any party hereto or thereto. Exelixis is not subject to any Governmental Order (nor, to the knowledge of Exelixis, is there any such Governmental Order threatened to be imposed by any Governmental Authority) that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Exelixis.

(vi) Private Placement. Assuming the accuracy of Holdings' representations and warranties set forth in Section 4.01, (i) the purchase and sale of the Warrants is exempt from the registration requirements of the Securities Act, and (ii) no other offering of Common Stock by Exelixis will be integrated with the offering of the Warrants or the Warrant Shares. Neither Exelixis nor any Person acting on its behalf has or will offer the Warrants or the Warrant Shares by any form of general solicitation or general advertising and all filings required under Rule 503 of the Securities Act will be made in a timely manner.

(b) Exelixis covenants and agrees with Holdings that, so long as any of the Warrants are outstanding (including as such Warrants may be reissued pursuant to transfer in accordance with Section 6.01 hereof), Exelixis shall take all action necessary to reserve and keep available out of its authorized and unissued Exelixis Common Stock, solely for the purpose of effecting the exercise of the Warrants, 100% of the number of shares of Exelixis Common Stock issuable upon exercise of the Warrants. Upon exercise in accordance with the Warrants, the Exelixis Common Stock delivered thereby will be validly issued, fully paid and nonassessable and free from all taxes, liens and charges with respect to the issue thereof, with the holders being entitled to all rights accorded to a holder of the Exelixis Common Stock.

(c) Exelixis acknowledges and agrees to treat the warrants for federal, state and local income tax purposes as option premium paid in return for the grant of the Purchase Option.

ARTICLE V

INDEMNITY

Section 5.01 Indemnification. To the greatest extent permitted by applicable law, Exelixis shall indemnify and hold harmless Holdings, and Holdings shall indemnify and hold harmless Exelixis, and each of their respective Affiliates, officers, directors, employees, agents, partners, members, successors, assigns, representatives of, and each Person, if any

(including any officers, directors, employees, agents, partners, members of such Person) who controls, Holdings and Exelixis, as applicable, within the meaning of the Securities Act or the Exchange Act, (each, an ***"Indemnified Party"***), from and against any and all actions, causes of action, suits, claims, losses, diminution in value, costs, interest, penalties, fees, liabilities and damages, and expenses in connection therewith (irrespective of whether any such Indemnified Party is a party to the action for which indemnification hereunder is sought), and including reasonable attorneys' fees and disbursements (hereinafter, a "***Loss***"), incurred by any Indemnified Party as a result of, or arising out of, or relating to: (i) in the case of Exelixis being the Indemnifying Party, (A) any breach of any representation or warranty made by Exelixis herein or in any certificate, instrument or document delivered hereunder, (B) any breach of any covenant, agreement or obligation of Exelixis contained herein or in any certificate, instrument or document delivered hereunder, or (C) any untrue statement of a material fact about Exelixis contained in the reports filed by Exelixis with the SEC, or the omission therefrom of a material fact about Exelixis required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, to the extent that such reports are attached to the Investment Overview; provided, that the information contained in a later filed report filed prior to the date of this Agreement shall be deemed to update any related information contained in a previously filed report (the items set forth herein in clauses (A), (B) and (C) being hereinafter referred to as the "***Holdings Claims***"), and (ii) in the case of Holdings being the Indemnifying Party, (x) any breach of any representation or warranty made by Holdings herein or in any certificate, instrument or document delivered hereunder, (y) any breach of any covenant, agreement or obligation of Holdings contained herein or in any certificate, instrument or document delivered hereunder, or (z) any untrue statement or alleged untrue statement of a material fact about Holdings contained in the Investment Overview or the omission or alleged omission therefrom of a material fact about Holdings required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, (the items set forth herein in clauses (x), (y) and (z) being hereinafter referred to as the "***Exelixis Claims***"). To the extent that the foregoing undertaking by Exelixis, Holdings may be unenforceable for any reason, such Party shall make the maximum contribution to the payment and satisfaction of any Loss that is permissible under applicable law.

Section 5.02 Notice of Claims. Any Indemnified Party that proposes to assert a right to be indemnified under this Article V shall notify Exelixis or Holdings, as applicable (the "***Indemnifying Party***"), promptly after receipt of notice of commencement of any action, suit or proceeding against such Indemnified Party (an "***Indemnified Proceeding***") in respect of which a claim is to be made under this Article V, or the incurrence or realization of any Loss in respect of which a claim is to be made under this Article V, of the commencement of such Indemnified Proceeding or of such incurrence or realization, enclosing a copy of all relevant documents, including all papers served and claims made, but the omission to so notify the applicable Indemnifying Party promptly of any such Indemnified Proceeding or incurrence or realization shall not relieve (x) such Indemnifying Party from any liability that it may have to such Indemnified Party under this Article V or otherwise, except, as to such Indemnifying Party's liability under this Article V, to the extent, but only to the extent, that such Indemnifying Party shall have been prejudiced by such omission, or (y) any other indemnitor from liability that it may have to any Indemnified Party under the Operative Documents.

Section 5.03 Defense of Proceedings. In case any Indemnified Proceeding shall be brought against any Indemnified Party, it shall notify the applicable Indemnifying Party of the commencement thereof as provided in Section 5.02, and such Indemnifying Party shall be entitled to participate in, and provided such Indemnified Proceeding involves a claim solely for money damages and does not seek an injunction or other equitable relief against the Indemnified Party and is not a criminal or regulatory action, to assume the defense of, such Indemnified Proceeding with counsel reasonably satisfactory to such Indemnified Party, and after notice from such Indemnifying Party to such Indemnified Party of such Indemnifying Party's election to so assume the defense thereof and the failure by such Indemnified Party to object to such counsel within ten (10) Business Days following its receipt of such notice, such Indemnifying Party shall not be liable to such Indemnified Party for legal or other expenses related to such Indemnified Proceedings incurred after such notice of election to assume such defense except as provided below and except for the reasonable costs of investigating, monitoring or cooperating in such defense subsequently incurred by such Indemnified Party reasonably necessary in connection with the defense thereof. Such Indemnified Party shall have the right to employ its counsel in any such Indemnified Proceeding, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless:

(i) the employment of counsel by such Indemnified Party at the expense of the applicable Indemnifying Party has been authorized in writing by such Indemnifying Party;

(ii) such Indemnified Party shall have reasonably concluded in its good faith (which conclusion shall be determinative unless a court determines that such conclusion was not reached reasonably and in good faith) that there is or may be a conflict of interest between the applicable Indemnifying Party and such Indemnified Party in the conduct of the defense of such Indemnified Proceeding or that there are or may be one or more different or additional defenses, claims, counterclaims, or causes of action available to such Indemnified Party (it being agreed that in any case referred to in this clause (ii) such Indemnifying Party shall not have the right to direct the defense of such Indemnified Proceeding on behalf of the Indemnified Party);

(iii) the applicable Indemnifying Party shall not have employed counsel reasonably acceptable to the Indemnified Party, to assume the defense of such Indemnified Proceeding within a reasonable time after notice of the commencement thereof (provided, however, that this clause shall not be deemed to constitute a waiver of any conflict of interest that may arise with respect to any such counsel); or

(iv) any counsel employed by the applicable Indemnifying Party shall fail to timely commence or diligently conduct the defense of such Indemnified Proceeding;

in each of which cases the fees and expenses of counsel for such Indemnified Party shall be at the expense of such Indemnifying Party. Only one counsel shall be retained by all Indemnified Parties with respect to any Indemnified Proceeding, unless counsel for any Indemnified Party reasonably concludes in good faith (which conclusion shall be determinative unless a court determines that such conclusion was not reached reasonably and in good faith) that there is or may be a conflict of interest between such Indemnified Party and one or more other

Indemnified Parties in the conduct of the defense of such Indemnified Proceeding or that there are or may be one or more different or additional defenses, claims, counterclaims, or causes or action available to such Indemnified Party.

Section 5.04 Settlement. Without the prior written consent of such Indemnified Party, such Indemnifying Party shall not settle or compromise, or consent to the entry of any judgment in, any pending or threatened Indemnified Proceeding, unless such settlement, compromise, consent or related judgment (i) includes an unconditional release of such Indemnified Party from all liability for Losses arising out of such claim, action, investigation, suit or other legal proceeding, (ii) provides for the payment of money damages as the sole relief for the claimant (whether at law or in equity), (iii) involves no finding or admission of any violation of law or the rights of any Person by the Indemnified Party, and (iv) is not in the nature of a criminal or regulatory action. No Indemnified Party shall settle or compromise, or consent to the entry of any judgment in, any pending or threatened Indemnified Proceeding in respect of which any payment would result hereunder or under the Operative Documents without the prior written consent of the Indemnifying Party, such consent not to be unreasonably conditioned, withheld or delayed.

ARTICLE VI

TRANSFER RESTRICTIONS

Section 6.01 Transfer Restrictions. Holdings agrees (and agrees to cause all of its members and any subsequent transferees thereof to so agree) that (i) it will not, directly or indirectly, offer, sell, assign, transfer, grant or sell a participation in, pledge or otherwise dispose of any Warrants or Warrant Shares (or solicit any offers to buy or otherwise acquire, or take a pledge of, any Warrants) unless such Warrants or Warrant Shares are registered and/or qualified under the Securities Act and applicable state securities laws, or unless an exemption from the registration or qualification requirements is otherwise available; provided, that Holdings may transfer the Warrants or Warrant Shares to Investors, RRD and each Symphony Fund; and Investors, but not any other member of Holdings, may distribute the Warrants or Warrant Shares to its respective members; (ii) (A) no transfer of such Warrants, or (B) with respect to a private placement of the Warrant Shares, no transfer of such Warrant Shares shall be effective or recognized unless the transferor and the transferee make the representations and agreements contained herein including, without limitation, agreeing to be bound by orderly sale provisions equivalent to those set forth in this Article VI and furnish to Exelixis such certifications and other information as Exelixis may reasonably request to confirm that any proposed transfer complies with the restrictions set forth herein and any applicable laws; and (iii) (A) Warrants may only be transferred in minimum denominations of Warrants representing the right to purchase at least 100,000 Warrant Shares, and (B) with respect to a private placement, Warrant Shares may only be transferred in minimum denominations of at least 100,000 Warrant Shares; provided, however, that in the event that any holder of any Warrants or Warrant Shares holds Warrants representing the right to purchase less than 100,000 Warrant Shares, or holds less than 100,000 Warrant Shares, as the case may be, such holder shall be entitled to exercise all, but not less than all, such Warrants and sell all, but not less than all, such Warrant Shares delivered to it in connection therewith, notwithstanding the fact that the number of such Warrant Shares is less

than 100,000; provided, further, that Holdings agrees (and agrees to cause its members and any subsequent transferees thereof to so agree), that with respect to the Warrants, such holder of Warrants will not sell or otherwise transfer any Warrants, except in private placements to Accredited Investors.

Section 6.02 Legends.

(a) Holdings acknowledges and agrees that Exelixis shall affix to each certificate evidencing outstanding Warrants (and any certificates issued upon the transfer of the Warrants) a legend in substantially the following form (a "***Warrant* Legend**"**)**:

"NEITHER THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE HEREOF HAVE BEEN THE SUBJECT OF REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE, AND THE SAME HAVE BEEN (OR WILL BE, WITH RESPECT TO THE SECURITIES ISSUABLE UPON EXERCISE HEREOF) ISSUED IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. NEITHER THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE HEREOF MAY BE SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT AS PERMITTED UNDER SUCH SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.

THE WARRANT EVIDENCED BY THIS CERTIFICATE IS SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE WARRANT PURCHASE AGREEMENT, DATED AS OF JUNE 9, 2005, COPIES OF WHICH ARE ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF THE ISSUER. NO REGISTRATION OF TRANSFER OF THIS WARRANT WILL BE MADE ON THE BOOKS OF THE ISSUER UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH."

(b) Holdings acknowledges and agrees that any stock certificate(s) representing Warrant Shares issued by Exelixis pursuant hereto may contain a legend (the "***Warrant Share Legend***") substantially as follows:

"THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE, AND THE SAME HAVE BEEN ISSUED IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. SUCH SHARES MAY NOT BE SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT AS PERMITTED UNDER SUCH SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE WARRANT PURCHASE AGREEMENT, DATED AS OF JUNE 9, 2005, COPIES OF WHICH ARE ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF THE ISSUER. NO REGISTRATION OF TRANSFER OF THESE SHARES WILL BE MADE ON THE BOOKS OF THE ISSUER UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH."

Section 6.03 Warrant Share Legend Removal. If the certificates representing such Warrants or Warrant Shares, as the case may be, include a Warrant Legend or Warrant Share Legend, as applicable (each as set forth in Section 6.02 hereof), Exelixis shall, upon a request from Holdings, or a member or subsequent transferee thereof, as soon as practicable but in no event more than thirty (30) days after receiving such request, remove or cause to be removed (i) if the Warrants or Warrant Shares cease to be restricted securities, the securities law portion of the Warrant Legend or Warrant Share Legend and/or (ii) in the event of a sale of the Warrants or Warrant Shares in compliance with the transfer restrictions, the transfer restriction portion of the Warrant Legend or Warrant Share Legend, from such certificates representing the Warrants or Warrant Shares as Holdings, or such member or transferee, shall designate, in accordance with the terms hereof and, if applicable, in accordance with the terms of the applicable Warrant.

Section 6.04 Improper Transfer. Any attempt to sell, assign, transfer, grant or sell a participation in, pledge or otherwise dispose of any Warrants or any Warrant Shares, not in compliance with this Agreement shall be null and void and Exelixis shall give no effect to such attempted sale, assignment, transfer, grant, sale of a participation, pledge or other disposition.

Section 6.05 Orderly Sale. Holdings agrees (and agrees to cause its members and any subsequent transferees thereof to so agree) that in the event that any holder of Warrants exercises its Warrants to purchase Warrant Shares, the holders of the Warrant Shares will not sell or otherwise transfer in any one day shares of Exelixis Common Stock totaling, in the aggregate, more than 50,000 shares of such Exelixis Common Stock in the aggregate as such sale may be reported on NASDAQ (or other national exchange that is then the primary exchange on which Exelixis Common Stock is listed); provided, however, that Holdings (and its Affiliates, and any subsequent transferees) may sell such shares without regard to the 50,000 shares limitation in private placements to Accredited Investors so long as such sales are not reported on NASDAQ or any public exchange; provided, further, that any holder of Warrant Shares holding less than 50,000 Warrant Shares, shall not be subject to the restrictions of this Section 6.05, and none of Holdings or any of its Affiliates shall be required to monitor the sales of Warrant Shares of such holders.

ARTICLE VII

MISCELLANEOUS

Section 7.01 Notice of Material Event. Each Party agrees that, upon it receiving knowledge of a material event or development with respect to any of the transactions contemplated hereby that, to the knowledge of its executive officers, is not known to the other Parties, such Party shall notify the other Parties in writing within three (3) Business Days of the receipt of such knowledge by any executive officer of such Party; provided, that the failure to provide such notice shall not impair or otherwise be deemed a waiver of any rights any Party may have arising from such material event or development, and that notice under this Section 7.01 shall not in itself constitute notice of any breach of any of the Operative Documents.

Section 7.02 Notices. Any notice, request, demand, waiver, consent, approval, or other communication which is required or permitted to be given to any Party hereto shall be in writing and shall be deemed given only if delivered to the Party personally or sent to the Party by facsimile transmission (promptly followed by a hard-copy delivered in accordance with this Section 7.02), by next Business Day delivery by a nationally recognized courier service, or by registered or certified mail (return receipt requested), with postage and registration or certification fees thereon prepaid, addressed to the Party at its address set forth below:

Exelixis:

Exelixis, Inc.
170 Harbor Way
South San Francisco, CA 94083
Attention: Corporate Secretary
Facsimile: (650) 837-7951

Holdings:

Symphony Evolution Holdings LLC
7361 Calhoun Place, Suite 325
Rockville, MD 20850
Attn: Joseph P. Clancy
Facsimile: (301) 762-6154

with a copy to:

Symphony Capital Partners, L.P.
875 Third Avenue, 18th Floor
New York, NY 10022
Attn: Mark Kessel
Facsimile: (212) 632-5401

and

Symphony Strategic Partners, LLC
875 Third Avenue, 18th Floor
New York, NY 10022
Attn: Mark Kessel
Facsimile: (212) 632-5401

or to such other address as such Party may from time to time specify by notice given in the manner provided herein to each other Party entitled to receive notice hereunder.

Section 7.03 Governing Law; Consent to Jurisdiction and Service of Process.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York; except to the extent that this Agreement pertains to the internal governance of Exelixis, and to such extent this Agreement shall be governed and construed in accordance with the laws of the State of Delaware.

(b) Each of the Parties hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court and any Delaware State court or federal court of the United States of America sitting in The City of New York, Borough of Manhattan or Wilmington, Delaware, and any appellate court from any jurisdiction thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the Parties hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in any such New York State court, any such Delaware State court or, to the fullest extent permitted by law, in such federal court. Each of the Parties agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any Party may otherwise have to bring any action or proceeding relating to this Agreement.

(c) Each of the Parties irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any New York State or federal court, or any Delaware State or federal court. Each of the Parties hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court. Each of the parties hereby consent to service of process by mail.

Section 7.04 Waiver of Jury Trial. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.

Section 7.05 Entire Agreement. This Agreement (including any Annexes, Schedules, Exhibits or other attachments here) constitutes the entire agreement between the

Parties with respect to the matters covered hereby and supersedes all prior agreements and understandings with respect to such matters between the Parties.

Section 7.06 Amendment; Successors; Assignment; Counterparts.

(a) The terms of this Agreement shall not be waived, altered, modified, amended or supplemented in any manner whatsoever except by a written instrument signed by each of the Parties.

(b) Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any Person, other than the Parties, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the Parties and their successors and permitted assigns.

(c) Any Party may waive, solely with respect to itself, any one or more of its rights hereunder without the consent of any other Party hereto; provided, that no such waiver shall be effective unless set forth in a written instrument executed by the Party hereto against whom such waiver is to be effective.

(d) This Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original but all of which taken together shall constitute one and the same Agreement

(e) Neither Exelixis nor Holdings may assign, delegate, transfer, sell or otherwise dispose of (collectively, "***Transfer***"), in whole or in part, any or all of its rights or obligations hereunder to any Person (a "***Transferee***") without the prior written approval of the other Party; provided, however, that Exelixis, without the prior approval of each of the other Parties, acting in accordance with Article 14 of the Amended and Restated Research and Development Agreement, may make such Transfer to any Person which acquires all or substantially all of Exelixis' assets or business (or assets or business related to the Programs) or which is the surviving or resulting Person in a merger or consolidation with Exelixis; provided further, that in the event of any Transfer, Exelixis or Holdings, as applicable, shall provide written notice to the other Parties of any such Transfer not later than thirty (30) days after such Transfer setting forth the identity and address of the Transferee and summarizing the terms of the Transfer. In no event shall such assignment alter the definition of "Exelixis Common Stock" except as a result of the surviving or resulting "parent" entity in a merger being other than Exelixis, in which case any reference to Exelixis Common Stock shall be deemed to instead reference the common stock, if any, of the surviving or resulting entity.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers or other representatives thereunto duly authorized, as of the date first above written.

EXELIXIS, INC.

By: /s/ Christoph Pereira

Name: Christoph Pereira
Title: Vice President, Legal Affairs and Secretary

SYMPHONY EVOLUTION HOLDINGS LLC

By: Symphony Capital Partners, L.P.,
its Manager

By: Symphony Capital GP, L.P.,
its general partner

By: Symphony GP, LLC,
its general partner

By: /s/ Mark Kessel

Name: Mark Kessel
Title: Managing Member

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

ANNEX A

CERTAIN DEFINITIONS

"***$***" means United States dollars.

"***Accredited Investor***" has the meaning set forth in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended.

"***Act***" means the Delaware Limited Liability Company Act, *6 Del. C. § 18-101 et seq*.

"***Additional Funds***" has the meaning set forth in Section 2(b) of the Funding Agreement.

"***Additional Funding Date***" has the meaning set forth in Section 3 of the Funding Agreement.

"***Additional Party***" has the meaning set forth in Section 12 of the Confidentiality Agreement.

"***Additional Regulatory Filings***" means such Governmental Approvals as required to be made under any law applicable to the purchase of the Symphony Evolution Equity Securities under the Agreement.

"***Ad Hoc Meeting***" has the meaning set forth in Paragraph 6 of Annex B to the Amended and Restated Research and Development Agreement.

"***Adjusted Capital Account Deficit***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Affected Member***" has the meaning set forth in Section 27 of the Investors LLC Agreement.

"***Affiliate***" means, with respect to any Person (i) any Person directly or indirectly controlling, controlled by or under common control with such Person, (ii) any officer, director, general partner, member or trustee of such Person, or (iii) any Person who is an officer, director, general partner, member or trustee of any Person described in clauses (i) or (ii) of this sentence. For purposes of this definition, the terms "controlling," "controlled by" or "under common control with" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person or entity, whether through the ownership of voting securities, by contract or otherwise, or the power to elect at least 50% of the directors, managers, general partners, or persons exercising similar authority with respect to such Person or entities.

"***Amended and Restated Research and Development Agreement***" means the Amended and Restated Research and Development Agreement dated as of June 9, 2005, among Exelixis, Holdings and Symphony Evolution.

"***Asset Value***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Auditors***" means an independent certified public accounting firm of recognized national standing.

"***A Warrant Date***" has the meaning set forth in Section 2.04 of the Warrant Purchase Agreement.

"***A Warrants***" has the meaning set forth in Section 2.01 of the Warrant Purchase Agreement.

"***A Warrant Shares***" has the meaning set forth in Section 2.01 of the Warrant Purchase Agreement.

"***Bankruptcy Code***" means the United States Bankruptcy Code.

"***Bloomberg***" means Bloomberg L.P., a multimedia based distributor of information services, including data and analysis for financial markets and businesses.

"***Bloomberg Screen***" means the display page designated on the Bloomberg service (or such other page as may replace that page on that service) for the purpose of displaying prices or bids of Exelixis Common Stock.

"***Business Day***" means any day other than Saturday, Sunday or any other day on which commercial banks in The City of New York or the City of San Francisco are authorized or required by law to remain closed.

"***B Warrants***" has the meaning set forth in Section 2.02 of the Warrant Purchase Agreement.

"***B Warrant Date***" has the meaning set forth in Section 2.02 of the Warrant Purchase Agreement.

"***B Warrant Shares***" has the meaning set forth in Section 2.05 of the Warrant Purchase Agreement.

"***Capital Contributions***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Capitalized Leases***" means all leases that have been or should be, in accordance with GAAP, recorded as capitalized leases.

"***Cash Available for Distribution***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Chair***" has the meaning set forth in Paragraph 4 of Annex B to the Amended and Restated Research and Development Agreement.

"***Change of Control***" means and includes the occurrence of any of the following events, but specifically excludes (i) acquisitions of capital stock directly from Exelixis for cash, whether in a public or private offering, (ii) sales of capital stock by stockholders of Exelixis, and (iii) acquisitions of capital stock by or from any employee benefit plan or related trust:

(a) the merger, reorganization or consolidation of Exelixis into or with another corporation or legal entity in which Exelixis' stockholders holding the right to vote with respect to matters generally immediately preceding such merger, reorganization or consolidation, own less than fifty percent (50%) of the voting securities of the surviving entity; or

(b) the sale of all or substantially all of Exelixis' assets or business.

"***Class A Member***" means a holder of a Class A Membership Interest.

"***Class A Membership Interest***" means a Class A Membership Interest in Holdings.

"***Class B Member***" means a holder of a Class B Membership Interest.

"***Class B Membership Interest***" means a Class B Membership Interest in Holdings.

"***Class C Member***" means a holder of a Class C Membership Interest.

"***Class C Membership Interest***" means a Class C Membership Interest in Holdings.

"***Class D Member***" means a holder of a Class D Membership Interest.

"***Class D Membership Interest***" means a Class D Membership Interest in Holdings.

"***Clinical Budget***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Clinical Plan***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Closing Date***" means June 9, 2005.

"***CMC***" means the chemistry, manufacturing and controls documentation as required for filings with Regulatory Authority relating to the manufacturing, production and testing of drug products.

"***Code***" means the Internal Revenue Code of 1986, as amended from time to time.

"***Committed Capital***" means $80,000,000.00.

"***Common Stock***" means the common stock, par value $0.01 per share, of Symphony Evolution.

"***Company Expenses***" has the meaning set forth in Section 5.09 of the Holdings LLC Agreement.

"***Company Property***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Confidential Information***" has the meaning set forth in Section 2 of the Confidentiality Agreement.

"***Confidentiality Agreement***" means the Confidentiality Agreement, dated as of June 9, 2005, among Symphony Evolution, Holdings, Exelixis, each Symphony Fund, SCP, SSP, Investors, Symphony Capital, RRD and Daniel F. Hoth, M.D., Herbert J. Conrad, and Alastair J.J. Wood, M.D.

"***Conflict Transaction***" has the meaning set forth in Article IX of the Symphony Evolution Charter.

"***Control***" means, with respect to any material, information or intellectual property right, that a Party owns or has a license to such item or right, and has the ability to grant the other Party access, a license or a sublicense (as applicable) in or to such item or right as provided in the Operative Documents without violating the terms of any agreement or other arrangement with any third party.

"***C Warrants***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***C Warrant Date***" has the meaning set forth in Section 2.06 of the Warrant Purchase Agreement.

"***C Warrant Shares***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***Debt***" of any Person means, without duplication:

(a) all indebtedness of such Person for borrowed money,

(b) all obligations of such Person for the deferred purchase price of property or services (other than any portion of any trade payable obligation that shall not have remained unpaid for 91 days or more from the later of (A) the original due date of such portion and (B) the customary payment date in the industry and relevant market for such portion),

(c) all obligations of such Person evidenced by bonds, notes, debentures or other similar instruments,

(d) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (whether or not the rights and remedies of the seller or lender under such agreement in an event of default are limited to repossession or sale of such property),

(e) all Capitalized Leases to which such Person is a party,

(f) all obligations, contingent or otherwise, of such Person under acceptance, letter of credit or similar facilities,

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value any Equity Securities of such Person,

(h) the net amount of all financial obligations of such Person in respect of Hedge Agreements,

(i) the net amount of all other financial obligations of such Person under any contract or other agreement to which such Person is a party,

(j) all Debt of other Persons of the type described in clauses (a) through (i) above guaranteed, directly or indirectly, in any manner by such Person, or in effect guaranteed, directly or indirectly, by such Person through an agreement (A) to pay or purchase such Debt or to advance or supply funds for the payment or purchase of such Debt, (B) to purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Debt or to assure the holder of such Debt against loss, (C) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered) or (D) otherwise to assure a creditor against loss, and

(k) all Debt of the type described in clauses (a) through (i) above secured by (or for which the holder of such Debt has an existing right, contingent or otherwise, to be secured by) any Encumbrance on property (including accounts and contract rights) owned or held or used under lease or license by such Person, even though such Person has not assumed or become liable for payment of such Debt.

"***Development Budget***" means the budget for the implementation of the Development Plan that is agreed upon by Exelixis and Symphony Evolution as of the Effective Date, as may be revised from time to time in accordance with the Development Committee Charter and the Amended and Restated Research and Development Agreement.

"***Development Committee***" has the meaning set forth in Article 3 of the Amended and Restated Research and Development Agreement.

"***Development Committee Charter***" has the meaning set forth in Article 3 of the Amended and Restated Research and Development Agreement.

"***Development Committee Member***" has the meaning set forth in Paragraph 1 of Annex B to the Amended and Restated Research and Development Agreement.

"***Development Plan***" means the development plan, covering all the Programs, agreed to by Exelixis and Symphony Evolution as of the Effective Date, as may be revised from time to time in accordance with the Development Committee Charter and the Amended and Restated Research and Development Agreement.

"***Directors***" has the meaning set forth in the Preliminary Statement of the Indemnification Agreement.

"***Disclosing Party***" has the meaning set forth in Section 3 of the Confidentiality Agreement.

"***Discontinuation Closing Date***" means the date of Symphony's receipt of the Discontinuation Price.

"***Discontinuation Option***" has the meaning set forth in Section 11.2(a) of the Amended and Restated Research and Development Agreement.

"***Discontinuation Price***" has the meaning set forth in Section 11.2(a) of the Amended and Restated Research and Development Agreement.

"***Discontinued Program***" has the meaning set forth in Section 2.10 of the Novated and Restated Technology License Agreement.

"***Disinterested Directors***" has the meaning set forth in Article IX of the Symphony Evolution Charter.

"***Distribution***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Effective Date***" has the meaning set forth in the Novated and Restated Technology License Agreement.

"***Effective Registration Date***" has the meaning set forth in the Registration Rights Agreement

"***Encumbrance***" means (i) any security interest, pledge, mortgage, lien (statutory or other), charge or option to purchase, lease or otherwise acquire any interest, (ii) any adverse claim, restriction, covenant, title defect, hypothecation, assignment, deposit arrangement or other encumbrance of any kind, preference or priority, or (iii) any other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement).

"***Enhancements***" means findings, improvements, discoveries, inventions, additions, modifications, enhancements, derivative works, clinical development data, or changes to the Licensed Intellectual Property and Regulatory Files.

"***Equity Securities***" means, with respect to any Person, shares of capital stock of (or other ownership or profit interests in) such Person, warrants, options or other rights for the purchase or other acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or other acquisition from such Person of such shares (or such other interests), and other ownership or profit interests in such Person (including, without limitation, partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are authorized or otherwise existing on any date of determination.

"***ERISA***" means the United States Employee Retirement Income Security Act of 1974, as amended.

"***Exchange Act***" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"***Exelixis***" means Exelixis, Inc., a Delaware corporation.

"***Exelixis Common Stock***" means the common stock, par value $0.001 per share, of Exelixis.

"***Exelixis Common Stock Valuation***" has the meaning set forth in Section 2(e) of the Purchase Option Agreement.

"***Exelixis-GlaxoSmithKline Collaboration Committee***" means the committee established by Exelixis and GlaxoSmithKline pursuant to Section 2.2 of the GSK Agreement.

"***Exelixis Member***" has the meaning set forth in Section 2(c) of the Management Services Agreement.

"***Exelixis Obligations***" has the meaning set forth in Section 6.1 of the Amended and Restated Research and Development Agreement.

"***Exelixis Personnel***" has the meaning set forth in Section 8.4 of the Amended and Restated Research and Development Agreement.

"***Existing NDA***" has the meaning set forth in Section 2 of the Confidentiality Agreement.

"***Expert***" has the meaning set forth in Section 11.2(c) of the Amended and Restated Research and Development Agreement.

"***Extension Funding***" has the meaning set forth in Section 2 of the Research Cost Sharing and Extension Agreement.

"***External Directors***" has the meaning set forth in the preamble of the Confidentiality Agreement.

"***FDA***" means the United States Food and Drug Administration or its successor agency in the United States.

"***FDA Sponsor***" has the meaning set forth in Section 5.1 of the Amended and Restated Research and Development Agreement.

"***Final Purchase Price***" has the meaning set forth in Section 2(j)(ii) of the Purchase Option Agreement.

"***Financial Audits***" has the meaning set forth in Section 6.7 of the Amended and Restated Research and Development Agreement.

"***Financing***" has the meaning set forth in the Preliminary Statement of the Purchase Option Agreement.

"***Fiscal Year***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Form S-3***" means the Registration Form S-3 as defined under the Securities Act.

"***FTE"*** has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Funded Capital***" has the meaning set forth in Section 2.02(b) of the Warrant Purchase Agreement.

"***Funding Agreement***" means the Funding Agreement, dated June 9, 2005, among Exelixis, SCP and Investors.

"***Funding Notice***" has the meaning set forth in Section 2(a) of the Funding Agreement.

"***Funds Price***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***GAAP***" means generally accepted accounting principles in effect in the United States of America from time to time.

"***GlaxoSmithKline***" means SmithKline Beecham Corporation, a Pennsylvania corporation, doing business as GlaxoSmithKline.

"***Governmental Approvals***" means authorizations, consents, orders, declarations or approvals of, or filings with, or terminations or expirations of waiting periods imposed by any Governmental Authority.

"***Governmental Authority***" means any United States or non-United States federal, national, supranational, state, provincial, local, or similar government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body.

"***Governmental Order***" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"***GSK Agreement***" has the meaning set forth in Section 4.10 of the Novated and Restated Technology License Agreement.

"***Hedge Agreement***" means any interest rate swap, cap or collar agreement, interest rate future or option contract, currency swap agreement, currency future or option contract or other similar hedging agreement.

"***HHMI***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Holdings***" means Symphony Evolution Holdings LLC, a Delaware limited liability company.

"***Holdings Claims***" has the meaning set forth in Section 5.01 of the Warrant Purchase Agreement.

"***Holdings LLC Agreement***" means the Second Amended and Restated Limited Liability Company Agreement of Holdings dated June 9, 2005.

"***HSR Act Filings***" means the premerger notification and report forms required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"***IND***" means an Investigational New Drug Application, as described in 21 U.S.C. § 355(i)(1) and 21 C.F.R. § 312 in the regulations promulgated by the United States Food and Drug Administration, or any foreign equivalent thereof.

"***Indemnification Agreement***" means the Indemnification Agreement among Symphony Evolution and the Directors named therein, dated June 9, 2005.

"***Independent Accountant***" has the meaning set forth in Section 2(i)(ii) of the Purchase Option Agreement.

"***Initial Funds***" has the meaning set forth in Section 2(a) of the Funding Agreement.

"***Initial Holdings LLC Agreement***" means the Agreement of Limited Liability Company of Holdings, dated March 30, 2005.

"***Initial Investors LLC Agreement***" means the Agreement of Limited Liability Company of Investors, dated May 20, 2005.

"***Initial LLC Member***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Interest Certificate***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Interim Holdings LLC Agreement***" means the Amended and Restated Agreement of Limited Liability Company of Holdings, dated June 2, 2005.

"***Investment Company Act***" means the Investment Company Act of 1940, as amended.

"***Investment Overview***" means the investment overview describing the transactions entered into pursuant to the Operative Documents.

"***Investment Policy***" has the meaning set forth in Section 1(a)(viii) of the Management Services Agreement.

"***Investors***" means Symphony Evolution Investors LLC.

"***Investors LLC Agreement***" means Amended and Restated Agreement of Limited Liability Company of Investors dated June 9, 2005.

"***IRS***" means the U.S. Internal Revenue Service.

"***Knowledge***" means the actual (and not imputed) knowledge of the executive officers of Exelixis, without the duty of inquiry or investigation.

"***Law***" means any law, statute, treaty, constitution, regulation, rule, ordinance, order or Governmental Approval, or other governmental restriction, requirement or determination, of or by any Governmental Authority.

"***Ledger Fee***" has the meaning set forth in Section 6(b) of the Management Services Agreement.

"***License***" has the meaning set forth in the Preliminary Statement of the Purchase Option Agreement.

"***Licensed Intellectual Property***" means the Licensed Patent Rights, Symphony Evolution Enhancements, Licensor Enhancements and the Licensed Know-How.

"***Licensed Know-How***" means any and all proprietary technology (other than the University IP) that is [*]

"***Licensed Patent Rights***" means:[*]

"***Licensor***" means Exelixis.

"***Licensor Enhancements***" means [*]

"***Lien***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Liquidating Event***" has the meaning set forth in Section 8.01 of the Holdings LLC Agreement.

"***LLC Agreements***" means the Initial Holdings LLC Agreement, the Interim Holdings LLC Agreement, the Holdings LLC Agreement, the Initial Investors LLC Agreement and the Investors LLC Agreement.

"***Loss***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Management Budget***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Management Fee***" has the meaning set forth in Section 6(a) of the Management Services Agreement.

"***Management Plan***" has the meaning set forth in Section 4.1 of the Amended and Restated Research and Development Agreement.

"***Management Services***" has the meaning set forth in Section 1(a) of the Management Services Agreement.

"***Management Services Agreement***" means the Management Services Agreement between Symphony Evolution and RRD, dated as of June 9, 2005.

"***Manager***" means (i) for each LLC Agreement in which it appears, the meaning set forth in such LLC Agreement, and (ii) for each other Operative Document in which it appears, RRD.

"***Manager Event***" has the meaning set forth in Section 3.01(f) of the Holdings LLC Agreement.

"***Material Adverse Effect***" means, with respect to any Person, a material adverse effect on (i) the business, assets, property or condition (financial or otherwise) of such Person or, (ii) its ability to comply with and satisfy its respective agreements and obligations under the

Operative Documents or, (iii) the enforceability of the obligations of such Person of any of the Operative Documents to which it is a party.

"***Material Change***" has the meaning set forth in Paragraph 12 of Annex B of the Amended and Restated Research and Development Agreement.

"***Material Contract***" has the meaning set forth in Section 3(j) of the Management Services Agreement.

"Material Subsidiary" means, at any time, a Subsidiary of Exelixis having assets in an amount equal to at least 5% of the amount of total consolidated assets of Exelixis and its Subsidiaries (determined as of the last day of the most recent fiscal quarter of Exelixis) or revenues or net income in an amount equal to at least 5% of the amount of total consolidated revenues or net income of Exelixis and its Subsidiaries for the 12-month period ending on the last day of the most recent fiscal quarter of Exelixis.

"***Maximum Committed Capital***" has the meaning set forth in Section 2.02(b) of the Warrant Purchase Agreement.

"***Medical Discontinuation Event***" means (a) as specified in each Protocol, those data that, if collected in such Protocol, demonstrate that such Protocol should not be continued or (b) a series of adverse events, side effects or other undesirable outcomes that, when collected in a Protocol, would cause a reasonable FDA Sponsor to discontinue such Protocol.

"***Membership Interest***" means (i) for each LLC Agreement in which it appears, the meaning set forth in such LLC Agreement, and (ii) for each other Operative Document in which it appears, the meaning set forth in the Holdings LLC Agreement.

"***NASDAQ***" means the National Association of Securities Dealers Automatic Quotation System.

"***NDA***" means a New Drug Application, as defined in the regulations promulgated by the United States Food and Drug Administration, or any foreign equivalent thereof.

"***Net Debt***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***Non-Exelixis Capital Transaction***" means any (i) sale or other disposition of all or part of the Symphony Evolution Shares or all or substantially all of the operating assets of Symphony Evolution, to a Person other than Exelixis or an Affiliate of Exelixis or (ii) distribution in kind of the Symphony Evolution Shares following the expiration of the Purchase Option.

"***Novated and Restated Technology License Agreement***" means the Novated and Restated Technology License Agreement, dated as of June 9, 2005, among Exelixis, Symphony Evolution and Holdings.

"***Operative Documents***" means, collectively, the Indemnification Agreement, the Holdings LLC Agreement, the Purchase Option Agreement, the Warrant Purchase Agreement, the Registration Rights Agreement, the Subscription Agreement, the Technology License Agreement, the Novated and Restated Technology License Agreement, the Management Services Agreement, the Research and Development Agreement, the Amended and Restated Research and Development Agreement, the Research Cost Sharing and Extension Agreement, the Confidentiality Agreement, the Funding Agreement and each other certificate and agreement executed in connection with any of the foregoing documents.

"***Organizational Documents***" means any certificates or articles of incorporation or formation, partnership agreements, trust instruments, bylaws or other governing documents.

"***Parties***" means, for each Operative Document or other agreement in which it appears, the parties to such Operative Document or other agreement, as set forth therein (each a "***Party***"). With respect to any agreement in which a provision is included therein by reference to a provision in another agreement, the term "Party" shall be read to refer to the parties to the document at hand, not the agreement that is referenced.

"***Payment Terms***" has the meaning set forth in Section 8.2 of the Amended and Restated Research and Development Agreement.

"***Percentage***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Permitted Investments***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Permitted Investments Letter***" means the Permitted Investments Letter dated as of June 9, 2005, from Symphony Evolution to RRD, as set forth in Exhibit B to the Management Services Agreement.

"***Permitted Lien***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Person***" means any individual, partnership (whether general or limited), limited liability company, corporation, trust, estate, association, nominee or other entity.

"***Personnel***" of a Party means such Party, its employees, subcontractors, consultants, representatives and agents.

"Prime Rate" means the quoted "Prime Rate" at JPMorgan Chase Bank or, if such bank ceases to exist or is not quoting a base rate, prime rate reference rate or similar rate for United States dollar loans, such other major money center commercial bank in New York City selected by the Manager.

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

"***Product***" means any product that contains or comprises XL647, XL784 or XL999 or any Structurally Related Compound thereof.

"***Profit***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Program Option***" has the meaning set forth in Section 11.1(a) of the Amended and Restated Research and Development Agreement.

"***Program Option Closing Date***" has the meaning set forth in Section 11.1(d) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Date***" has the meaning set forth in Section 11.1(b) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Notice***" has the meaning set forth in Section 11.1(b) of the Amended and Restated Research and Development Agreement.

"***Program Option Exercise Price***" has the meaning set forth in Section 11.1(c) of the Amended and Restated Research and Development Agreement.

"***Program Option Period***" has the meaning set forth in Section 11.1(a) of the Amended and Restated Research and Development Agreement.

"***Programs***" means those certain clinical programs pursuing indications for XL647, XL784, and XL999 in accordance with the Development Plan (each a "***Program***").

"Protocol" means a written protocol that meets the substantive requirements of Section 6 of the ICH Guideline for Good Clinical Practice as adopted by the FDA, effective May 9, 1997 and is included within the Clinical Plan or later modified or added to the Clinical Plan pursuant to Section 4.2 of the Amended and Restated Research and Development Agreement.

"***Public Companies***" has the meaning set forth in Section 5(e) of the Purchase Option Agreement.

"***Purchase Option***" has the meaning set forth in Section 1(a) of the Purchase Option Agreement.

"***Purchase Option Agreement***" means this Purchase Option Agreement dated as of June 9, 2005, among Exelixis, Holdings and Symphony Evolution.

"***Purchase Option Closing Date***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Dispute Notice***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***Purchase Option Exercise Date***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Exercise Notice***" has the meaning set forth in Section 2(a) of the Purchase Option Agreement.

"***Purchase Option Period***" has the meaning set forth in Section 1(c)(iii) of the Purchase Option Agreement.

"***Purchase Price***" has the meaning set forth in Section 2(b) of the Purchase Option Agreement.

"***QA Audits***" has the meaning set forth in Section 6.6 of the Amended and Restated Research and Development Agreement.

"***Quarterly Meeting***" has the meaning set forth in Paragraph 6 of Annex B of the Amended and Restated Research and Development Agreement.

"***Regents***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Regents Agreement***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Regents Claims***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Regents Indemnitees***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Regents Technology***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Registration Rights Agreement***" means the Registration Rights Agreement dated as of the Closing Date, between Exelixis and Holdings.

"***Registration Statement***" has the meaning set forth in Section 1(b) of the Registration Rights Agreement.

"***Regulatory Authority***" means the United States Food and Drug Administration, or any successor agency in the United States, or any health regulatory authority(ies) in any other country that is a counterpart to the FDA and has responsibility for granting registrations or other regulatory approval for the marketing, manufacture, storage, sale or use of drugs in such other country.

"***Regulatory Allocation***" has the meaning set forth in Section 3.06 of the Holdings LLC Agreement.

"***Regulatory Files***" means any IND, NDA or any other filings filed with any Regulatory Authority with respect to XL647, XL784, XL999 or the Programs.

"***Removed Director***" has the meaning set forth in Section 3.01(h)(i) of the Holdings LLC Agreement.

"***Representative***" of any Person means such Person's shareholders, principals, directors, officers, employees, members, managers and/or partners.

"***Research and Development Agreement***" means the Research and Development Agreement dated as of June 9, 2005, between Exelixis and Holdings.

"***Research Cost Sharing and Extension Agreement***" means the Research Cost Sharing and Extension Agreement dated as of June 9, 2005, between Exelixis, Holdings, and Symphony Evolution.

"***RRD***" means RRD International, LLC, a Delaware limited liability company.

"***RRD Indemnified Party***" has the meaning set forth in Section 10(a)(i) of the Management Services Agreement.

"***RRD Loss***" has the meaning set forth in Section 10(a)(i) of the Management Services Agreement.

"***Schedule K-1***" has the meaning set forth in Section 9.02(a) of the Holdings LLC Agreement.

"***Scientific Discontinuation Event***" has the meaning set forth in Section 4.2(f) of the Amended and Restated Research and Development Agreement.

"***SCP***" means Symphony Capital Partners, L.P., a Delaware limited partnership.

"***SEC***" means the United States Securities and Exchange Commission.

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

"***Shareholder***" means any Person who owns any Symphony Evolution Shares.

"***Solvent***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***SSP***" means Symphony Strategic Partners, LLC, a Delaware limited liability company.

"***Stock Payment Date***" has the meaning set forth in Section 2 of the Subscription Agreement.

"***Stock Purchase Price***" has the meaning set forth in Section 2 of the Subscription Agreement.

"***Structurally Related Compound***" means:

(a) with respect to XL647, any compound that is [*]

(b) with respect to XL784, any compound that is [*]

(c) with respect to XL999, any compound that is [*]

"***Subcontracting Agreement***" has the meaning set forth in Section 6.3 of the Amended and Restated Research and Development Agreement.

"***Subcontractor***" has the meaning set forth in Section 6.3 of the Amended and Restated Research and Development Agreement.

"***Subscription Agreement***" means the Subscription Agreement between Symphony Evolution and Holdings, dated as of June 9, 2005.

"***Subsidiary***" of any Person means any corporation, partnership, joint venture, limited liability company, trust or estate of which (or in which) more than 50% of (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency); (b) the interest in the capital or profits of such partnership, joint venture or limited liability company; or (c) the beneficial interest in such trust or estate is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person's other Subsidiaries.

"***Surviving Entity***" means the surviving legal entity which is surviving entity to Exelixis after giving effect to a Change of Control.

"***Symphony Capital***" means Symphony Capital LLC, a Delaware limited liability company.

"***Symphony Evolution***" means Symphony Evolution, Inc., a Delaware corporation.

"***Symphony Evolution Board***" means the Symphony Evolution board of directors.

"***Symphony Evolution By-laws***" means the By-laws of Symphony Evolution, as adopted by resolution of the Symphony Evolution Board on June 9, 2005.

"***Symphony Evolution Charter***" means the Amended and Restated Certificate of Incorporation of Symphony Evolution, dated as of June 9, 2005.

"***Symphony Evolution Director Event***" has the meaning set forth in Section 3.01(h)(i) of the Holdings LLC Agreement.

"***Symphony Evolution Enhancements***" means [*]

"***Symphony Evolution Equity Securities***" means the Common Stock and any other stock or shares issued by Symphony Evolution.

"***Symphony Evolution Loss***" has the meaning set forth in Section 10(b) of the Management Services Agreement.

"***Symphony Evolution Securities Encumbrance***" has the meaning set forth in Section 4(b)(ii) of the Purchase Option Agreement.

"***Symphony Evolution Shares***" has the meaning set forth in Section 2.02 of the Holdings LLC Agreement.

"***Symphony Funds***" means Symphony Capital Partners, L.P., a Delaware limited partnership, and Symphony Strategic Partners, LLC, a Delaware limited liability company (each a "***Symphony Fund***").

"***Symphony Member***" has the meaning set forth in Section 4.2(d) of the Amended and Restated Research and Development Agreement.

"***Tangible Materials***" means [*].

"***Tax Amount***" has the meaning set forth in Section 4.02 of the Holdings LLC Agreement.

"***Technology License Agreement***" means the Technology License Agreement, dated as of June 9, 2005, between Exelixis and Holdings.

"***Term***" means the period starting on the Closing Date and ending upon the termination or expiration of the Purchase Option Period.

"***Territory***" means the world.

"***Third Party IP***" has the meaning set forth in Section 2.9 of the Novated and Restated Technology License Agreement.

"***Third Party Licensor***" means (a) a third party from which Exelixis has received a license or sublicense to Licensed Intellectual Property or (b) a third party to which Exelixis has granted a license or sublicense to the Licensed Intellectual Property. As of the Closing Date, GlaxoSmithKline is the only Third Party Licensor.

"***Transfer***" has for each Operative Document in which it appears the meaning set forth in such Operative Document.

"***Transferee***" has, for each Operative Document in which it appears, the meaning set forth in such Operative Document.

"***University Agreements***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***University IP***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Voluntary Bankruptcy***" has the meaning set forth in Section 1.01 of the Holdings LLC Agreement.

"***Warrant Closing***" has the meaning set forth in Section 2.07 of the Warrant Purchase Agreement.

"***Warrant Date***" has the meaning set forth in Section 2.06 of the Warrant Purchase Agreement.

"***Warrant Purchase Agreement***" means the Warrant Purchase Agreement dated as of the Closing Date, between Exelixis and Holdings.

"***Warrants***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***Warrant Share Legend***" has the meaning set forth in Section 6.02 of the Warrant Purchase Agreement.

"***Warrant Shares***" has the meaning set forth in Section 2.03 of the Warrant Purchase Agreement.

"***XL647***" means: [*]

"***XL784***" means: [*]

"***XL999***" means: [*]

"***Yale***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Yale Agreement***" has the meaning set forth in Section 3.1 of the Novated and Restated Technology License Agreement.

"***Yale Claims***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Yale Indemnitees***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

"***Yale Technology***" has the meaning set forth in Annex C of the Novated and Restated Technology License Agreement.

EXHIBIT A

Opinion of Cooley Godward, LLP

June 9, 2005

Symphony Evolution Holdings LLC
7361 Calhoun Place, Suite 325
Rockville, MD 20850

Dear Ladies and Gentlemen:

We have acted as counsel for Exelixis, Inc., a Delaware corporation (the "Company"), in connection with the financing of the clinical development of certain of the Company's product candidates (the "Financing"). In connection with the Financing, the Company is entering into the agreements listed on Schedule I hereto (collectively, the "Transaction Agreements"). We are rendering this opinion pursuant to Section 3.02(d) of the Warrant Purchase Agreement.

In connection with this opinion, we have examined and relied upon the representations and warranties as to factual matters contained in and made pursuant to the Transaction Agreements by the various parties and originals, or copies certified to our satisfaction, of such records, documents, certificates, opinions, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below.

As to certain factual matters, we have relied upon certificates of officers of the Company and have not sought to independently verify such matters. Where we render an opinion "to our knowledge" or concerning an item "known to us" or our opinion otherwise refers to our knowledge, it is based solely upon (i) an inquiry of attorneys within this firm who have represented the Company in this transaction, (ii) receipt of a certificate executed by an officer of the Company covering such matters and (iii) such other investigation, if any, that we specifically set forth herein.

In rendering this opinion, we have assumed: the authenticity of all documents submitted to us as originals; the conformity to originals of all documents submitted to us as copies; the accuracy, completeness and authenticity of certificates of public officials; the due authorization, execution and delivery of all documents (except the due authorization, execution and delivery by the Company of the Transaction Agreements), where authorization, execution and delivery are prerequisites to the effectiveness of such documents; and the genuineness and authenticity of all signatures on original documents (except the signatures on behalf of the Company on the Transaction Agreements). We have also assumed: that all individuals executing and delivering documents had the legal capacity to so execute and deliver; that the Transaction Agreements are

obligations binding upon the parties thereto other than the Company; that the parties to the Transaction Agreements other than the Company have filed any required California franchise or income tax returns and have paid any required California franchise or income taxes; and that there are no extrinsic agreements or understandings among the parties to the Transaction Agreements or to the Material Agreements (as defined below) that would modify or interpret the terms of any such agreements or the respective rights or obligations of the parties thereunder.

Our opinion is expressed only with respect to the federal laws of the United States of America and the laws of the State of California and the General Corporation Law of the State of Delaware. We note that the parties to the Transaction Agreements have designated the laws of the State of New York as the laws governing the Transaction Agreements. Our opinion in paragraph 5 below as to the validity, binding effect and enforceability of the Transaction Agreements is premised upon the result that would obtain if a California court were to apply the internal laws of the State of California (notwithstanding the designation of the laws of the State of New York) to the interpretation and enforcement of the Transaction Agreements. We express no opinion as to whether the laws of any particular jurisdiction apply, and no opinion to the extent that the laws of any jurisdiction other than those identified above are applicable to the subject matter hereof.

We are not rendering any opinion as to any statute, rule, regulation, ordinance, decree or decisional law relating to antitrust, banking, land use, environmental, pension, employee benefit, tax, fraudulent conveyance, usury, laws governing the legality of investments for regulated entities, regulations T, U or X of the Board of Governors of the Federal Reserve System or local law. Furthermore, we express no opinion with respect to compliance with antifraud laws, rules or regulations relating to securities or the offer and sale thereof; compliance with fiduciary duties by the Company's Board of Directors or stockholders; compliance with safe harbors for disinterested Board of Director or stockholder approvals; compliance with state securities or blue sky laws except as specifically set forth below; or compliance with laws that place limitations on corporate distributions.

With regard to our opinion in paragraph 1 below with respect to the good standing of the Company, we have relied solely upon a certificate of the Secretary of State of the State of Delaware as of a recent date.

With regard to our opinion paragraph 3 below concerning defaults under and any material breaches of any agreement identified on Schedule II hereto, we have relied solely upon (i) a certificate of an officer of the Company, (ii) a list supplied to us by the Company of material agreements to which the Company is a party, or by which it is bound, a copy of which is attached hereto as Schedule II (the "Material Agreements") and (iii) an examination of the Material Agreements in the form provided to us by the Company. We have made no further investigation. Further, with regard to our opinion in paragraph 3 below concerning Material Agreements, we express no opinion as to (i) financial covenants or similar provisions therein requiring financial

calculations or determinations to ascertain compliance, (ii) provisions therein relating to the occurrence of a "material adverse event" or words of similar import or (iii) any statement or writing that may constitute parol evidence bearing on interpretation or construction.

With regard to our opinion in paragraph 7 below, we express no opinion to the extent that, notwithstanding its current reservation of shares of Common Stock, future issuances of securities of the Company and/or antidilution adjustments to outstanding securities of the Company may cause the Warrant Shares to be convertible for more shares of Common Stock than the number that then remain authorized but unissued.

With regard to our opinion in paragraph 8 with respect to exemption from registration, no opinion is expressed with respect to the integration of the offer and sale of the Warrants or the Warrant Shares with any offers or sales of securities occurring subsequent to the date hereof.

With regard to our opinion in paragraph 9 below, we have based our opinion, to the extent we consider appropriate, on Rule 3a-8 under the Investment Company Act of 1940, as amended, and a certificate of an officer of the Company as to compliance with each of the requirements necessary to comply with Rule 3a-8. We have conducted no further investigation.

On the basis of the foregoing, in reliance thereon and with the foregoing qualifications, we are of the opinion that:

1. The Company has been duly incorporated and is a validly existing corporation in good standing under the laws of the State of Delaware.
2. The Company has the corporate power to execute, deliver and perform its obligations under the Transaction Agreements. Each of the Transaction Agreements has been duly and validly authorized, executed and delivered by the Company.
3. The execution and delivery of the Transaction Agreements by the Company and the consummation of the transactions contemplated thereby that would occur at the closing of the sale and issuance of the Warrant (as defined on Schedule I hereto) will not, (a) violate any provision of the Company's certificate of incorporation or by-laws, (b) violate any governmental statute, rule or regulation which in our experience is typically applicable to transactions of the nature contemplated by the Transaction Agreements, (c) violate any order, writ, judgment, injunction, decree, determination or award which has been entered against the Company and of which we are aware or (d) constitute a default under or a material breach of any Material Agreement, in the case of clause (d) to the extent such default or breach would materially and adversely affect the Company.
4. All consents, approvals, authorizations or orders of, and filings, registrations and qualifications with any U.S. Federal or California regulatory authority or governmental

body required for the due execution or delivery by the Company of any Transaction Agreement and the sale and issuance of the Warrant have been made or obtained, except (a) for the filing of a Form D pursuant to Securities and Exchange Commission Regulation D and (b) for the filing of the notice to be filed under California Corporations Code Section 25102.1(d).

5. Each of the [*] constitutes, and, if the B Warrants and C Warrants (each as defined in the Warrant Purchase Agreement) were to be issued at the closing of the sale and issuance of the Warrant in accordance with the terms of the Warrant Purchase Agreement, each of the B Warrants and the C Warrants would constitute, a valid and binding agreement of the Company, enforceable against the Company in accordance with its respective terms, except as rights to indemnity and contribution under Sections 6 and 7 of the Registration Rights Agreement, Section 10 of the Purchase Option Agreement, Article V of the Warrant Purchase Agreement, Section 15 of the Research and Development Agreement, Section 15 of the Amended and Restated Research and Development Agreement, Section 6 of the Technology License Agreement, Section 6 of the Novated and Restated Technology License Agreement, Paragraphs (c)(iv) under "Yale Agreement" in Annex C of the Technology License Agreement, Paragraph (c)(vi) under "Regents Agreement" in Annex C of the Technology License Agreement, Paragraph (c)(iv) under "Yale Agreement" in Annex C of the Novated and Restated Technology License Agreement and Paragraph (c)(vi) under "Regents Agreement" in Annex C of the Novated and Restated Technology License Agreement may be limited by applicable laws and except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, arrangement, suretyship, dissolution, moratorium, receivership or other similar laws affecting creditors' rights and the law of fraudulent transfer, and subject to state law, federal law, or general equity principles and to limitations on availability of equitable relief, including specific performance, regardless of whether enforcement is considered in a proceeding in equity or at law.

6. The offer and sale of the Warrants (as defined in the Warrant Purchase Agreement) have been duly authorized by the Company.

7. The Warrant Shares (as defined in the Warrant Purchase Agreement) and, assuming the Purchase Option (as defined in the Purchase Option Agreement) is exercised in accordance with the Purchase Option Agreement, the Exelixis Common Stock (as defined in the Purchase Option Agreement), when sold and issued in accordance with the terms of the Warrants or the Purchase Option Agreement, as applicable, will be validly issued, fully paid and non-assessable, and the issuance of the Warrant Shares is not be subject to preemptive rights pursuant to the General Corporation Law of the State of Delaware, the certificate of incorporation or by-laws of the Company or similar rights to subscribe pursuant to any Material Agreement.

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

8. The offer and sale of the Warrants and Warrant Shares are and will be exempt from the registration requirements of the Securities Act of 1933, as amended, subject to the timely filing of a Form D pursuant to Securities and Exchange Commission Regulation D.

9. The Company is not an “investment company” as defined in the Investment Company Act of 1940, as amended.

[*]

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

This opinion is intended solely for your benefit and is not to be made available to or be relied upon by any other person, firm, or entity without our prior written consent.

Very truly yours,

COOLEY GODWARD LLP

By: /s/ Robert L. Jones

Robert L. Jones

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SCHEDULE I

LIST OF TRANSACTION AGREEMENTS

1. Warrant Purchase Agreement, dated as of June 9, 2005, between the Company and Symphony Evolution Holdings LLC (the "Warrant Purchase Agreement").
2. Warrant to purchase 750,000 shares of common stock of the Company, dated as of June 9, 2005 (the "Warrant").
3. Purchase Option Agreement, dated as of June 9, 2005, by and among the Company, Symphony Evolution Holdings LLC and Symphony Evolution, Inc. (the "Purchase Option Agreement").
4. Research and Development Agreement, dated as of June 9, 2005, between the Company and Symphony Evolution Holdings LLC (the "Research and Development Agreement").
5. Amended & Restated Research and Development Agreement, dated as of June 9, 2005, between the Company, Symphony Evolution, Inc. and Symphony Evolution Holdings LLC (the "Amended & Restated Research and Development Agreement").
6. Technology License Agreement, dated as of June 9, 2005, between the Company and Symphony Evolution Holdings LLC (the "Technology License Agreement").
7. Novated and Restated Technology License Agreement, dated as of June 9, 2005, between the Company, Symphony Evolution, Inc. and Symphony Evolution Holdings LLC (the "Novated and Restated Technology License Agreement").
8. Confidentiality Agreement, dated as of June 9, 2005, by and among the Company, Symphony Evolution, Inc. and Symphony Evolution Holdings LLC, Symphony Capital Partners, L.P., Symphony Strategic Partners, LLC, Symphony Evolution Investors, LLC, Symphony Capital LLC, RRD International, LLC, Daniel F. Hoth, M.D., Herbert J. Conrad, and Alastair J.J. Wood, M.D. (the "Confidentiality Agreement").
9. Funding Agreement, dated as of June 9, 2005, by and among the Company, Symphony Capital Partners, L.P., Symphony Evolution Holdings LLC and Symphony Evolution Investors, LLC (the "Funding Agreement").
10. Registration Rights Agreement, dated as of June 9, 2005, between the Company and Symphony Evolution Holdings LLC (the "Registration Rights Agreement").
11. Research Cost Sharing and Extension Agreement, dated as of June 9, 2005, by and among the Company, Symphony Evolution Holdings LLC and Symphony Evolution, Inc. (the "Research Cost Sharing and Extension Agreement").

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

SCHEDULE II

LIST OF MATERIAL AGREEMENTS

[*]

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

EXHIBIT B

NEITHER THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE HEREOF HAVE BEEN THE SUBJECT OF REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE, AND THE SAME HAVE BEEN (OR WILL BE, WITH RESPECT TO THE SECURITIES ISSUABLE UPON EXERCISE HEREOF) ISSUED IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. NEITHER THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE HEREOF MAY BE SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT AS PERMITTED UNDER SUCH SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.

THE WARRANT EVIDENCED BY THIS CERTIFICATE IS SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE WARRANT PURCHASE AGREEMENT, DATED AS OF JUNE 9, 2005, COPIES OF WHICH ARE ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF THE ISSUER. NO REGISTRATION OF TRANSFER OF THIS WARRANT WILL BE MADE ON THE BOOKS OF THE ISSUER UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH.

EXELIXIS, INC.

WARRANT TO PURCHASE COMMON STOCK

June 9, 2005

Void After June 9, 2010

THIS CERTIFIES THAT, for value received, **SYMPHONY EVOLUTION HOLDINGS LLC**, a Delaware limited liability company, with its principal office at 7361 Calhoun Place, Suite 325, Rockville, MD 20850, or its assigns (the "Holder"), is entitled to subscribe for and purchase at the Exercise Price (as defined below) from **EXELIXIS, INC.**, a Delaware corporation, with its principal office at 170 Harbor Way, P.O. Box 511, South San Francisco, CA 94083 (the "Company"), up to Seven Hundred Fifty Thousand (750,000) shares of Common Stock, par value $0.001 per share, of the Company (the "Common Stock").

This Warrant is being issued pursuant to the terms of the Warrant Purchase Agreement, dated as of June 9, 2005, between the Company and Holder (the "Warrant Purchase Agreement").

1. DEFINITIONS. As used herein, the following terms shall have the following respective meanings:

(a) "Exercise Period" shall mean the period commencing on the date hereof and ending on June 9, 2010.

(b) "Exercise Price" shall mean $8.90 per share, subject to adjustment pursuant to Section 4 below.

(c) "Exercise Shares" shall mean the shares of Common Stock issuable upon exercise of this Warrant, subject to adjustment pursuant to the terms herein, including but not limited to adjustment pursuant to Section 4 below.

2. EXERCISE OF WARRANT.

2.1 Generally. The rights represented by this Warrant may be exercised in whole or in part at any time during the Exercise Period, by delivery of the following to the Company at its address set forth above (or at such other address as it may designate pursuant to Section 12 hereof):

(a) an executed Notice of Exercise in the form attached hereto;

(b) payment of the Exercise Price of the shares thereby subscribed for by wire transfer or cashier's check drawn on a United States bank to the Company, or by means of a cashless exercise pursuant to Section 2.2; and

(c) this Warrant.

Upon the exercise of the rights represented by this Warrant, a certificate or certificates for the Exercise Shares so purchased, registered in the name of the Holder or persons affiliated with the Holder, if the Holder so designates, shall be issued and delivered to the Holder as soon as practicable, but in no event longer than 30 days, after the rights represented by this Warrant shall have been so exercised. The Company shall, upon request of the Holder, if available and if allowed under applicable securities laws, use its commercially reasonable efforts to deliver any certificate or certificates required to be delivered by the Company under this section electronically through the Depository Trust Corporation or another established clearing corporation performing similar functions. If this Warrant shall have been exercised in part, the Company shall, at the time of delivery of the certificate or certificates representing Exercise Shares, deliver to Holder a new Warrant evidencing the rights of Holder to purchase the unpurchased Exercise Shares called for by this Warrant, which new Warrant shall in all other respects be identical to this Warrant.

The person in whose name any certificate or certificates for Exercise Shares are to be issued upon exercise of this Warrant shall be deemed to have become the holder of record of such shares on the date on which this Warrant was surrendered and payment of the Exercise Price and all taxes required to be paid by the Holder, if any, was made, irrespective of the date of delivery of such certificate or certificates, except that, if the date of such surrender and payment is a date when the stock transfer books of the Company are closed, such person shall be deemed to have become the holder of such shares at the close of business on the next succeeding date on which the stock transfer books are open.

2.2 Cashless Exercise. Notwithstanding any provisions herein to the contrary, if the fair market value of one share of Common Stock is greater than the Exercise Price (at the date of calculation as set forth below), in lieu of exercising this Warrant by payment of cash, the Holder may elect to receive shares equal to the value (as determined below) of this Warrant (or the portion thereof being exercised) by surrender of this Warrant together with the properly endorsed Notice of Exercise, in which event the Company shall issue to the Holder a number of shares of Common Stock computed using the following formula:

$$X = \frac{Y\,(A-B)}{A}$$

Where X = the number of shares of Common Stock to be issued to the Holder

Y = the number of shares of Common Stock purchasable under the Warrant or, if only a portion of the Warrant is being exercised, the portion of the Warrant being exercised (at the date of such calculation)

A = the fair market value of one share of Common Stock (at the date of such calculation)

B = Exercise Price (as adjusted to the date of such calculation)

For purposes of the above calculation, the fair market value of one share of Common Stock shall equal the average closing price of the Common Stock, as reported in the *Wall Street Journal*, on the NASDAQ National Market, or other national exchange that is then the primary exchange on which the Common Stock is listed (the "the Principal Market"), for the 30 trading days immediately preceding the second trading day prior to the date on which the Holder delivers to the Company an executed Notice of Exercise in the form attached hereto. If the Common Stock is not quoted on the NASDAQ National Market, or listed on another national exchange, the fair market value of one share of Common Stock shall be determined by the Company's Board of Directors in good faith.

2.3 Legend. All certificates evidencing the shares to be issued to the Holder may bear the following legends:

"THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE, AND THE SAME HAVE BEEN ISSUED IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. SUCH SHARES MAY NOT BE SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT AS PERMITTED UNDER SUCH SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.**"**

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE WARRANT PURCHASE AGREEMENT, DATED AS OF JUNE 9, 2005, COPIES OF WHICH ARE ON

FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF THE ISSUER. NO REGISTRATION OF TRANSFER OF THESE SHARES WILL BE MADE ON THE BOOKS OF THE ISSUER UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH."

2.4 Charges, Taxes and Expenses. Issuance of certificates for Exercise Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event certificates for Exercise Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder; and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto.

3. COVENANTS OF THE COMPANY.

3.1 No Impairment. Except and to the extent as waived or consented to by the Holder, the Company will at all times in good faith assist in the carrying out of all the provisions of this Warrant and in the taking of all such action as may be necessary or appropriate in order to protect the exercise rights of the Holder against impairment.

3.2 Notices of Record Date. If at any time:

(a) the Company shall take a record of the holders of Common Stock for the purpose of entitling them to receive a dividend or other distribution, or any right to subscribe for or purchase any evidences of its indebtedness, any shares of stock of any class or any other securities or property, or to receive any other right (other than with respect to any equity or equity equivalent security issued pursuant to a rights plan adopted by the Company's Board of Directors);

(b) there shall be any capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company or any consolidation or merger of the Company, or any sale, transfer or other disposition of all or substantially all the property, assets or business of the Company; or

(c) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Company;

then, in any one or more of such cases, the Company shall give to Holder (i) at least 10 days' prior written notice of the date on which a record date shall be selected for such dividend, distribution or right or for determining rights to vote in respect of any such reorganization, reclassification, recapitalization, consolidation, merger, sale, transfer, disposition, dissolution, liquidation or winding up and (ii) in the case of any such reorganization, reclassification, recapitalization, consolidation, merger, sale, transfer, disposition, dissolution, liquidation or winding up, at least 10 days' prior written notice of the date on which the same shall take place. Such notice in accordance with the foregoing clause also shall specify the date on which the

holders of Common Stock shall be entitled to any such dividend, distribution or right, and the amount and character thereof.

4. ADJUSTMENT OF EXERCISE PRICE. In the event of changes in the outstanding Common Stock by reason of stock dividends, split-ups, recapitalizations, reclassifications, combinations or exchanges of shares, separations, reorganizations, liquidations or the like, the number and class of shares available under this Warrant in the aggregate and the Exercise Price shall be correspondingly adjusted to give the Holder of this Warrant, on exercise for the same aggregate Exercise Price, the total number, class and kind of shares as the Holder would have owned had the Warrant been exercised prior to the event and had the Holder continued to hold such shares until after the event requiring adjustment. The form of this Warrant need not be changed because of any adjustment in the number of Exercise Shares subject to this Warrant.

5. FRACTIONAL SHARES. No fractional shares shall be issued upon the exercise of this Warrant, including as a consequence of any adjustment pursuant hereto. If the exercise would result in the issuance of a fractional share, the Company shall, in lieu of issuance of any fractional share, pay the Holder otherwise entitled to such fraction a sum in cash equal to the product resulting from multiplying the then current fair market value of an Exercise Share (determined as provided in Section 2.2 hereof) by such fraction; provided, however, that the Company may elect in its sole discretion to issue the next higher number of full shares of Common Stock by issuing a full share with respect to such fractional share.

6. CORPORATE TRANSACTIONS. In case the Company shall reorganize its capital, reclassify its capital stock, consolidate or merge with or into another corporation (where the Company is not the surviving corporation or where there is a change in or distribution with respect to the Common Stock), or sell, transfer or otherwise dispose of all or substantially all its property, assets or business and, pursuant to the terms of such reorganization, reclassification, merger, consolidation or disposition of assets, shares of common stock of the successor or acquiring corporation, or any cash, shares of stock or other securities or property of any nature whatsoever (including warrants or other subscription or purchase rights) in addition to or in lieu of common stock of the successor or acquiring corporation ("Other Property"), are to be received by or distributed to the holders of the Common Stock, then the Holder shall have the right thereafter to receive, upon exercise of this Warrant, the number of shares of common stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and Other Property receivable upon or as a result of such reorganization, reclassification, merger, consolidation or disposition of assets by a Holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such event. For purposes of this Section 6, "common stock of the successor or acquiring corporation" shall include stock of such corporation of any class which is not preferred as to dividends or assets over any other class of stock of such corporation and which is not subject to redemption and shall also include any evidences of indebtedness, shares of stock or other securities which are convertible into or exchangeable for any such stock, either immediately or upon the arrival of a specified date or the happening of a specified event and any warrants or other rights to subscribe for or purchase any such stock. The

foregoing provisions of this Section 6 shall similarly apply to successive reorganizations, reclassifications, mergers, consolidations or disposition of assets.

7. NOTICE OF ADJUSTMENT. Whenever the number of Exercise Shares or number or kind of securities or other property purchasable upon the exercise of this Warrant or the Exercise Price is adjusted, as herein provided, the Company shall give notice thereof to the Holder at the address of such Holder appearing on the books of the Company, which notice shall state the number of Exercise Shares (and other securities or property) purchasable upon the exercise of this Warrant and the Exercise Price of such Exercise Shares (and other securities or property) after such adjustment, setting forth a brief statement of the facts requiring such adjustment and setting forth the computation by which such adjustment was made.

8. ORDERLY SALE. This Warrant and the Exercise Shares are subject to the provisions of Section 6.05 of the Warrant Purchase Agreement.

9. NO STOCKHOLDER RIGHTS. This Warrant does not entitle the Holder to any voting rights or other rights as a stockholder of the Company prior to the exercise hereof. Upon the exercise of this Warrant in accordance with Section 2, the Exercise Shares so purchased shall be and be deemed to be issued to such Holder as the record owner of such shares as of the close of business on the date of such exercise.

10. TRANSFER OF WARRANT. Subject to applicable laws, the restriction on transfer set forth on the first page of this Warrant and the provisions of Article VI of the Warrant Purchase Agreement, this Warrant and all rights hereunder are transferable by the Holder, in person or by duly authorized attorney, upon delivery of this Warrant, the Assignment Form attached hereto and funds sufficient to pay any transfer taxes payable upon the making of such transfer, to any transferee designated by Holder. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. A Warrant, if properly assigned, may be exercised by a new holder for the purchase of Exercise Shares without having a new Warrant issued. The Company may require, as a condition of allowing a transfer (i) that the Holder or transferee of this Warrant, as the case may be, furnish to the Company a written opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that such transfer may be made without registration under the Securities Act and under applicable state securities or blue sky laws, (ii) that the holder or transferee execute and deliver to the Company an investment letter in form and substance acceptable to the Company, (iii) that the transferee be an “accredited investor” as defined in Rule 501(a) promulgated under the Securities Act and (iv) the transferee agree in writing to be bound by the terms of this Warrant and the Warrant Purchase Agreement as if an original signatory thereto.

11. LOST, STOLEN, MUTILATED OR DESTROYED WARRANT. If this Warrant is lost, stolen, mutilated or destroyed, the Company may, on such terms as to indemnity or

otherwise as it may reasonably impose (which shall, in the case of a mutilated Warrant, include the surrender thereof), issue a new Warrant of like denomination and tenor as the Warrant so lost, stolen, mutilated or destroyed.

12. NOTICES, ETC. Any notice, request, demand, waiver, consent, approval or other communication that is required or permitted to be given hereto shall be in writing and shall be deemed given only if delivered to the applicable party personally or sent to the party by facsimile transmission (promptly followed by a hard-copy delivered in accordance with this Section 12), by next business day delivery by a nationally recognized courier service, or by registered or certified mail (return receipt requested), with postage and registration or certification fees thereon prepaid, addressed to the party at its address set forth in the Warrant Purchase Agreement, or at such other address as the Company or Holder may designate by ten (10) days advance written notice to the other party hereto.

13. ACCEPTANCE. Receipt of this Warrant by the Holder shall constitute acceptance of and agreement to all of the terms and conditions contained herein.

14. GOVERNING LAW. This Warrant and all rights, obligations and liabilities hereunder shall be governed by the laws of the State of New York.

15. SATURDAYS, SUNDAYS, HOLIDAYS, ETC. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall be a Saturday, Sunday or a legal holiday, then such action may be taken or such right may be exercised on the next succeeding day not a Saturday, Sunday or legal holiday.

16. AMENDMENT. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

17. SUCCESSORS AND ASSIGNS. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors of the Company and the successors and permitted assigns of Holder.

18. HEADINGS. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its duly authorized officer as of June 9, 2005.

EXELIXIS, INC.

By: _____

Name: Christoph Pereira
Title: Vice President, Legal Affairs and Secretary

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NOTICE OF EXERCISE

TO: EXELIXIS, INC.

(1) ☐ The undersigned hereby elects to purchase _____ shares of Common Stock of **EXELIXIS, INC.** (the "Company") pursuant to the terms of the attached Warrant, and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

☐ The undersigned hereby elects to purchase _____ shares of Common Stock of **EXELIXIS, INC.** (the "Company") pursuant to the terms of the net exercise provisions set forth in Section 2.2 of the attached Warrant, and shall tender payment of all applicable transfer taxes, if any.

(2) Please issue a certificate or certificates representing said shares of Common Stock in the name of the undersigned or in such other name as is specified below:

_____

(Name)

_____

_____

(Address)

(ii) **(3)** The undersigned represents that:

(A) It is an "accredited investor" within the meaning of Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act").

(B) It has relied completely on the advice of, or has consulted with or has had the opportunity to consult with, its own personal tax, investment, legal or other advisors and has not relied on the Company or any of its affiliates for advice.

(C) It has been advised and understands that the offer and sale of the attached Warrant and the shares of Common Stock issued upon exercise of the Warrant (the "Warrant Shares") have not been registered under the Securities Act. It is able to bear the economic risk of such investment for an indefinite period and to afford a complete loss thereof.

(D) It is acquiring the Warrant Shares solely for its own account for investment purposes as a principal and not with a view to the resale of all or any part thereof. It agrees that the Warrant Shares may not be resold (1) without registration thereof under the Securities Act (unless an exemption from such registration is available), or (2) in violation of any law. It acknowledges that the Company is not required to register the Warrant Shares under the Securities

Act. It is not and will not be an underwriter within the meaning of Section 2(11) of the Securities Act with respect to the Warrant Shares.

(E) No person or entity acting on behalf of, or under the authority of, the undersigned is or will be entitled to any broker's, finder's, or similar fees or commission payable by the Company or any of its affiliates.

(Date)	(Signature)
	(Print name)

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ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____

(Please Print)

Address: _____

(Please Print)

Dated: _____, 2____

Holder's
Signature: _____

Holder's
Address: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatever. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

EXHIBIT C

FORM OF "B" WARRANT

NEITHER THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE HEREOF HAVE BEEN THE SUBJECT OF REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE, AND THE SAME HAVE BEEN (OR WILL BE, WITH RESPECT TO THE SECURITIES ISSUABLE UPON EXERCISE HEREOF) ISSUED IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. NEITHER THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE HEREOF MAY BE SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT AS PERMITTED UNDER SUCH SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.

THE WARRANT EVIDENCED BY THIS CERTIFICATE IS SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE WARRANT PURCHASE AGREEMENT, DATED AS OF JUNE 9, 2005, COPIES OF WHICH ARE ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF THE ISSUER. NO REGISTRATION OF TRANSFER OF THIS WARRANT WILL BE MADE ON THE BOOKS OF THE ISSUER UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH.

EXELIXIS, INC.

WARRANT TO PURCHASE COMMON STOCK

_____ __, 2006

Void After June 9, 2010

THIS CERTIFIES THAT, for value received, **SYMPHONY EVOLUTION HOLDINGS LLC**, a Delaware limited liability company, with its principal office at 7361 Calhoun Place, Suite 325, Rockville, MD 20850, or its assigns (the "Holder"), is entitled to subscribe for and purchase at the Exercise Price (as defined below) from **EXELIXIS, INC.**, a Delaware corporation, with its principal office at 170 Harbor Way, P.O. Box 511, South San Francisco, CA 94083 (the "Company"), up to _____ (_____) [FILL IN NUMBER OF SHARES AT ISSUANCE BASED ON SECTION 2.02 OF WARRANT PURCHASE AGREEMENT] shares of Common Stock, par value $0.001 per share, of the Company (the "Common Stock").

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

This Warrant is being issued pursuant to the terms of the Warrant Purchase Agreement, dated as of June 9, 2005, between the Company and Holder (the "Warrant Purchase Agreement").

1. DEFINITIONS. As used herein, the following terms shall have the following respective meanings:

(a) "Exercise Period" shall mean the period commencing on the date hereof and ending on June 9, 2010.

(b) "Exercise Price" shall mean $8.90 per share, subject to adjustment pursuant to Section 4 below.

(c) "Exercise Shares" shall mean the shares of Common Stock issuable upon exercise of this Warrant, subject to adjustment pursuant to the terms herein, including but not limited to adjustment pursuant to Section 4 below.

2. EXERCISE OF WARRANT.

2.1 Generally. The rights represented by this Warrant may be exercised in whole or in part at any time during the Exercise Period, by delivery of the following to the Company at its address set forth above (or at such other address as it may designate pursuant to Section 12 hereof):

(a) an executed Notice of Exercise in the form attached hereto;

(b) payment of the Exercise Price of the shares thereby subscribed for by wire transfer or cashier's check drawn on a United States bank to the Company, or by means of a cashless exercise pursuant to Section 2.2; and

(c) this Warrant.

Upon the exercise of the rights represented by this Warrant, a certificate or certificates for the Exercise Shares so purchased, registered in the name of the Holder or persons affiliated with the Holder, if the Holder so designates, shall be issued and delivered to the Holder as soon as practicable, but in no event longer than 30 days, after the rights represented by this Warrant shall have been so exercised. The Company shall, upon request of the Holder, if available and if allowed under applicable securities laws, use its commercially reasonable efforts to deliver any certificate or certificates required to be delivered by the Company under this section electronically through the Depository Trust Corporation or another established clearing corporation performing similar functions. If this Warrant shall have been exercised in part, the Company shall, at the time of delivery of the certificate or certificates representing Exercise Shares, deliver to Holder a new Warrant evidencing the rights of Holder to purchase the unpurchased Exercise Shares called for by this Warrant, which new Warrant shall in all other respects be identical to this Warrant.

The person in whose name any certificate or certificates for Exercise Shares are to be issued upon exercise of this Warrant shall be deemed to have become the holder of record of

such shares on the date on which this Warrant was surrendered and payment of the Exercise Price and all taxes required to be paid by the Holder, if any, was made, irrespective of the date of delivery of such certificate or certificates, except that, if the date of such surrender and payment is a date when the stock transfer books of the Company are closed, such person shall be deemed to have become the holder of such shares at the close of business on the next succeeding date on which the stock transfer books are open.

2.2 Cashless Exercise. Notwithstanding any provisions herein to the contrary, if the fair market value of one share of Common Stock is greater than the Exercise Price (at the date of calculation as set forth below), in lieu of exercising this Warrant by payment of cash, the Holder may elect to receive shares equal to the value (as determined below) of this Warrant (or the portion thereof being exercised) by surrender of this Warrant together with the properly endorsed Notice of Exercise, in which event the Company shall issue to the Holder a number of shares of Common Stock computed using the following formula:

$$X = \frac{Y(A-B)}{A}$$

Where X = the number of shares of Common Stock to be issued to the Holder

Y = the number of shares of Common Stock purchasable under the Warrant or, if only a portion of the Warrant is being exercised, the portion of the Warrant being exercised (at the date of such calculation)

A = the fair market value of one share of Common Stock (at the date of such calculation)

B = Exercise Price (as adjusted to the date of such calculation)

For purposes of the above calculation, the fair market value of one share of Common Stock shall equal the average closing price of the Common Stock, as reported in the *Wall Street Journal*, on the NASDAQ National Market, or other national exchange that is then the primary exchange on which the Common Stock is listed (the "the Principal Market"), for the 30 trading days immediately preceding the second trading day prior to the date on which the Holder delivers to the Company an executed Notice of Exercise in the form attached hereto. If the Common Stock is not quoted on the NASDAQ National Market, or listed on another national exchange, the fair market value of one share of Common Stock shall be determined by the Company's Board of Directors in good faith.

2.3 Legend. All certificates evidencing the shares to be issued to the Holder may bear the following legends:

"THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE, AND THE SAME HAVE BEEN ISSUED IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. SUCH SHARES MAY NOT BE SOLD, TRANSFERRED,

PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT AS PERMITTED UNDER SUCH SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.**"**

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE WARRANT PURCHASE AGREEMENT, DATED AS OF JUNE 9, 2005, COPIES OF WHICH ARE ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF THE ISSUER. NO REGISTRATION OF TRANSFER OF THESE SHARES WILL BE MADE ON THE BOOKS OF THE ISSUER UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH."

2.4 Charges, Taxes and Expenses. Issuance of certificates for Exercise Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event certificates for Exercise Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder; and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto.

3. COVENANTS OF THE COMPANY.

3.1 No Impairment. Except and to the extent as waived or consented to by the Holder, the Company will at all times in good faith assist in the carrying out of all the provisions of this Warrant and in the taking of all such action as may be necessary or appropriate in order to protect the exercise rights of the Holder against impairment.

3.2 Notices of Record Date. If at any time:

(a) the Company shall take a record of the holders of Common Stock for the purpose of entitling them to receive a dividend or other distribution, or any right to subscribe for or purchase any evidences of its indebtedness, any shares of stock of any class or any other securities or property, or to receive any other right (other than with respect to any equity or equity equivalent security issued pursuant to a rights plan adopted by the Company's Board of Directors);

(b) there shall be any capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company or any consolidation or merger of the Company, or any sale, transfer or other disposition of all or substantially all the property, assets or business of the Company; or

(c) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Company;

then, in any one or more of such cases, the Company shall give to Holder (i) at least 10 days' prior written notice of the date on which a record date shall be selected for such dividend,

distribution or right or for determining rights to vote in respect of any such reorganization, reclassification, recapitalization, consolidation, merger, sale, transfer, disposition, dissolution, liquidation or winding up and (ii) in the case of any such reorganization, reclassification, recapitalization, consolidation, merger, sale, transfer, disposition, dissolution, liquidation or winding up, at least 10 days' prior written notice of the date on which the same shall take place. Such notice in accordance with the foregoing clause also shall specify the date on which the holders of Common Stock shall be entitled to any such dividend, distribution or right, and the amount and character thereof.

4. ADJUSTMENT OF EXERCISE PRICE. In the event of changes in the outstanding Common Stock by reason of stock dividends, split-ups, recapitalizations, reclassifications, combinations or exchanges of shares, separations, reorganizations, liquidations or the like, the number and class of shares available under this Warrant in the aggregate and the Exercise Price shall be correspondingly adjusted to give the Holder of this Warrant, on exercise for the same aggregate Exercise Price, the total number, class and kind of shares as the Holder would have owned had the Warrant been exercised prior to the event and had the Holder continued to hold such shares until after the event requiring adjustment. The form of this Warrant need not be changed because of any adjustment in the number of Exercise Shares subject to this Warrant.

5. FRACTIONAL SHARES. No fractional shares shall be issued upon the exercise of this Warrant, including as a consequence of any adjustment pursuant hereto. If the exercise would result in the issuance of a fractional share, the Company shall, in lieu of issuance of any fractional share, pay the Holder otherwise entitled to such fraction a sum in cash equal to the product resulting from multiplying the then current fair market value of an Exercise Share (determined as provided in Section 2.2 hereof) by such fraction; provided, however, that the Company may elect in its sole discretion to issue the next higher number of full shares of Common Stock by issuing a full share with respect to such fractional share.

6. CORPORATE TRANSACTIONS. In case the Company shall reorganize its capital, reclassify its capital stock, consolidate or merge with or into another corporation (where the Company is not the surviving corporation or where there is a change in or distribution with respect to the Common Stock), or sell, transfer or otherwise dispose of all or substantially all its property, assets or business and, pursuant to the terms of such reorganization, reclassification, merger, consolidation or disposition of assets, shares of common stock of the successor or acquiring corporation, or any cash, shares of stock or other securities or property of any nature whatsoever (including warrants or other subscription or purchase rights) in addition to or in lieu of common stock of the successor or acquiring corporation ("Other Property"), are to be received by or distributed to the holders of the Common Stock, then the Holder shall have the right thereafter to receive, upon exercise of this Warrant, the number of shares of common stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and Other Property receivable upon or as a result of such reorganization, reclassification, merger, consolidation or disposition of assets by a Holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such event. For purposes of this Section 6, "common stock of the successor or acquiring corporation"

shall include stock of such corporation of any class which is not preferred as to dividends or assets over any other class of stock of such corporation and which is not subject to redemption and shall also include any evidences of indebtedness, shares of stock or other securities which are convertible into or exchangeable for any such stock, either immediately or upon the arrival of a specified date or the happening of a specified event and any warrants or other rights to subscribe for or purchase any such stock. The foregoing provisions of this Section 6 shall similarly apply to successive reorganizations, reclassifications, mergers, consolidations or disposition of assets.

7. NOTICE OF ADJUSTMENT. Whenever the number of Exercise Shares or number or kind of securities or other property purchasable upon the exercise of this Warrant or the Exercise Price is adjusted, as herein provided, the Company shall give notice thereof to the Holder at the address of such Holder appearing on the books of the Company, which notice shall state the number of Exercise Shares (and other securities or property) purchasable upon the exercise of this Warrant and the Exercise Price of such Exercise Shares (and other securities or property) after such adjustment, setting forth a brief statement of the facts requiring such adjustment and setting forth the computation by which such adjustment was made.

8. ORDERLY SALE. This Warrant and the Exercise Shares are subject to the provisions of Section 6.05 of the Warrant Purchase Agreement.

9. NO STOCKHOLDER RIGHTS. This Warrant does not entitle the Holder to any voting rights or other rights as a stockholder of the Company prior to the exercise hereof. Upon the exercise of this Warrant in accordance with Section 2, the Exercise Shares so purchased shall be and be deemed to be issued to such Holder as the record owner of such shares as of the close of business on the date of such exercise.

10. TRANSFER OF WARRANT. Subject to applicable laws, the restriction on transfer set forth on the first page of this Warrant and the provisions of Article VI of the Warrant Purchase Agreement, this Warrant and all rights hereunder are transferable by the Holder, in person or by duly authorized attorney, upon delivery of this Warrant, the Assignment Form attached hereto and funds sufficient to pay any transfer taxes payable upon the making of such transfer, to any transferee designated by Holder. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. A Warrant, if properly assigned, may be exercised by a new holder for the purchase of Exercise Shares without having a new Warrant issued. The Company may require, as a condition of allowing a transfer (i) that the Holder or transferee of this Warrant, as the case may be, furnish to the Company a written opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that such transfer may be made without registration under the Securities Act and under applicable state securities or blue sky laws, (ii) that the holder or transferee execute and deliver to the Company an investment letter in form and substance acceptable to the Company, (iii) that the

transferee be an "accredited investor" as defined in Rule 501(a) promulgated under the Securities Act and (iv) the transferee agree in writing to be bound by the terms of this Warrant and the Warrant Purchase Agreement as if an original signatory thereto.

11. LOST, STOLEN, MUTILATED OR DESTROYED WARRANT. If this Warrant is lost, stolen, mutilated or destroyed, the Company may, on such terms as to indemnity or otherwise as it may reasonably impose (which shall, in the case of a mutilated Warrant, include the surrender thereof), issue a new Warrant of like denomination and tenor as the Warrant so lost, stolen, mutilated or destroyed.

12. NOTICES, ETC. Any notice, request, demand, waiver, consent, approval or other communication that is required or permitted to be given hereto shall be in writing and shall be deemed given only if delivered to the applicable party personally or sent to the party by facsimile transmission (promptly followed by a hard-copy delivered in accordance with this Section 12), by next business day delivery by a nationally recognized courier service, or by registered or certified mail (return receipt requested), with postage and registration or certification fees thereon prepaid, addressed to the party at its address set forth in the Warrant Purchase Agreement, or at such other address as the Company or Holder may designate by ten (10) days advance written notice to the other party hereto.

13. ACCEPTANCE. Receipt of this Warrant by the Holder shall constitute acceptance of and agreement to all of the terms and conditions contained herein.

14. GOVERNING LAW. This Warrant and all rights, obligations and liabilities hereunder shall be governed by the laws of the State of New York.

15. SATURDAYS, SUNDAYS, HOLIDAYS, ETC. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall be a Saturday, Sunday or a legal holiday, then such action may be taken or such right may be exercised on the next succeeding day not a Saturday, Sunday or legal holiday.

16. AMENDMENT. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

17. SUCCESSORS AND ASSIGNS. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors of the Company and the successors and permitted assigns of Holder.

18. HEADINGS. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its duly authorized officer as of _____ __, 2006.

EXELIXIS, INC.

By: _____

Name: _____

Title: _____

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

NOTICE OF EXERCISE

TO: EXELIXIS, INC.

(1) ☐ The undersigned hereby elects to purchase _____ shares of Common Stock of **EXELIXIS, INC.** (the "Company") pursuant to the terms of the attached Warrant, and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

☐ The undersigned hereby elects to purchase _____ shares of Common Stock of **EXELIXIS, INC.** (the "Company") pursuant to the terms of the net exercise provisions set forth in Section 2.2 of the attached Warrant, and shall tender payment of all applicable transfer taxes, if any.

(2) Please issue a certificate or certificates representing said shares of Common Stock in the name of the undersigned or in such other name as is specified below:

_____

(Name)

_____

_____

(Address)

(iii) **(3)** The undersigned represents that:

(A) It is an "accredited investor" within the meaning of Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act").

(B) It has relied completely on the advice of, or has consulted with or has had the opportunity to consult with, its own personal tax, investment, legal or other advisors and has not relied on the Company or any of its affiliates for advice.

(C) It has been advised and understands that the offer and sale of the attached Warrant and the shares of Common Stock issued upon exercise of the Warrant (the "Warrant Shares") have not been registered under the Securities Act. It is able to bear the economic risk of such investment for an indefinite period and to afford a complete loss thereof.

(D) It is acquiring the Warrant Shares solely for its own account for investment purposes as a principal and not with a view to the resale of all or any part thereof. It agrees that the Warrant Shares may not be resold (1) without registration thereof under the Securities Act (unless an exemption from such registration is available), or (2) in violation of any law. It acknowledges that the Company is not required to register the Warrant Shares under the Securities

Act. It is not and will not be an underwriter within the meaning of Section 2(11) of the Securities Act with respect to the Warrant Shares.

(E) No person or entity acting on behalf of, or under the authority of, the undersigned is or will be entitled to any broker's, finder's, or similar fees or commission payable by the Company or any of its affiliates.

(Date)	(Signature)
	(Print name)

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ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form
and supply required information. Do not use this
form to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____

(Please Print)

Address: _____

(Please Print)

Dated: _____, 2_____

Holder's
Signature: _____

Holder's
Address: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatever. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

[*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

EXHIBIT D

FORM OF "C" WARRANT

NEITHER THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE HEREOF HAVE BEEN THE SUBJECT OF REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE, AND THE SAME HAVE BEEN (OR WILL BE, WITH RESPECT TO THE SECURITIES ISSUABLE UPON EXERCISE HEREOF) ISSUED IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. NEITHER THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE HEREOF MAY BE SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT AS PERMITTED UNDER SUCH SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.

THE WARRANT EVIDENCED BY THIS CERTIFICATE IS SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE WARRANT PURCHASE AGREEMENT, DATED AS OF JUNE 9, 2005, COPIES OF WHICH ARE ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF THE ISSUER. NO REGISTRATION OF TRANSFER OF THIS WARRANT WILL BE MADE ON THE BOOKS OF THE ISSUER UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH.

EXELIXIS, INC.

WARRANT TO PURCHASE COMMON STOCK

_____ __, 2009

Void After _____ __, 2014

THIS CERTIFIES THAT, for value received, **SYMPHONY EVOLUTION HOLDINGS LLC**, a Delaware limited liability company, with its principal office at 7361 Calhoun Place, Suite 325, Rockville, MD 20850, or its assigns (the "Holder"), is entitled to subscribe for and purchase at the Exercise Price (as defined below) from **EXELIXIS, INC.**, a Delaware corporation, with its principal office at 170 Harbor Way, P.O. Box 511, South San Francisco, CA 94083 (the "Company"), up to _____ (_____) [FILL IN NUMBER OF SHARES AT ISSUANCE BASED ON SECTION 2.03 OF WARRANT PURCHASE AGREEMENT] shares of Common Stock, par value $0.001 per share, of the Company (the "Common Stock").

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This Warrant is being issued pursuant to the terms of the Warrant Purchase Agreement, dated as of June 9, 2005, between the Company and Holder (the "Warrant Purchase Agreement").

1. DEFINITIONS. As used herein, the following terms shall have the following respective meanings:

(a) "Exercise Period" shall mean the period commencing on the date hereof and ending on _____ [FILL IN DATE 5 YEARS AFTER ISSUANCE DATE].

(b) "Exercise Price" shall mean $_____ [FILL IN AT ISSUANCE DATE BASED ON SECTION 2.03 OF WARRANT PURCHASE AGREEMENT] per share, subject to adjustment pursuant to Section 4 below.

(c) "Exercise Shares" shall mean the shares of Common Stock issuable upon exercise of this Warrant, subject to adjustment pursuant to the terms herein, including but not limited to adjustment pursuant to Section 4 below.

2. EXERCISE OF WARRANT.

2.1 Generally. The rights represented by this Warrant may be exercised in whole or in part at any time during the Exercise Period, by delivery of the following to the Company at its address set forth above (or at such other address as it may designate pursuant to Section 12 hereof):

(a) an executed Notice of Exercise in the form attached hereto;

(b) payment of the Exercise Price of the shares thereby subscribed for by wire transfer or cashier's check drawn on a United States bank to the Company, or by means of a cashless exercise pursuant to Section 2.2; and

(c) this Warrant.

Upon the exercise of the rights represented by this Warrant, a certificate or certificates for the Exercise Shares so purchased, registered in the name of the Holder or persons affiliated with the Holder, if the Holder so designates, shall be issued and delivered to the Holder as soon as practicable, but in no event longer than 30 days, after the rights represented by this Warrant shall have been so exercised. The Company shall, upon request of the Holder, if available and if allowed under applicable securities laws, use its commercially reasonable efforts to deliver any certificate or certificates required to be delivered by the Company under this section electronically through the Depository Trust Corporation or another established clearing corporation performing similar functions. If this Warrant shall have been exercised in part, the Company shall, at the time of delivery of the certificate or certificates representing Exercise Shares, deliver to Holder a new Warrant evidencing the rights of Holder to purchase the unpurchased Exercise Shares called for by this Warrant, which new Warrant shall in all other respects be identical to this Warrant.

The person in whose name any certificate or certificates for Exercise Shares are to be issued upon exercise of this Warrant shall be deemed to have become the holder of record of such shares on the date on which this Warrant was surrendered and payment of the Exercise Price and all taxes required to be paid by the Holder, if any, was made, irrespective of the date of delivery of such certificate or certificates, except that, if the date of such surrender and payment is a date when the stock transfer books of the Company are closed, such person shall be deemed to have become the holder of such shares at the close of business on the next succeeding date on which the stock transfer books are open.

2.2 Cashless Exercise. Notwithstanding any provisions herein to the contrary, if the fair market value of one share of Common Stock is greater than the Exercise Price (at the date of calculation as set forth below), in lieu of exercising this Warrant by payment of cash, the Holder may elect to receive shares equal to the value (as determined below) of this Warrant (or the portion thereof being exercised) by surrender of this Warrant together with the properly endorsed Notice of Exercise, in which event the Company shall issue to the Holder a number of shares of Common Stock computed using the following formula:

$$X = \frac{Y\,(A-B)}{A}$$

Where X = the number of shares of Common Stock to be issued to the Holder

Y = the number of shares of Common Stock purchasable under the Warrant or, if only a portion of the Warrant is being exercised, the portion of the Warrant being exercised (at the date of such calculation)

A = the fair market value of one share of Common Stock (at the date of such calculation)

B = Exercise Price (as adjusted to the date of such calculation)

For purposes of the above calculation, the fair market value of one share of Common Stock shall equal the average closing price of the Common Stock, as reported in the *Wall Street Journal*, on the NASDAQ National Market, or other national exchange that is then the primary exchange on which the Common Stock is listed (the "the Principal Market"), for the 30 trading days immediately preceding the second trading day prior to the date on which the Holder delivers to the Company an executed Notice of Exercise in the form attached hereto. If the Common Stock is not quoted on the NASDAQ National Market, or listed on another national exchange, the fair market value of one share of Common Stock shall be determined by the Company's Board of Directors in good faith.

2.3 Legend. All certificates evidencing the shares to be issued to the Holder may bear the following legends:

"THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE, AND THE SAME HAVE BEEN ISSUED IN

RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. SUCH SHARES MAY NOT BE SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT AS PERMITTED UNDER SUCH SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.**"**

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE WARRANT PURCHASE AGREEMENT, DATED AS OF JUNE 9, 2005, COPIES OF WHICH ARE ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF THE ISSUER. NO REGISTRATION OF TRANSFER OF THESE SHARES WILL BE MADE ON THE BOOKS OF THE ISSUER UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH."

2.4 Charges, Taxes and Expenses. Issuance of certificates for Exercise Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event certificates for Exercise Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder; and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto.

3. COVENANTS OF THE COMPANY.

3.1 No Impairment. Except and to the extent as waived or consented to by the Holder, the Company will at all times in good faith assist in the carrying out of all the provisions of this Warrant and in the taking of all such action as may be necessary or appropriate in order to protect the exercise rights of the Holder against impairment.

3.2 Notices of Record Date. If at any time:

(a) the Company shall take a record of the holders of Common Stock for the purpose of entitling them to receive a dividend or other distribution, or any right to subscribe for or purchase any evidences of its indebtedness, any shares of stock of any class or any other securities or property, or to receive any other right (other than with respect to any equity or equity equivalent security issued pursuant to a rights plan adopted by the Company's Board of Directors);

(b) there shall be any capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company or any consolidation or merger of the Company, or any sale, transfer or other disposition of all or substantially all the property, assets or business of the Company; or

(c) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Company;

then, in any one or more of such cases, the Company shall give to Holder (i) at least 10 days' prior written notice of the date on which a record date shall be selected for such dividend, distribution or right or for determining rights to vote in respect of any such reorganization, reclassification, recapitalization, consolidation, merger, sale, transfer, disposition, dissolution, liquidation or winding up and (ii) in the case of any such reorganization, reclassification, recapitalization, consolidation, merger, sale, transfer, disposition, dissolution, liquidation or winding up, at least 10 days' prior written notice of the date on which the same shall take place. Such notice in accordance with the foregoing clause also shall specify the date on which the holders of Common Stock shall be entitled to any such dividend, distribution or right, and the amount and character thereof.

4. ADJUSTMENT OF EXERCISE PRICE. In the event of changes in the outstanding Common Stock by reason of stock dividends, split-ups, recapitalizations, reclassifications, combinations or exchanges of shares, separations, reorganizations, liquidations or the like, the number and class of shares available under this Warrant in the aggregate and the Exercise Price shall be correspondingly adjusted to give the Holder of this Warrant, on exercise for the same aggregate Exercise Price, the total number, class and kind of shares as the Holder would have owned had the Warrant been exercised prior to the event and had the Holder continued to hold such shares until after the event requiring adjustment. The form of this Warrant need not be changed because of any adjustment in the number of Exercise Shares subject to this Warrant.

5. FRACTIONAL SHARES. No fractional shares shall be issued upon the exercise of this Warrant, including as a consequence of any adjustment pursuant hereto. If the exercise would result in the issuance of a fractional share, the Company shall, in lieu of issuance of any fractional share, pay the Holder otherwise entitled to such fraction a sum in cash equal to the product resulting from multiplying the then current fair market value of an Exercise Share (determined as provided in Section 2.2 hereof) by such fraction; provided, however, that the Company may elect in its sole discretion to issue the next higher number of full shares of Common Stock by issuing a full share with respect to such fractional share.

6. CORPORATE TRANSACTIONS. In case the Company shall reorganize its capital, reclassify its capital stock, consolidate or merge with or into another corporation (where the Company is not the surviving corporation or where there is a change in or distribution with respect to the Common Stock), or sell, transfer or otherwise dispose of all or substantially all its property, assets or business and, pursuant to the terms of such reorganization, reclassification, merger, consolidation or disposition of assets, shares of common stock of the successor or acquiring corporation, or any cash, shares of stock or other securities or property of any nature whatsoever (including warrants or other subscription or purchase rights) in addition to or in lieu of common stock of the successor or acquiring corporation ("Other Property"), are to be received by or distributed to the holders of the Common Stock, then the Holder shall have the right thereafter to receive, upon exercise of this Warrant, the number of shares of common stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and Other Property receivable upon or as a result of such reorganization, reclassification, merger, consolidation or disposition of assets by a Holder of the number of shares of Common

Stock for which this Warrant is exercisable immediately prior to such event. For purposes of this Section 6, "common stock of the successor or acquiring corporation" shall include stock of such corporation of any class which is not preferred as to dividends or assets over any other class of stock of such corporation and which is not subject to redemption and shall also include any evidences of indebtedness, shares of stock or other securities which are convertible into or exchangeable for any such stock, either immediately or upon the arrival of a specified date or the happening of a specified event and any warrants or other rights to subscribe for or purchase any such stock. The foregoing provisions of this Section 6 shall similarly apply to successive reorganizations, reclassifications, mergers, consolidations or disposition of assets.

7. NOTICE OF ADJUSTMENT. Whenever the number of Exercise Shares or number or kind of securities or other property purchasable upon the exercise of this Warrant or the Exercise Price is adjusted, as herein provided, the Company shall give notice thereof to the Holder at the address of such Holder appearing on the books of the Company, which notice shall state the number of Exercise Shares (and other securities or property) purchasable upon the exercise of this Warrant and the Exercise Price of such Exercise Shares (and other securities or property) after such adjustment, setting forth a brief statement of the facts requiring such adjustment and setting forth the computation by which such adjustment was made.

8. ORDERLY SALE. This Warrant and the Exercise Shares are subject to the provisions of Section 6.05 of the Warrant Purchase Agreement.

9. NO STOCKHOLDER RIGHTS. This Warrant does not entitle the Holder to any voting rights or other rights as a stockholder of the Company prior to the exercise hereof. Upon the exercise of this Warrant in accordance with Section 2, the Exercise Shares so purchased shall be and be deemed to be issued to such Holder as the record owner of such shares as of the close of business on the date of such exercise.

10. TRANSFER OF WARRANT. Subject to applicable laws, the restriction on transfer set forth on the first page of this Warrant and the provisions of Article VI of the Warrant Purchase Agreement, this Warrant and all rights hereunder are transferable by the Holder, in person or by duly authorized attorney, upon delivery of this Warrant, the Assignment Form attached hereto and funds sufficient to pay any transfer taxes payable upon the making of such transfer, to any transferee designated by Holder. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. A Warrant, if properly assigned, may be exercised by a new holder for the purchase of Exercise Shares without having a new Warrant issued. The Company may require, as a condition of allowing a transfer (i) that the Holder or transferee of this Warrant, as the case may be, furnish to the Company a written opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that such transfer may be made without registration under the Securities Act and under applicable state securities or blue

sky laws, (ii) that the holder or transferee execute and deliver to the Company an investment letter in form and substance acceptable to the Company, (iii) that the transferee be an "accredited investor" as defined in Rule 501(a) promulgated under the Securities Act and (iv) the transferee agree in writing to be bound by the terms of this Warrant and the Warrant Purchase Agreement as if an original signatory thereto.

11. LOST, STOLEN, MUTILATED OR DESTROYED WARRANT. If this Warrant is lost, stolen, mutilated or destroyed, the Company may, on such terms as to indemnity or otherwise as it may reasonably impose (which shall, in the case of a mutilated Warrant, include the surrender thereof), issue a new Warrant of like denomination and tenor as the Warrant so lost, stolen, mutilated or destroyed.

12. NOTICES, ETC. Any notice, request, demand, waiver, consent, approval or other communication that is required or permitted to be given hereto shall be in writing and shall be deemed given only if delivered to the applicable party personally or sent to the party by facsimile transmission (promptly followed by a hard-copy delivered in accordance with this Section 12), by next business day delivery by a nationally recognized courier service, or by registered or certified mail (return receipt requested), with postage and registration or certification fees thereon prepaid, addressed to the party at its address set forth in the Warrant Purchase Agreement, or at such other address as the Company or Holder may designate by ten (10) days advance written notice to the other party hereto.

13. ACCEPTANCE. Receipt of this Warrant by the Holder shall constitute acceptance of and agreement to all of the terms and conditions contained herein.

14. GOVERNING LAW. This Warrant and all rights, obligations and liabilities hereunder shall be governed by the laws of the State of New York.

15. SATURDAYS, SUNDAYS, HOLIDAYS, ETC. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall be a Saturday, Sunday or a legal holiday, then such action may be taken or such right may be exercised on the next succeeding day not a Saturday, Sunday or legal holiday.

16. AMENDMENT. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

17. SUCCESSORS AND ASSIGNS. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors of the Company and the successors and permitted assigns of Holder.

18. HEADINGS. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its duly authorized officer as of _____ __, 2009.

EXELIXIS, INC.

By:_____

Name:_____

Title:_____

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NOTICE OF EXERCISE

TO: EXELIXIS, INC.

(1) ☐ The undersigned hereby elects to purchase _____ shares of Common Stock of **EXELIXIS, INC.** (the "Company") pursuant to the terms of the attached Warrant, and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

☐ The undersigned hereby elects to purchase _____ shares of Common Stock of **EXELIXIS, INC.** (the "Company") pursuant to the terms of the net exercise provisions set forth in Section 2.2 of the attached Warrant, and shall tender payment of all applicable transfer taxes, if any.

(2) Please issue a certificate or certificates representing said shares of Common Stock in the name of the undersigned or in such other name as is specified below:

_____

(Name)

_____

_____

(Address)

(iv) (3) The undersigned represents that:

(A) It is an "accredited investor" within the meaning of Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act").

(B) It has relied completely on the advice of, or has consulted with or has had the opportunity to consult with, its own personal tax, investment, legal or other advisors and has not relied on the Company or any of its affiliates for advice.

(C) It has been advised and understands that the offer and sale of the attached Warrant and the shares of Common Stock issued upon exercise of the Warrant (the "Warrant Shares") have not been registered under the Securities Act. It is able to bear the economic risk of such investment for an indefinite period and to afford a complete loss thereof.

(D) It is acquiring the Warrant Shares solely for its own account for investment purposes as a principal and not with a view to the resale of all or any part thereof. It agrees that the Warrant Shares may not be resold (1) without registration thereof under the Securities Act (unless an exemption from such registration is available), or (2) in violation of any law. It acknowledges that the Company is not required to register the Warrant Shares under the Securities

Act. It is not and will not be an underwriter within the meaning of Section 2(11) of the Securities Act with respect to the Warrant Shares.

(E) No person or entity acting on behalf of, or under the authority of, the undersigned is or will be entitled to any broker's, finder's, or similar fees or commission payable by the Company or any of its affiliates.

(Date)	(Signature)
	(Print name)

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ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form
and supply required information. Do not use this
form to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____

(Please Print)

Address: _____

(Please Print)

Dated: _____, 2____

Holder's
Signature: _____

Holder's
Address: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatever. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

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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)) and internal control over financial reporting (as defined in exchange act rules 13a-15(f) and 15d-15(f)) for the registrant and have:

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

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

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

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth 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 8, 2005

/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)) and internal control over financial reporting (as defined in exchange act rules 13a-15(f) and 15d-15(f)) for the registrant and have:

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

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

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

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth 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 8, 2005

/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, 2005 (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 8th day of August 2005.

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

/s/ Frank Karbe
Frank Karbe
Chief Financial Officer
(Principal Financial Officer)