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

FORM 10-Q

(Mark One)

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended June 28, 2013

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934** For the transition period from to

Commission File Number: 0-30235

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

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

210 East Grand Ave.
South San Francisco, CA 94080
(650) 837-7000
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

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

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

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

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

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

As of July 29, 2013, there were 184,117,209 shares of the registrant's common stock outstanding.

EXELIXIS, INC.
QUARTERLY REPORT ON FORM 10-Q
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PART I - FINANCIAL INFORMATION

Item 1. Financial Statements

EXELIXIS, INC.
CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share data)

	June 30, 2013 (unaudited)	December 31, 2012
ASSETS		
Current assets:		
Cash and cash equivalents	$ 131,774	$ 170,069
Short-term investments	220,198	241,371
Short-term restricted cash and investments	12,214	12,246
Trade and other receivables	4,209	2,751
Inventory	681	—
Prepaid expenses and other current assets	5,880	6,104
Total current assets	374,956	432,541
Long-term investments	138,125	182,311
Long-term restricted cash and investments	21,956	27,964
Property and equipment, net	5,650	6,059
Goodwill	63,684	63,684
Other assets	7,713	8,538
Total assets	$ 612,084	$ 721,097
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 3,458	$ 4,398
Accrued clinical trial liabilities	29,406	20,560
Accrued compensation and benefits	8,127	10,375
Other accrued liabilities	15,362	11,795
Current portion of convertible notes	10,000	10,000
Current portion of loans payable	2,546	3,170
Current portion of restructuring	4,194	5,085
Deferred revenue	1,507	16,321
Total current liabilities	74,600	81,704
Long-term portion of convertible notes	242,459	240,476
Long-term portion of loans payable	81,132	82,090
Long-term portion of restructuring	11,679	14,137
Other long-term liabilities	5,882	6,256
Total liabilities	415,752	424,663
Contingencies (Note 9)		
Stockholders' equity:		
Preferred stock, $0.001 par value, 10,000,000 shares authorized and no shares issued	—	—
Common stock, $0.001 par value; 400,000,000 shares authorized; issued and outstanding: 184,104,277 and 183,697,213 shares at June 30, 2013 and December 31, 2012, respectively	184	183
Additional paid-in capital	1,557,303	1,550,345
Accumulated other comprehensive loss	(263)	(92)
Accumulated deficit	(1,360,892)	(1,254,002)
Total stockholders' equity	196,332	296,434
Total liabilities and stockholders' equity	$ 612,084	$ 721,097

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

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Revenues:				
License and contract revenues	$ 7,813	$ 7,813	$ 15,626	$ 26,323
Net product revenues	4,043	—	5,899	—
Total revenues	11,856	7,813	21,525	26,323
Operating expenses:				
Cost of goods sold	285	—	565	—
Research and development	49,077	32,610	81,812	65,706
Selling, general and administrative	13,180	6,760	23,725	14,665
Restructuring charge	609	1,166	728	971
Total operating expenses	63,151	40,536	106,830	81,342
Loss from operations	(51,295)	(32,723)	(85,305)	(55,019)
Other income (expense), net:				
Interest income and other, net	373	340	711	500
Interest expense	(11,239)	(4,092)	(22,296)	(8,096)
Total other income (expense), net	(10,866)	(3,752)	(21,585)	(7,596)
Loss before income taxes	(62,161)	(36,475)	(106,890)	(62,615)
Income tax provision	—	12	—	23
Net loss	$ (62,161)	$ (36,487)	$ (106,890)	$ (62,638)
Net loss per share, basic and diluted	$ (0.34)	$ (0.25)	$ (0.58)	$ (0.43)
Shares used in computing basic and diluted net loss per share	183,981	148,654	183,861	145,297

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

EXELIXIS, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(in thousands)
(unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Net loss	$ (62,161)	$ (36,487)	$ (106,890)	$ (62,638)
Other comprehensive income (loss) (1)	(365)	(45)	(171)	143
Comprehensive loss	$ (62,526)	$ (36,532)	$ (107,061)	$ (62,495)

(1) Other comprehensive income (loss) consisted solely of unrealized gains or losses on available for sale securities arising during the periods presented. There were no reclassification adjustments to net income resulting from realized gains or losses on the sale of securities and there was no income tax expense related to other comprehensive income during those periods.

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

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

	Six Months Ended June 30,	
	2013	2012
Cash flows from operating activities:		
Net loss	$ (106,890)	$ (62,638)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	1,628	2,640
Stock-based compensation expense	5,605	4,322
Restructuring credit for property and equipment	—	(179)
Accretion of debt discount	12,793	4,477
Other	3,642	2,366
Changes in assets and liabilities:		
Other receivables	(1,458)	27,506
Inventory	(681)	—
Prepaid expenses and other current assets	224	(254)
Other assets	—	(224)
Accounts payable and other accrued liabilities	379	(2,058)
Clinical trial liability	8,846	2,259
Restructuring liability	(3,349)	(1,995)
Other long-term liabilities	(374)	(286)
Deferred revenue	(14,814)	(26,293)
Net cash used in operating activities	(94,449)	(50,357)
Cash flows from investing activities:		
Purchases of property and equipment	(1,402)	(509)
Proceeds from sale of property and equipment	—	859
Proceeds from maturities of restricted cash and investments	9,868	—
Purchase of restricted cash and investments	(3,784)	132
Proceeds from maturities of investments	209,889	141,104
Purchases of investments	(147,751)	(160,221)
Net cash provided by (used in) investing activities	66,820	(18,635)
Cash flows from financing activities:		
Proceeds from issuance of common stock, net	—	65,036
Proceeds from exercise of stock options and warrants	22	306
Proceeds from employee stock purchase plan	894	827
Principal payments on debt	(11,582)	(3,294)
Net cash (used in) provided by financing activities	(10,666)	62,875
Net decrease in cash and cash equivalents	(38,295)	(6,117)
Cash and cash equivalents at beginning of period	170,069	74,257
Cash and cash equivalents at end of period	$ 131,774	$ 68,140

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

EXELIXIS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(unaudited)

NOTE 1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization

Exelixis, Inc. ("Exelixis," "we," "our" or "us") is a biotechnology company committed to developing small molecule therapies for the treatment of cancer. We are focusing our proprietary resources and development and commercialization efforts exclusively on COMETRIQ® (cabozantinib), our wholly-owned inhibitor of multiple receptor tyrosine kinases. On November 29, 2012, the U.S. Food and Drug Administration approved COMETRIQ for the treatment of progressive, metastatic medullary thyroid cancer ("MTC"), in the United States, where it became commercially available in late January 2013. Cabozantinib is being evaluated in a variety of other cancer indications through a broad development program, including two ongoing phase 3 pivotal trials in metastatic castration-resistant prostate cancer, a phase 3 pivotal trial in metastatic renal cell cancer and an additional phase 3 pivotal trail in metastatic hepatocellular cancer that we plan to initiate later in 2013. We believe COMETRIQ has the potential to be a high-quality, broadly-active and differentiated anti-cancer agent that can make a meaningful difference in the lives of patients. Our objective is to develop COMETRIQ into a major oncology franchise, and we believe that the approval of COMETRIQ for the treatment of progressive, metastatic MTC provides us with the opportunity to establish a commercial presence in furtherance of this objective.

We have also established a portfolio of other novel compounds that we believe have the potential to address serious unmet medical needs. Many of these compounds are being developed by partners as part of collaborations, at no cost to us but with significant retained economics to us in the event these compounds are commercialized. As disclosed on ClinicalTrials.gov (NCT01689519), a phase 3 clinical trial for one of these compounds, cobimetinib (GDC-0973/XL518), which we out-licensed to Genentech, Inc. (a wholly-owned member of the Roche Group), was initiated on November 1, 2012.

Basis of Consolidation

The consolidated financial statements include the accounts of Exelixis and those of our wholly-owned subsidiaries. All intercompany balances and transactions have been eliminated.

Basis of Presentation

The accompanying unaudited 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 only of normal recurring adjustments) considered necessary for a fair presentation of the results of operations and cash flows for the period presented have been included.

Exelixis adopted a 52- or 53-week fiscal year that generally ends on the Friday closest to December 31st. Fiscal year 2012, a 52-week year, ended on December 28, 2012, and fiscal year 2013, a 52-week year, will end on December 27, 2013. For convenience, references in this report as of and for the fiscal quarters ended June 29, 2012 and June 28, 2013, and as of the fiscal year ended December 28, 2012, are indicated as ended June 30, 2012, June 30, 2013, and December 31, 2012, respectively.

Operating results for the three and six months ended June 30, 2013 are not necessarily indicative of the results that may be expected for the fiscal year ending December 31, 2013 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 fiscal year ended December 31, 2012, included in our Annual Report on Form 10-K filed with the SEC on February 21, 2013.

Segment Information

We operate in one business segment. We have operations primarily in the United States, while some of our collaboration partners have headquarters outside of the United States and certain of our clinical trials for cabozantinib are conducted outside of the United States. In fiscal years 2011 and 2012, 100% of our revenues were earned in the United States. During the three months ended June 30, 2013, we initiated a Named Patient Use Program ("NPU") through our distribution partner Swedish Orphan Biovitrum ("Sobi") to support the distribution and commercialization of COMETRIQ for metastatic MTC primarily in the European Union and potentially other countries. During the three and six months ended June 30, 2013,

93% and 95% of our revenues were earned in the United States; the remainder of our revenues were earned in the European Union under this NPU program. All of our long-lived assets are located in the United States.

Use of Estimates

The preparation of the consolidated financial statements is in conformity with accounting principles generally accepted in the United States which requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosures. On an ongoing basis, management evaluates its estimates including, but not limited to, those related to revenue recognition, inventory valuation, valuation of long-lived assets, certain accrued liabilities, share-based compensation and the valuation of the debt and equity components of our convertible debt at issuance. We base our estimates on historical experience and on various other market-specific and other relevant assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ materially from those estimates.

Inventory

We consider regulatory approval of product candidates to be uncertain and product manufactured prior to regulatory approval may not be sold unless regulatory approval is obtained. As such, the manufacturing costs for product candidates incurred prior to regulatory approval are not capitalized as inventory but rather are expensed as research and development costs. When regulatory approval is obtained, we begin capitalization of inventory related costs. We received regulatory approval for our first product, COMETRIQ, on November 29, 2012.

Inventory is valued at the lower of cost or net realizable value. We determine the cost of inventory using the standard-cost method, which approximates actual cost based on a first-in, first-out method. We analyze our inventory levels quarterly and write down inventory that has become obsolete, or has a cost basis in excess of its expected net realizable value and inventory quantities in excess of expected requirements. Expired inventory is disposed of and the related costs are recognized as cost of goods sold in the Consolidated Statements of Operations.

Goodwill

Goodwill amounts have been recorded as the excess purchase price over tangible assets, liabilities and intangible assets acquired based on their estimated fair value, by applying the purchase method. Goodwill is not subject to amortization. We evaluate goodwill for impairment on an annual basis and on an interim basis if events or changes in circumstances between annual impairment tests indicate that the asset might be impaired. When evaluating goodwill for impairment we must determine the reporting units that exist within Exelixis. We have determined that we have one reporting unit, which is consistent with our sole operating segment as of June 30, 2013 and December 31, 2012.

Revenue Recognition

We recognize revenue from the sale of COMETRIQ and from license fees and milestones earned on research and collaboration arrangements. See “Note 1 - Organization and Summary of Significant Accounting Policies” to our Consolidated Financial Statements included in our Annual Report on Form 10-K for the year ended December 31, 2012 for a description of our policies for revenue recognition on research and collaboration agreements. We did not enter into any new collaboration agreements during the three and six months ended June 30, 2013. See “Note 2 - Research and Collaboration Agreements” to our Consolidated Financial Statements included in our Annual Report on Form 10-K for the year ended December 31, 2012 for a description of our existing collaboration agreements.

Net Product Revenues

We recognize revenue when it is both realized or realizable and earned, meaning persuasive evidence of an arrangement exists, delivery has occurred, title has transferred, the price is fixed or determinable, there are no remaining customer acceptance requirements, and collectability of the resulting receivable is reasonably assured. For product sales in the United States, this generally occurs upon shipment of the product to the patient. For product sales in Europe, this occurs when our distribution partner, Sobi, has accepted the product.

We sell our product, COMETRIQ, in the United States to a specialty pharmacy that benefits from customer incentives and has a right of return. We have a limited sales history and cannot reliably estimate expected returns of the product nor the discounts and rebates due to payors at the time of shipment to the specialty pharmacy. Accordingly, upon shipment to the specialty pharmacy, we record deferred revenue on our Consolidated Balance Sheets. We recognize revenue

when the specialty pharmacy provides the product to a patient based on the fulfillment of a prescription. We record revenue using an analysis of prescription data from our specialty pharmacy to ascertain the date of shipment and the payor mix. This approach is frequently referred to as the “sell-through” revenue recognition model. Once the prescription has been provided to the patient, it is not subject to return unless the product is damaged. Product sales to Sobi are not subject to customer incentives, rights of return or discounts and allowances. We record revenue at the time Sobi has accepted the product, a method also known as the “sell-in” revenue recognition model.

Product Sales Discounts and Allowances

We calculate gross product revenues based on the price that we charge our United States specialty pharmacy and our European distribution partner, Sobi. We estimate our net product revenues by deducting from our gross product revenues (a) trade allowances, such as discounts for prompt payment, (b) estimated government rebates and chargebacks, and (c) estimated costs of patient assistance programs. We initially record estimates for these deductions at the time we recognize the gross revenue. We update our estimates on a recurring basis as new information becomes available. These discounts and allowances apply only to gross product revenues earned in the United States.

Customer Credits: The United States specialty pharmacy receives a discount of 2% for prompt payment. We expect this specialty pharmacy will earn 100% of its prompt payment discounts and, therefore, we deduct the full amount of these discounts from total product sales when revenues are recognized.

Mandated Rebates: Allowances for rebates include mandated discounts under the Medicaid Drug Rebate Program. Rebate amounts owed after the final dispensing of the product to a benefit plan participant are based upon contractual agreements or legal requirements with public sector benefit providers, such as Medicaid. The allowance for rebates is based on statutory discount rates and expected utilization. Our estimates for the expected utilization of rebates are based on customer and payor data received from the United States specialty pharmacy. Rebates are generally invoiced by the payor and paid in arrears, such that the accrual balance consists of an estimate of the amount expected to be incurred for the current quarter’s shipments to patients, plus an accrual balance for known prior quarter’s unpaid rebates. If actual future rebates vary from estimates, we may need to adjust our accruals, which would affect net revenue in the period of adjustment.

Chargebacks: Chargebacks are discounts that occur when contracted customers purchase directly from a specialty pharmacy. Contracted customers, which currently consist primarily of Public Health Service institutions, non-profit clinics, and Federal government entities purchasing via the Federal Supply Schedule, generally purchase the product at a discounted price. The United States specialty pharmacy, in turn, charges back to us the difference between the price initially paid by the specialty pharmacy and the discounted price paid to the specialty pharmacy by the customer. The allowance for chargebacks is based on sales to contracted customers.

Medicare Part D Coverage Gap: In the United States, the Medicare Part D prescription drug benefit mandates manufacturers to fund 50% of the Medicare Part D insurance coverage gap for prescription drugs sold to eligible patients. Our estimates for expected Medicare Part D coverage gap are based in part on third party market research data and on customer and payor, data received from the United States specialty pharmacy. Funding of the coverage gap is invoiced and paid in arrears so that the accrual balance consists of an estimate of the amount expected to be incurred for the current quarter's shipments to patients, plus an accrual balance for prior sales. If actual future funding varies from estimates, we may need to adjust our accruals, which would affect net revenue in the period of adjustment.

Co-payment Assistance: Patients who have commercial insurance and meet certain eligibility requirements may receive co-payment assistance. We accrue a liability for co-payment assistance based on actual program participation and estimates of program redemption using customer data provided by our United States specialty pharmacy.

Patient Assistance Program

We provide COMETRIQ at no cost to eligible patients who have no insurance or are otherwise unable to pay for our product through our Patient Assistance Program (“PAP”). We record the cost of the product as a selling, general and administrative expense at the time the product is designated as PAP inventory.

Cost of Goods Sold

Cost of goods sold is related to our product revenues and consists primarily of indirect labor costs, a 3% royalty we are required to pay GlaxoSmithKline and direct logistics costs. A significant portion of the manufacturing costs for current product sales were incurred prior to regulatory approval of COMETRIQ for the treatment of progressive, metastatic MTC and, therefore, are expensed as research and development costs as incurred, rather than capitalized as inventory.

In accordance with our 2002 collaboration agreement with GlaxoSmithKline, we are required to pay GlaxoSmithKline a 3% royalty on the Net Sales of any product incorporating cabozantinib, including COMETRIQ. Net Sales is defined in the collaboration agreement generally as the gross invoiced sales price less customer credits, rebates, chargebacks, shipping costs, customs duties, and sales tax and other similar tax payments we are required to make.

Recently Adopted Accounting Pronouncements

In February 2013, Accounting Standards Codification Topic 220, *Comprehensive Income* was amended to require additional information about amounts reclassified out of accumulated other comprehensive income. We adopted this guidance beginning January 1, 2013, and will provide the additional information when such reclassifications occur. The amendment did not have a material effect on our consolidated financial statements.

NOTE 2: RESTRUCTURINGS

In May 2013, we implemented the last of a series of five restructurings which commenced in March 2010 (referred to as the “Restructurings”) as a consequence of our decision to focus our proprietary resources and development efforts on the development and commercialization of cabozantinib and strategy to manage costs. The restructuring implemented in May 2013 related to the termination of drug discovery personnel following the completion of our obligations under our ROR collaboration agreement with Bristol-Myers Squibb. The aggregate reduction in headcount from the Restructurings was 429 employees. Charges and credits related to the Restructurings were recorded in periods other than those in which the Restructurings were implemented as a result of sublease activities for our buildings in South San Francisco, California, changes in assumptions regarding anticipated sublease activities, the effect of the passage of time on our discounted cash flow computations, previously planned employee terminations, and sales of excess equipment and other assets.

We have recorded aggregate restructuring charges of $52.8 million in connection with the Restructurings, of which $21.5 million related to termination benefits, $29.0 million related to facility charges, $2.2 million net related to the impairment of excess equipment and other assets, and $0.1 million related to legal and other fees. Asset impairment charges, net were partially offset by cash proceeds of $2.6 million from the sale of such assets.

For the six months ended June 30, 2013 and 2012, we recorded restructuring charges of $0.7 million and $1.0 million, respectively, which related to termination benefits and facility charges in connection with the exit of portions of three of our buildings in South San Francisco.

The total outstanding restructuring liability related to the Restructurings is included in current and long-term portion of restructuring on our Consolidated Balance Sheets. The components and changes of these liabilities during the six months ended June 30, 2013 and for the period from inception of the restructuring activities through the year ended December 31, 2012 are summarized in the following table (in thousands):

	Employee Severance And Other Benefits	Facility Charges	Asset Impairment	Legal and Other Fees	Total
Restructuring (credit) charge	$ 17,677	$ 11,814	$ 3,173	$ 80	$ 32,744
Cash payments	(10,528)	(3,739)	—	(10)	(14,277)
Adjustments or non-cash credits	(1,626)	613	(3,341)	—	(4,354)
Proceeds from sale of assets	—	—	168	—	168
Restructuring liability as of December 31, 2010	5,523	8,688	—	70	14,281
Restructuring (credit) charge	2,566	8,480	(907)	(3)	10,136
Cash payments	(7,366)	(3,469)	—	(16)	(10,851)
Adjustments or non-cash credits	(717)	222	(619)	—	(1,114)
Proceeds from sale of assets	—	—	1,526	—	1,526
Restructuring liability as of December 31, 2011	6	13,921	—	51	13,978
Restructuring (credit) charge	970	8,276	(47)	(28)	9,171
Cash payments	(965)	(5,299)	—	(3)	(6,267)
Adjustments or non-cash credits including stock compensation expense	(11)	2,304	(891)	—	1,402
Proceeds from sale of assets	—	—	938	—	938
Restructuring liability as of December 31, 2012	—	19,202	—	20	19,222
Restructuring charge	263	465	—	—	728
Cash payments	—	(3,955)	—	—	(3,955)
Adjustments or non-cash credits	(49)	(73)	—	—	(122)
Restructuring liability as of June 30, 2013	$ 214	$ 15,639	$ —	$ 20	$ 15,873

We expect to pay accrued facility charges of $15.6 million, net of cash received from our subtenants, through 2017, or the end of our lease terms of the buildings. With respect to our Restructurings, we expect to incur additional restructuring charges of approximately $2.5 million, of which approximately $0.3 million relate to termination benefits. with the balance relating to the exit of certain of our South San Francisco buildings. These charges will be recorded through the end the building lease terms, the latest of which ends in 2017.

The Restructurings have resulted in aggregate cash expenditures of $32.7 million, net of sublease income and net of $2.6 million in cash received in connection with the sale of excess equipment and other assets. Net cash expenditures for the Restructurings were $1.5 million and $1.3 million during the three months ended June 30, 2013, and 2012, respectively and $4.0 million and $2.3 million during the six months ended June 30, 2013 and 2012, respectively.

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

NOTE 3. CASH AND INVESTMENTS

The following table summarizes cash and cash equivalents, investments, and restricted cash and investments by balance sheet line item as of June 30, 2013 and December 31, 2012 (in thousands):

	June 30, 2013			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
As reported:				
Cash and cash equivalents	$ 131,773	$ 1	$ —	$ 131,774
Short-term investments	220,254	62	(118)	220,198
Short-term restricted cash and investments	12,193	21	—	12,214
Long-term investments	138,400	7	(282)	138,125
Long-term restricted cash and investments	21,910	46	—	21,956
Total cash and investments	$ 524,530	$ 137	$ (400)	$ 524,267

	December 31, 2012			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
As reported:				
Cash and cash equivalents	$ 170,070	$ —	$ (1)	$ 170,069
Short-term investments	241,391	46	(66)	241,371
Short-term restricted cash and investments	12,242	4	—	12,246
Long-term investments	182,407	28	(124)	182,311
Long-term restricted cash and investments	27,943	21	—	27,964
Total cash and investments	$ 634,053	$ 99	$ (191)	$ 633,961

Under our loan and security agreement with Silicon Valley Bank, we are required to maintain compensating balances on deposit in one or more investment accounts with Silicon Valley Bank and certain other designated financial institutions. The total collateral balances as of June 30, 2013 and December 31, 2012 were $85.4 million and $87.0 million, respectively, and are reflected in our Consolidated Balance Sheets in short- and long-term investments. See “Note 7 - Debt” to our Consolidated Financial Statements included in our Annual Report on Form 10-K for the year ended December 31, 2012, for more information regarding the collateral balance requirements under our Silicon Valley Bank loan and security agreement.

All of our cash equivalents and investments are classified as available-for-sale. The following table summarizes our cash equivalents and investments by security type as of June 30, 2013 and December 31, 2012 (in thousands):

	June 30, 2013			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Cash and money market funds	$ 62,054	$ —	$ —	$ 62,054
Commercial paper	87,217	—	(2)	87,215
Corporate bonds	273,748	42	(396)	273,394
U.S. Treasury and government sponsored enterprises	89,493	94	—	89,587
Municipal bonds	12,018	1	(2)	12,017
Total cash and investments	$ 524,530	$ 137	$ (400)	$ 524,267

	December 31, 2012			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Cash and money market funds	$ 81,744	$ 2	$ —	$ 81,746
Commercial paper	167,223	8	—	167,231
Corporate bonds	222,106	30	(187)	221,949
U.S. Treasury and government sponsored enterprises	132,933	59	(1)	132,991
Municipal bonds	30,047	—	(3)	30,044
Total cash and investments	$ 634,053	$ 99	$ (191)	$ 633,961

All of our investments are subject to a quarterly impairment review. During the three and six months ended June 30, 2013 and 2012, we did not record any other-than-temporary impairment charges on our available-for-sale securities. As of June 30, 2013, the fair value of investments that were in an unrealized loss position was $223.3 million, including $215.2 million in corporate bonds. There were 104 investments in an unrealized loss position as of June 30, 2013. All investments in an unrealized loss position have been so for less than one year and the unrealized losses were not attributed to credit risk, but rather associated with the changes in interest rates. Based on the scheduled maturities of our investments, we concluded that the unrealized losses in our investment securities are not other-than-temporary, as it is more likely than not that we will hold these investments for a period of time sufficient for a recovery of our cost basis.

The following summarizes the fair value of securities classified as available-for-sale by contractual maturity as of June 30, 2013 (in thousands):

	Mature within One Year	After One Year through Two Years	Fair Value
Money market funds	$ 58,934	$ —	$ 58,934
Commercial paper	87,215	—	87,215
Corporate bonds	176,441	96,953	273,394
U.S. Treasury and government sponsored enterprises	71,357	18,230	89,587
Municipal bonds	12,017	—	12,017
Total	$ 405,964	$ 115,183	$ 521,147

The classification of certain compensating balances and restricted investments are dependent upon the term of the underlying restriction on the asset and not the maturity date of the investment. Therefore, certain long-term investments and long-term restricted cash and investments have contractual maturities within one year.

During the three and six months ended June 30, 2013 and 2012, there were no sales of investments, and therefore there were no reclassification adjustments of accumulated other comprehensive income to net income resulting from realized gains or losses on the sale of securities.

NOTE 4. INVENTORY

Inventory consists of the following (in thousands):

	June 30, 2013	December 31, 2012
Raw materials	$ 75	$ —
Work in process	537	—
Finished goods	69	—
Total	$ 681	$ —

We received regulatory approval for our first product, COMETRIQ, on November 29, 2012. As of December 31, 2012, our recorded inventory balance was $0 as we did not incur any costs that would be recorded as inventory subsequent to the receipt of regulatory approval and prior to year end.

NOTE 5. DEBT

The amortized carrying amount of our debt consists of the following (in thousands):

	June 30, 2013	December 31, 2012
Convertible Senior Subordinated Notes due 2019	$ 157,357	$ 149,800
Secured Convertible Notes due 2015	95,102	100,676
Silicon Valley Bank term loan	80,000	80,000
Silicon Valley Bank line of credit	3,678	5,260
Total debt	336,137	335,736
Less: current portion	(12,546)	(13,170)
Long-term debt	$ 323,591	$ 322,566

See “Note 7 - Debt” to our Consolidated Financial Statements included in our Annual Report on Form 10-K for the year ended December 31, 2012, for additional information on the terms of our debt, including a description of the conversion features of the of 4.25% convertible senior subordinated notes due 2019 (the “2019 Notes”) and our Secured Convertible Notes due June 2015 (the “Deerfield Notes”).

Convertible Senior Subordinated Notes due 2019

In August 2012, we issued and sold $287.5 million aggregate principal amount the 2019 Notes. As of June 30, 2013, the entire principal balance remains outstanding. The following is a summary of the liability component of the 2019 Notes as of June 30, 2013 (in thousands):

	June 30, 2013
Net carrying amount of the liability component	$ 157,357
Unamortized discount of the liability component	130,143
Face amount of the 2019 Notes	$ 287,500

The debt discount and debt issuance costs will be amortized as interest expense through August 2019. During the three and six months ended June 30, 2013, total interest expense for the 2019 Notes was $7.1 million, and $14.0 million, respectively, including stated coupon interest of $3.1 million and $6.1 million, respectively, and the amortization of the debt discount and debt issuance costs of $4.0 million and $7.9 million, respectively. The balance of unamortized fees and costs was $4.3 million and $4.7 million as of June 30, 2013, and December 31, 2012, respectively, which is recorded in the accompanying Consolidated Balance Sheet as Other assets.

Secured Convertible Notes due June 2015

In June 2010, we entered into a note purchase agreement with entities affiliated with Deerfield Management Company, L.P. (“Deerfield”), pursuant to which, on July 1, 2010, we sold to Deerfield an aggregate of $124.0 million initial principal amount of the Deerfield Notes. As of June 30, 2013, and December 31, 2012, the remaining outstanding principal balance on the Deerfield Notes was $114.0 million and $124.0 million, respectively. During the three and six months ended June 30, 2013, total interest expense for the Deerfield Notes was $4.0 million and $7.9 million, respectively, and during the same periods in 2012, $3.9 million and $7.7 million, respectively, including the stated coupon rate and the amortization of the debt discount and debt issuance costs. The non-cash expense relating to the amortization of the debt discount and debt issuance costs were $2.5 million and $4.9 million during the three and six months ended June 30, 2013, respectively, and $2.4 million and $4.7 million, during the three and six months ended June 30, 2012, respectively. The balance of unamortized fees and costs was $1.8 million and $2.3 million as of June 30, 2013, and December 31, 2012, respectively, which is recorded in the accompanying Consolidated Balance Sheet as Other assets.

NOTE 6. FAIR VALUE MEASUREMENTS

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

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

Level 2 – observable inputs other than quoted prices in active markets for identical assets and liabilities. These inputs include using prices from independent pricing services based on quoted prices in active markets for similar instruments or on industry models using data inputs, such as interest rates and prices that can be directly observed or corroborated in active markets.

Level 3—unobservable inputs.

A review of the fair value hierarchy classification is conducted on a quarterly basis. Changes in the observability of valuation inputs may result in a reclassification of levels for certain investments within the fair value hierarchy. There were no transfers between any of the fair value hierarchies, as determined at the end of each reporting period.

The following table sets forth the fair value of our financial assets that were measured and recorded on a recurring basis as of June 30, 2013 and December 31, 2012. We did not have any Level 3 investments during the periods presented. The amounts presented exclude cash, but include investments classified as cash equivalents (in thousands):

	June 30, 2013		
	Level 1	Level 2	Total
Money market funds	$ 58,934	$ —	$ 58,934
Commercial paper	2,997	84,218	87,215
Corporate bonds	7,013	266,381	273,394
U.S. Treasury and government sponsored enterprises	30,444	59,143	89,587
Municipal bonds	—	12,017	12,017
Total	$ 99,388	$ 421,759	$ 521,147

	December 31, 2012		
	Level 1	Level 2	Total
Money market funds	$ 76,050	$ —	$ 76,050
Commercial paper	—	167,231	167,231
Corporate bonds	—	221,949	221,949
U.S. Treasury and government sponsored enterprises	—	132,991	132,991
Municipal bonds	—	30,044	30,044
Total	$ 76,050	$ 552,215	$ 628,265

The estimated fair values of our financial instruments that are carried at amortized cost for which it is practicable to determine a fair value were as follows (in thousands):

	June 30, 2013		December 31, 2012	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Convertible Senior Subordinated Notes due 2019	$ 157,357	$ 279,939	$ 149,800	$ 280,111
Silicon Valley Bank term loan	$ 80,000	$ 79,767	$ 80,000	$ 79,542
Silicon Valley Bank Line of Credit	$ 3,678	$ 3,676	$ 5,260	$ 5,253

There is no practicable method to determine the fair value of the Deerfield Notes due to the unique structure of the instrument that was financed by entities affiliated with Deerfield and the current non-liquid market in structured notes. The carrying amounts of cash, trade and other receivables, accounts payable and accrued clinical trial liabilities approximate their fair values and are excluded from the tables above.

The following methods and assumptions were used to estimate the fair value of each class of financial instrument for which it is practicable to estimate a value:

- When available, we value investments based on quoted prices for those financial instruments, which is a Level 1 input. Our remaining investments are valued using third-party pricing sources, which use observable market prices, interest rates and yield curves observable at commonly quoted intervals of similar assets as observable inputs for pricing, which is a Level 2 input.
- 2019 Notes are valued using a third-party pricing model that is based in part on average trading prices, which is a Level 2 input. The 2019 Notes are not marked-to-market and are shown at their initial fair value less the unamortized discount; the portion of the value allocated to the conversion option is included in Stockholders' equity in the accompanying Consolidated Balance Sheets.
- We have estimated the fair value of our other debt instruments, where possible, using the net present value of the payments discounted at an interest rate that is consistent with money-market rates that would have been earned on our non-interest-bearing compensating balances, which is a Level 2 input.

NOTE 7. STOCK-BASED COMPENSATION

We recorded and allocated employee stock-based compensation expenses for our equity incentive plans and our 2000 Employee Stock Option Plan ("ESPP") as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Research and development expense	$ 1,553	$ 1,025	$ 2,960	$ 2,232
Selling, general and administrative expense	1,370	950	2,638	2,047
Total employee stock-based compensation expense	$ 2,923	$ 1,975	$ 5,598	$ 4,279

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

	Stock Options			
	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Weighted average grant-date fair value	$ 2.56	$ 2.68	$ 2.52	$ 2.75
Risk-free interest rate	0.98%	1.00%	0.92%	1.00%
Dividend yield	—%	—%	—%	—%
Volatility	62%	65%	62%	65%
Expected life	5.6 years	6.0 years	5.5 years	5.8 years

	Employee Stock Purchase Plan			
	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Weighted average grant-date fair value	$ 1.65	$ 1.58	$ 1.63	$ 2.34
Risk-free interest rate	0.12%	0.16%	0.13%	0.08%
Dividend yield	—%	—%	—%	—%
Volatility	67%	68%	67%	68%
Expected life	0.5 years	0.5 years	0.5 years	0.5 years

755,792 of the stock options outstanding as of June 30, 2013, were granted subject to performance objectives tied to the achievement of clinical goals set by the Compensation Committee of our Board of Directors and will vest in full or part based on achievement of such goals. As of June 30, 2013, we expect that achievement of those performance objectives is probable.

A summary of all stock option activity for the six months ended June 30, 2013 is presented below (dollars in thousands, except per share amounts):

	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Options outstanding at December 31, 2012	18,448,550	$ 6.85		
Granted	851,130	$ 4.65		
Exercised	(3,884)	$ 4.42		
Forfeited	(586,964)	$ 6.47		
Options outstanding at June 30, 2013	18,708,832	$ 6.76	4.35	$ 108
Exercisable at June 30, 2013	13,175,393	$ 7.31	3.63	$ 94

As of June 30, 2013, $13.6 million of total unrecognized compensation expense related to employee stock options was expected to be recognized over a weighted-average period of 2.64 years.

A summary of all restricted stock unit (“RSU”) activity for the six months ended June 30, 2013 is presented below (dollars in thousands, except per share amounts):

	Shares	Weighted Average Grant Date Fair Value	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Awards outstanding at December 31, 2012	1,294,621	$ 6.07		
Awarded	87,710	$ 4.74		
Released	(153,747)	$ 7.34		
Forfeited	(15,208)	$ 5.74		
Awards outstanding at June 30, 2013	1,213,376	$ 5.82	1.55	$ 5,509

As of June 30, 2013, $4.9 million of total unrecognized compensation expense related to employee RSUs was expected to be recognized over a weighted-average period of 2.73 years.

NOTE 8. NET LOSS PER SHARE

The following table sets forth a reconciliation of basic and diluted net loss per share (in thousands, except per share amounts):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Numerator:				
Net loss	$ (62,161)	$ (36,487)	$ (106,890)	$ (62,638)
Denominator:				
Shares used in computing basic and diluted net loss per share	183,981	148,654	183,861	145,297
Net loss per share, basic and diluted	$ (0.34)	$ (0.25)	$ (0.58)	$ (0.43)

Diluted loss income per share gives effect to potential incremental common shares issuable upon the exercise of stock options and warrants, upon vesting of RSUs, upon the purchase from contributions to our ESPP (all calculated based on the treasury stock method), and upon conversion of our convertible debt (calculated using the if-converted method) and the effect is not anti-dilutive. The following table sets forth potential shares of common stock that are not included in the computation of diluted net loss per share because, to do so would be anti-dilutive (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Convertible debt	54,123	—	54,123	—
Outstanding stock options, unvested RSUs and ESPP contributions	18,147	17,477	18,007	16,226
Warrants	1,441	1,441	1,441	1,441
Total potentially dilutive shares	73,711	18,918	73,571	17,667

NOTE 9. CONTINGENCIES

Pending Litigation

From time to time, we are party to legal proceedings, claims and investigations in the ordinary course of business, including the matter described below.

In December 2012, a former officer filed a lawsuit against us and our chief executive officer in California state court seeking unspecified monetary damages based on contract and tort claims in connection with the former officer's execution and revocation of a Rule 10b5-1 stock trading plan in December 2010. We intend to defend this claim vigorously. This matter is at a early stage, and we are unable to reasonably estimate the possible loss or range of loss, if any.

NOTE 10. CONCENTRATIONS OF CREDIT RISK

Financial instruments that potentially subject us to concentrations of credit risk are primarily trade and other receivables and investments. Investments consist of money market funds, taxable commercial paper, corporate bonds with high credit quality, U.S. government agency obligations and U.S. government sponsored enterprises. All investments are maintained with financial institutions that management believes are creditworthy.

Trade and other receivables are unsecured and are concentrated in the pharmaceutical and biotechnology industries. Accordingly, we may be exposed to credit risk generally associated with pharmaceutical and biotechnology companies. We have incurred no bad debt expense since inception. Currently, 71% of our trade receivables are with the United States specialty pharmacy that sells COMETRIQ.

The following table sets forth the percentage of revenues recognized under our collaboration agreements and product sales to the specialty pharmacy that represent 10% or more of total revenues during the six months ending June 30, 2013 and 2012:

	Six Months Ended June 30,	
	2013	2012
Collaborator:		
Bristol-Myers Squibb	73%	59%
Merck	—%	41%
Pharmacy:		
Diplomat Specialty Pharmacy	26%	—%

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 Exelixis, Inc.'s ("Exelixis," "we," "our" or "us") 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," "focus," "objective," "will," "may," "could," "would," "estimate," "potential," "continue," "encouraging," " or the negative of such terms or other similar expressions identify forward-looking statements. Our actual results and the timing of events may differ significantly from the results discussed in the forward-looking statements. Factors that might cause such a difference include those discussed in Part II, Item 1A of this Form 10-Q, as well as those discussed elsewhere in this report.

This discussion and analysis should be read in conjunction with our financial statements and accompanying notes included in this report and the financial statements and accompanying notes thereto included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2012, filed with the Securities and Exchange Commission, or SEC, on February 21, 2013. 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

We are a biotechnology company committed to developing small molecule therapies for the treatment of cancer. We are focusing our proprietary resources and development and commercialization efforts exclusively on COMETRIQ® (cabozantinib), our wholly-owned inhibitor of multiple receptor tyrosine kinases. On November 29, 2012, the U.S. Food and Drug Administration, or FDA, approved COMETRIQ for the treatment of progressive, metastatic medullary thyroid cancer, or MTC, in the United States, where it became commercially available in late January 2013. We have also submitted a Marketing Authorization Application, or MAA, for cabozantinib for the proposed indication of treatment of progressive, unresectable, locally advanced MTC to the European Medicines Agency, or EMA, that was accepted for review in November 2012. Cabozantinib is being evaluated in a variety of other cancer indications through a broad development program, including two ongoing phase 3 pivotal trials in metastatic castration-resistant prostate cancer, or CRPC, a phase 3 pivotal trial in metastatic renal cell cancer, or RCC, and an additional phase 3 pivotal trial in metastatic hepatocellular cancer, or HCC, that we plan to initiate later in 2013. We believe COMETRIQ has the potential to be a high-quality, broadly-active and differentiated anti-cancer agent that can make a meaningful difference in the lives of patients. Our objective is to develop COMETRIQ into a major oncology franchise, and we believe that the approval of COMETRIQ for the treatment of progressive, metastatic MTC provides us with the opportunity to establish a commercial presence in furtherance of this objective.

We have also established a portfolio of other novel compounds that we believe have the potential to address serious unmet medical needs. Many of these compounds are being developed by partners as part of collaborations, at no cost to us but with significant retained economics to us in the event these compounds are commercialized. As disclosed on ClinicalTrials.gov (NCT01689519), a phase 3 clinical trial for one of these compounds, cobimetinib (GDC-0973/XL518), which we out-licensed to Genentech, Inc. (a wholly- owned member of the Roche Group), or Genentech, was initiated on November 1, 2012.

Our Strategy

We believe that the available clinical data demonstrate that COMETRIQ has the potential to be a broadly active anti-cancer agent, and our objective is to build COMETRIQ into a major oncology franchise. The initial regulatory approval of COMETRIQ to treat progressive, metastatic MTC provides a niche market opportunity that allows us to gain commercialization experience at relatively low cost while providing a solid foundation for potential expansion into larger cancer indications.

We intend to advance cabozantinib through an extensive development program exploring multiple cancer indications including, but not limited to, prostate, hepatocellular, renal, breast and non-small-cell-lung cancers. We intend to focus our internal efforts on cancers for which we believe cabozantinib has significant therapeutic and commercial potential in the near term, while utilizing our Cooperative Research and Development Agreement, or CRADA, with the National Cancer Institute's Cancer Therapy Evaluation Program, or NCI-CTEP, and investigator sponsored trials, or ISTs, to generate additional data to allow us to prioritize future late stage trials in a cost-effective fashion. We believe that this staged approach to building value represents the most rational and effective use of our personnel and financial resources.

Collaborations

We have established collaborations with leading pharmaceutical and biotechnology companies, including Bristol-Myers Squibb Company, or Bristol-Myers Squibb, Sanofi, Genentech, GlaxoSmithKline, Merck (known as MSD outside of the United States and Canada) and Daiichi Sankyo Company Limited, or Daiichi Sankyo, for various compounds and programs in our portfolio. Pursuant to these collaborations, we have out-licensed compounds or programs to a partner for further development and commercialization, have no further development cost obligations related to such compounds or programs and may be entitled to receive milestones and royalties or a share of profits from commercialization. As disclosed on ClinicalTrials.gov (NCT01689519), a phase 3 clinical trial for one of these compounds, cobimetinib (GDC-0973/XL518), which we out-licensed to Genentech, was initiated on November 1, 2012. In addition, several other out-licensed compounds are in multiple phase 2 studies. These partnered compounds potentially could be of significant value to us if their development progresses successfully.

With respect to our partnered compounds, we are eligible to receive potential milestone payments under our collaborations totaling approximately $2.4 billion in the aggregate on a non-risk adjusted basis, of which 10% are related to clinical development milestones, 41% are related to regulatory milestones and 49% are related to commercial milestones.

Business Highlights for the Three Months Ended June 30, 2013 and Recent Developments

Initiation of Phase 3 Pivotal Trial of Cabozantinib in Patients with Metastatic Renal Cell Carcinoma

In May 2013, we initiated METEOR (Metastatic RCC Phase 3 Study Evaluating Cabozantinib vs Everolimus), a phase 3 pivotal trial comparing cabozantinib to everolimus in patients with metastatic RCC who have experienced disease progression following treatment with at least one prior VEGFR tyrosine kinase inhibitor, or TKI. Patients will be stratified based on the number of prior VEGFR-TKI therapies received and commonly applied RCC risk criteria. Patients will be randomized 1:1 to receive 60 mg of cabozantinib daily or 10 mg of everolimus daily and no cross-over will be allowed between the study arms. The primary endpoint for METEOR is progression-free survival.

Data Presented at the 2013 Annual Meeting of the American Society of Clinical Oncology

In June 2013, clinical data from cabozantinib was the subject of nine separate data presentations at the 2013 Annual Meeting of the American Society of Clinical Oncology, including, among others, poster and oral presentations of additional data from clinical trials of COMETRIQ in patients with progressive, metastatic MTC, and a poster presentation of updated interim data from a phase 2 trial of cabozantinib in patients with metastatic CRPC.

COMETRIQ Clinical Trial Data in Patients with Progressive, Metastatic MTC

Data from a long-term follow-up of a phase 1 trial of COMETRIQ in patients with advanced MTC demonstrated that 30% of patients treated with COMETRIQ experienced disease control and remained progression-free for more than 2 years. We believe these data provide important insight into the clinical utility of COMETRIQ in patients with progressive, metastatic MTC.

Data assessing RET and RAS mutations from the phase 3 pivotal trial of COMETRIQ in patients with progressive, metastatic MTC, known as EXAM (Efficacy of XL184 (Cabozantinib) in Advanced Medullary Thyroid Cancer), showed improvement in progression-free survival with COMETRIQ treatment compared to placebo in all genetically defined subgroups, with a greater effect on progression-free survival in the RET mutation-positive and RET mutation-unknown subgroups. We believe the analysis of clinical benefit from COMETRIQ for the treatment of progressive, metastatic MTC in patients with RET and RAS gene mutations provides additional support for investigating the activity of COMETRIQ in other tumor types with alterations in these genes.

Updated Phase 2 Data for Cabozantinib in Patients with Metastatic CRPC

Updated interim data from docetaxel-pretreated patients with metastatic CRPC and bone metastases treated with cabozantinib in an ongoing non-randomized cohort of a phase 2 randomized discontinuation trial, or RDT, showed a median overall survival of 10.8 months. A retrospective analysis of the interim data also showed that early responses in bone scan, circulating tumor cell levels and pain were associated with longer median overall survival as compared to non-responders. We believe that these findings, particularly the bone scan response results, support the rationale for potential future prospective validation of the association of bone scan response with overall survival in our ongoing phase 3 COMET (CabOzantinib MET Inhibition CRPC Efficacy Trial) trials in metastatic CRPC.

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

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

Limited Sources of Revenues

COMETRIQ was approved by the FDA for the treatment of progressive, metastatic MTC in the United States on November 29, 2012. We commercially launched COMETRIQ in late January 2013. We currently estimate that there are between 500 and 700 first- and second-line metastatic MTC patients diagnosed each year in the United States who will be eligible for COMETRIQ, and as a result we only expect to generate limited revenues from the sale of COMETRIQ in the near term. Prior to the approval of COMETRIQ, we had no pharmaceutical product that had received marketing approval, and from the commercial launch through June 30, 2013, we generated $5.9 million in net revenues from the sale of COMETRIQ. We have derived substantially all of our revenues to date from collaborative research and development agreements. Revenues from research and development collaborations depend upon continuation of the collaborations, research funding, the achievement of milestones, and royalties we earn from any future products developed from the collaborative research. We anticipate only limited revenues from our collaborative research and development agreements in 2013.

Clinical Development of Cabozantinib

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

Liquidity

As of June 30, 2013, we had $524.3 million in cash and investments, which included short- and long-term restricted cash and investments of $12.2 million and $22.0 million, respectively, and short- and long-term unrestricted investments of $220.2 million and $138.1 million, respectively. We are required to maintain on deposit with Silicon Valley Bank or one of its affiliates short- and long-term unrestricted investments of $2.6 million and $82.8 million, respectively, pursuant to covenants in our loan and security agreement with Silicon Valley Bank. We anticipate that our current cash and cash equivalents, short- and long-term investments and product revenues will enable us to maintain our operations for a period of at least 12 months following the end of the second quarter of 2013. However, our future capital requirements will be substantial, and we may need to raise additional capital in the future. Our capital requirements will depend on many factors, and we may need to use available capital resources and raise additional capital significantly earlier than we currently anticipate.

Our minimum liquidity needs are also determined by financial covenants in our loan and security agreement with Silicon Valley Bank as well as other factors, which are described under “– Liquidity and Capital Resources – Cash Requirements.”

Our ability to raise additional funds may be severely impaired if cabozantinib fails to show adequate safety or efficacy in clinical testing.

Convertible Senior Subordinated Notes

On August 14, 2012, we issued and sold $287.5 million aggregate principal amount of the 4.25% convertible senior subordinated notes due 2019, or the 2019 Notes, for net proceeds of $277.7 million. The 2019 Notes mature on August 15, 2019, unless earlier converted, redeemed or repurchased and bear interest at a rate of 4.25% per annum, payable semi-annually in arrears on February 15 and August 15 of each year, beginning February 15, 2013. Subject to certain terms and conditions, at any time on or after August 15, 2016, we may redeem for cash all or a portion of the 2019 Notes. The redemption price will equal 100% of the principal amount of the 2019 Notes to be redeemed plus accrued and unpaid interest, if any, to, but excluding, the redemption date. Upon the occurrence of certain circumstances, holders may convert their 2019 Notes prior to the close of business on the business day immediately preceding May 15, 2019. On or after May 15, 2019, until the close of

business on the second trading day immediately preceding August 15, 2019, holders may surrender their 2019 Notes for conversion at any time. Upon conversion, we will pay or deliver, as the case may be, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election. The initial conversion rate of 188.2353 shares of common stock per $1,000 principal amount of the 2019 Notes is equivalent to a conversion price of approximately $5.31 per share of common stock and is subject to adjustment in connection with certain events. If a "Fundamental Change" (as defined in the indenture governing the 2019 Notes) occurs, holders of the 2019 Notes may require us to purchase for cash all or any portion of their 2019 Notes at a purchase price equal to 100% of the principal amount of the Notes to be purchased plus accrued and unpaid interest, if any, to, but excluding, the Fundamental Change purchase date. In addition, if certain bankruptcy and insolvency-related events of defaults occur, the principal of, and accrued and unpaid interest on, all of the then outstanding notes shall automatically become due and payable. If an event of default other than certain bankruptcy and insolvency-related events of defaults occurs and is continuing, the Trustee by notice to us or the holders of at least 25% in principal amount of the outstanding 2019 Notes by notice to us and the Trustee, may declare the principal of, and accrued and unpaid interest on, all of the then outstanding 2019 Notes to be due and payable.

In connection with the offering of the 2019 Notes, $36.5 million of the proceeds were deposited into an escrow account which contains an amount of permitted securities sufficient to fund, when due, the total aggregate amount of the first six scheduled semi-annual interest payments on the 2019 Notes. $6.1 million in short-term restricted cash and investments held in the escrow account matured in February 2013 and we used the proceeds to pay the first scheduled semi-annual interest payment due at that time. The short- and long-term amounts held in the escrow account as of June 30, 2013 were $12.2 million and $18.2 million, and are included in short- and long-term restricted cash and investments, respectively. We have pledged our interest in the escrow account to the Trustee as security for our obligations under the 2019 Notes.

Deerfield Facility

On June 2, 2010, we entered into a note purchase agreement with entities affiliated with Deerfield Management Company, L.P., or Deerfield, pursuant to which, on July 1, 2010, we sold to Deerfield an aggregate of $124.0 million initial principal amount of our secured convertible notes due June 2015, or the Deerfield Notes, for an aggregate purchase price of $80.0 million, less closing fees and expenses of approximately $2.0 million. On August 6, 2012, the parties amended the note purchase agreement to permit the issuance of the 2019 Notes and modify certain optional prepayment rights. The amendment became effective upon the issuance of the 2019 Notes and the payment to Deerfield of a $1.5 million consent fee. The outstanding principal amount of the Deerfield Notes bears interest in the annual amount of $6.0 million, payable quarterly in arrears. In January 2013, we made a mandatory prepayment of $10.0 million on the Deerfield Notes. We will be required to make additional mandatory prepayments on the Deerfield Notes on an annual basis in 2014 and 2015 equal to 15% of specified payments from our collaborative arrangements received during the prior fiscal year, subject to a maximum annual prepayment amount of $27.5 million. There is a required minimum prepayment amount of $10.0 million due in January 2014. There is no minimum prepayment due in 2015. We may also prepay all or a portion (not less than $5.0 million) of the principal amount of the Deerfield Notes at an optional prepayment price based on a discounted principal amount (during the first three years of the term, subject to a prepayment premium) determined as of the date of prepayment, plus accrued and unpaid interest, plus in the case of a prepayment of the full principal amount of the Deerfield Notes (other than prepayments upon the occurrence of specified transactions relating to a change of control or a substantial sale of assets), all accrued interest that would have accrued between the date of such prepayment and the next anniversary of the note purchase agreement. In lieu of making any optional or mandatory prepayment in cash, subject to certain limitations (including a cap on the number of shares issuable under the note purchase agreement), we have the right to convert all or a portion of the principal amount of the Deerfield Notes into, or satisfy all or any portion of the optional prepayment amounts or mandatory prepayment amounts (other than the $10.0 million mandatory prepayment required in January 2014 and any optional prepayments made prior to July 3, 2013) with shares of our common stock. Additionally, in lieu of making any payment of accrued and unpaid interest in respect of the Deerfield Notes in cash, subject to certain limitations, we may elect to satisfy any such payment with shares of our common stock. The number of shares of our common stock issuable upon conversion or in settlement of principal and interest obligations will be based upon the discounted trading price of our common stock over a specified trading period. Upon certain changes of control of our company, a sale or transfer of assets in one transaction or a series of related transactions for a purchase price of more than $400 million or a sale or transfer of more than 50% of our assets, Deerfield may require us to prepay the notes at the optional prepayment price, plus accrued and unpaid interest and any other accrued and reimbursable expenses, or the Put Price. Upon an event of default, Deerfield may declare all or a portion of the Put Price to be immediately due and payable.

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

Loan Agreement with Silicon Valley Bank

On May 22, 2002, we entered into a loan and security agreement with Silicon Valley Bank for an equipment line of credit. On December 21, 2004, December 21, 2006 and December 21, 2007, we amended the loan and security agreement to provide for additional equipment lines of credit and on June 2, 2010, we further amended the loan and security agreement to provide for a new seven-year term loan in the amount of $80.0 million. As of June 30, 2013, the combined outstanding principal balance due under the lines of credit and term loan was $83.7 million, compared to $85.3 million as of December 31, 2012. The principal amount outstanding under the term loan accrues interest at 1.0% per annum, which interest is due and payable monthly. We are required to repay the term loan in one balloon principal payment, representing 100% of the principal balance and accrued and unpaid interest, on May 31, 2017. We are required to repay any advances under an equipment line of credit in 48 equal monthly payments of principal and interest. We have the option to prepay all, but not less than all, of the amounts advanced under the term loan, provided that we pay all unpaid accrued interest thereon that is due through the date of such prepayment and the interest on the entire principal balance of the term loan that would otherwise have been paid after such prepayment date until the maturity date of the term loan. We have the option to prepay without penalty any advance under an equipment line of credit other than advances under a single equipment line of credit, which has a 1.0% prepayment penalty, provided that we pay all unpaid accrued interest thereon that is due through the date of such prepayment. In accordance with the terms of the loan and security agreement, we are required to maintain an amount equal to at least 100%, but not to exceed 107%, of the outstanding principal balance of the term loan and all equipment lines of credit under the loan and security agreement on deposit in one or more investment accounts with Silicon Valley Bank and certain other designated financial institutions as support for our obligations under the loan and security agreement (although we are entitled to retain income earned or the amounts maintained in such accounts). Any amounts outstanding under the term loan during the continuance of an event of default under the loan and security agreement will, at the election of Silicon Valley Bank, bear interest at a per annum rate equal to 6.0%. If one or more events of default under the loan and security agreement occurs and continues beyond any applicable cure period, Silicon Valley Bank may declare all or part of the obligations under the loan and security agreement to be immediately due and payable and stop advancing money or extending credit to us under the loan and security agreement.

Restructurings

In May 2013, we implemented the last of a series of five restructurings which commenced in March 2010, which we refer to collectively as the Restructurings, as a consequence of our decision to focus our proprietary resources and development efforts on the development and commercialization of cabozantinib and our strategy to manage costs. The restructuring implemented in May 2013 related to the termination of drug discovery personnel following the completion of our obligations under our ROR collaboration agreement with Bristol-Myers Squibb. The aggregate reduction in headcount from the Restructurings is 429 employees. Charges and credits related to the Restructurings were recorded in periods other than those in which the Restructurings were implemented as a result of sublease activities for our buildings in South San Francisco, California, changes in assumptions regarding anticipated sublease activities, the effect of the passage of time on our discounted cash flow computations, previously planned employee terminations, and sales of excess equipment and other assets.

We have recorded aggregate restructuring charges of $52.8 million in connection with the Restructurings, of which $21.5 million related to termination benefits, $29.0 million related to facility charges, $2.2 million net related to the impairment of excess equipment and other assets, and $0.1 million related to legal and other fees. Asset impairment charges were partially offset by cash proceeds of $2.6 million from the sale of such assets.

For the six months ended June 30, 2013, and 2012, we recorded restructuring charges of $0.7 million and $1.0 million, respectively, which related to termination benefits and facility charges in connection with the exit of all or portions of three of our buildings in South San Francisco.

We expect to pay accrued facility charges of $15.6 million, net of cash received from our subtenants, through 2017, or the end of our lease terms of the buildings. With respect to our Restructurings, we expect to incur additional restructuring charges of $2.5 million, of which approximately $0.3 million relate to termination benefits. with the balance relating to the exit of certain of our South San Francisco buildings. These charges will be recorded through the end the building lease terms, the latest of which ends in 2017.

The Restructurings have resulted in aggregate cash expenditures of $32.7 million, net of sub-lease and net of $2.6 million in cash received in connection with the sale of excess equipment and other assets. Net cash expenditures for the Restructurings were $1.5 million and $1.3 million during the three months ended June 30, 2013, and 2012, respectively and $4.0 million and $2.3 million during the six months ended June 30, 2013, and 2012, respectively.

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

Critical Accounting Estimates

The preparation of the consolidated financial statements is in conformity with accounting principles generally accepted in the United States which require management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosures. On an ongoing basis, management evaluates its estimates including, but not limited to, those related to revenue recognition, clinical trial accruals, restructuring liability, inventory, cost of goods sold, stock option valuation and convertible debt valuation. We base our estimates on historical experience and on various other market-specific and other relevant assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Our senior management has discussed the development, selection and disclosure of these estimates with the Audit Committee of our Board of Directors. Actual results could differ materially from these estimates.

An accounting policy is considered to be critical if it requires an accounting estimate to be made based on assumptions about matters that are highly uncertain at the time the estimate is made, and if different estimates that reasonably could have been used, or changes in the accounting estimates that are reasonably likely to occur periodically, could materially impact the financial statements. We believe our critical accounting policies relating to revenue recognition, clinical trial accruals, restructuring liability, inventory, cost of goods sold, stock option valuation and convertible debt valuation reflect the more significant estimates and assumptions used in the preparation of our consolidated financial statements.

Other than the inclusion of inventory, revenue recognition on product sales, and cost of goods sold, there have been no significant changes in our critical accounting policies and estimates during the six months ended June 30, 2013, as compared to the critical accounting policies and estimates disclosed in “Management’s Discussion and Analysis of Financial Condition and Results of Operations” included in our Annual Report on Form 10-K for the year ended December 31, 2012.

Inventory

We consider regulatory approval of product candidates to be uncertain and product manufactured prior to regulatory approval may not be sold unless regulatory approval is obtained. As such, the manufacturing costs for product candidates incurred prior to regulatory approval are not capitalized as inventory, but rather are expensed as research and development costs. When regulatory approval is obtained, capitalization of inventory may begin. On November 29, 2012, the FDA approved our first product, COMETRIQ, for the treatment of progressive, metastatic MTC in the United States, where it became commercially available in late January 2013.

Inventory is valued at the lower of cost or net realizable value. We determine the cost of inventory using the standard-cost method, which approximates actual cost based on a first-in, first-out method. We analyze our inventory levels quarterly and write down inventory that has become obsolete, or has a cost basis in excess of its expected net realizable value and inventory quantities in excess of expected requirements. Expired inventory is disposed of and the related costs are recognized as cost of goods sold in the Consolidated Statements of Operations.

Revenue Recognition on Product Sales

We recognize revenue when it is both realized or realizable and earned, meaning persuasive evidence of an arrangement exists, delivery has occurred, title has transferred, the price is fixed or determinable, there are no remaining customer acceptance requirements, and collectability of the resulting receivable is reasonably assured. For product sales in the United States, this generally occurs upon shipment of the product to the patient. For product sales in Europe, this occurs when our distribution partner, Swedish Orphan Biovitrum, or Sobi, has accepted the product.

We sell our product, COMETRIQ, in the United States to a specialty pharmacy that benefits from customer incentives and has a right of return. We have a limited sales history and cannot reliably estimate expected returns of the product nor the discounts and rebates due to payors at the time of shipment to the specialty pharmacy. Accordingly, upon shipment to the specialty pharmacy, we record deferred revenue on our Consolidated Balance Sheets. We recognize revenue when the specialty pharmacy provides the product to a patient based on the fulfillment of a prescription. We record revenue using an analysis of prescription data from our specialty pharmacy to ascertain the date of shipment and the payor mix. This approach is frequently referred to as the “sell-through” revenue recognition model. Once the prescription has been provided to the patient, it is not subject to return unless the product is damaged. Product sales to Sobi are not subject to customer incentives, rights of return or discounts and allowances. We record revenue at the time Sobi has accepted the product, a method also known as the “sell-in”

revenue recognition model.

We calculate gross product revenues based on the price that we charge our United States specialty pharmacy and our European distribution partner, Sobi. We estimate our United States net product revenues by deducting from our gross product revenues (a) trade allowances, such as discounts for prompt payment, (b) estimated government rebates and chargebacks, and (c) estimated costs of patient assistance programs. We initially record estimates for these deductions at the time we recognize the gross revenue. We update our estimates on a recurring basis as new information becomes available. These discounts and allowances apply only to gross product revenues earned in the United States.

Cost of Goods Sold

Cost of goods sold is related to our product revenues and consists primarily of indirect labor costs, a 3% royalty we are required to pay GlaxoSmithKline in connection with sales of COMETRIQ and direct logistics costs. A significant portion of the manufacturing costs for current product sales were incurred prior to regulatory approval of COMETRIQ for the treatment of progressive, metastatic MTC and, therefore, are expensed as research and development costs as incurred, rather than capitalized as inventory.

In accordance with our 2002 collaboration agreement with GlaxoSmithKline, we are required to pay GlaxoSmithKline a 3% royalty on the Net Sales of any product incorporating cabozantinib, including COMETRIQ. Net Sales is defined in the collaboration agreement generally as the gross invoiced sales price less customer credits, rebates, chargebacks, shipping costs, customs duties, and sales tax and other similar tax payments we are required to make.

Fiscal Year Convention

Exelixis adopted a 52- or 53-week fiscal year that generally ends on the Friday closest to December 31st. Fiscal year 2012, a 52-week year, ended on December 28, 2012, and fiscal year 2013, a 52-week year, will end on December 27, 2013. For convenience, references in this report as of and for the fiscal quarters ended June 29, 2012 and June 28, 2013, and as of the fiscal year ended December 28, 2012, are indicated as ended June 30, 2012 and June 30, 2013, and as ended December 31, 2012, respectively.

Results of Operations

Revenues

Total revenues by category were as follows (dollars in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
License revenues (1)	$ 4,011	$ 4,011	$ 8,022	$ 18,690
Contract revenues (2)	3,802	3,802	7,604	7,633
Net product revenues	4,043	—	5,899	—
Total revenues	$ 11,856	$ 7,813	$ 21,525	$ 26,323
Dollar change	$ 4,043		$ (4,798)	
Percentage change	52%		(18)%	

(1) Includes amortization of upfront payments.
(2) Includes milestone payments.

Total revenues by collaboration partner or customer were as follows (dollars in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Bristol-Myers Squibb	7,813	$ 7,813	$ 15,626	$ 15,627
Merck	—	—	—	10,666
Diplomat Specialty Pharmacy	3,767	—	5,623	—
Other	276	—	276	30
Total revenues	$ 11,856	$ 7,813	$ 21,525	$ 26,323
Dollar change	$ 4,043		$ (4,798)	
Percentage change	52%		(18)%	

Revenues for the three and six months ended June 30, 2013, included net product revenues of $4.0 million and $5.9 million, respectively, from the sale of COMETRIQ, which became commercially available in late January 2013. The decrease in total revenues during the six months ended June 30, 2013, when compared to the same period in 2012 was primarily due to $10.7 million in license revenue recognized in 2012 resulting from the completion of the technology transfer under our December 2011 license agreement with Merck for our PI3K-delta program.

Cost of Goods Sold

Cost of goods sold consists primarily of a 3% royalty we are required to pay GlaxoSmithKline in connection with sales of COMETRIQ, indirect labor costs and direct logistics costs. We began capitalizing COMETRIQ inventory following the regulatory approval for COMETRIQ on November 29, 2012. The cost of product manufactured prior to regulatory approval was expensed as research and development costs as incurred. Cost of goods sold was $0.3 million and $0.6 million for the three and six months ended June 30, 2013, respectively. The cost of goods sold and product gross margins we have experienced in this early stage of our product launch may not be representative of what we may experience going forward.

Research and Development Expenses

Total research and development expenses were as follows (dollars in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Research and development expenses	$ 49,077	$ 32,610	$ 81,812	$ 65,706
Dollar change	$ 16,467		$ 16,106	
Percentage change	50%		25%	

Research and development expenses consist primarily of clinical trial expenses, personnel expenses, allocation of general corporate costs, consulting and outside services, stock-based compensation and expenses for temporary employees. The increases for the three and six months ended June 30, 2013, as compared to the prior year periods, resulted primarily from the following:

- **Clinical Trial Costs** — Clinical trial expenses, which include services performed by third-party contract research organizations and other vendors, increased by $15.3 million, or 105%, and $16.6 million, or 57%, respectively. The increase in clinical trial costs was primarily related to clinical trial activities for COMET-1, our phase 3 pivotal trial with the primary endpoint of overall survival in metastatic CRPC, as well as costs incurred in connection with the start-up for our phase 3 trials for metastatic RCC and metastatic HCC.
- **Consulting** — Consulting expenses increased $1.1 million, or 93%, and $1.6 million, or 70%, respectively, primarily as a result of increased outsourcing of development and clinical trial activities.
- **Stock-Based Compensation** — Stock-Based Compensation increased $0.5 million, or 45%, and $0.6 million, or 28%, respectively, primarily as a result of an increase in the number and valuation of new grants, as well as an increase in the participation and valuation of ESPP.

The above increases were partially offset by the following:

- **General Corporate Costs** — There was a decrease of $0.5 million, or 9%, and $1.2 million, or 11%, respectively, in the allocation of general corporate costs (such as facility costs, property taxes and insurance) to research and development, primarily due to the decrease in drug discovery personnel resulting from the Restructurings.

- **Personnel** — Personnel expense decreased by $0.6 million, or 4%, for the six months ended June 30, 2013, primarily due to the reduction in headcount related to the Restructurings.
- **Depreciation and Amortization** — Depreciation and amortization expense decreased by $0.4 million, or 67% and $0.8 million or 58%, respectively, primarily as a result of the impairment and disposition of assets related to the Restructurings and the impact of additional assets becoming fully depreciated during 2012.

Historically, we grouped our research and development expenses into three categories: development, drug discovery and other. Our development group leads the development and implementation of our clinical and regulatory strategies and prioritizes disease indications in which our compounds may be studied in clinical trials. Development expenses relate primarily to clinical trial, personnel and general corporate costs. Our drug discovery efforts consisted of the discovery, optimization and characterization of lead compounds for selection of development candidates with the best potential for further evaluation and advancement into clinical development. Drug discovery expenses related primarily to personnel expense, lab supplies and general corporate costs. The other category primarily includes stock-based compensation expense.

As noted under “Overview”, we are focusing our proprietary resources and development efforts exclusively on cabozantinib in order to maximize the therapeutic and commercial potential of this compound, and as a result, we expect nearly all of our future research and development expenses to relate to the clinical development of cabozantinib. Additionally, as a consequence of our focus on cabozantinib, we have discontinued all of our drug discovery efforts, including those previously funded under our ROR collaboration agreement with Bristol-Myers Squibb following the completion of our obligations under the ROR collaboration agreement in July 2013. As a result of this shift in business strategy and the limited relevance of the disclosure with respect to our current operations, we no longer disclose the breakdown of our research and development expenses by category.

We expect to continue to incur significant research and development costs for cabozantinib in future periods as we evaluate its potential in a variety of cancer indications through a broad development program, including two ongoing phase 3 pivotal trials in metastatic CRPC, a phase 3 pivotal trial in metastatic RCC, and an additional phase 3 pivotal trial in metastatic HCC, that we plan to initiate later in 2013. We also expect to expand the cabozantinib development program to other solid tumor indications, based on encouraging interim data that have emerged from our RDT as well as other clinical trials. In addition, post marketing requirements in connection with the approval of COMETRIQ in progressive, metastatic MTC dictate that we conduct additional studies in progressive, metastatic MTC.

Selling, General and Administrative Expenses

Total selling, general and administrative expenses were as follows (dollars in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Selling, general and administrative expenses	$ 13,180	$ 6,760	$ 23,725	$ 14,665
Dollar change	$ 6,420		$ 9,060	
Percentage change	95%		62%	

Selling, general and administrative expenses consist primarily of personnel expenses, consulting and outside services, facility costs, legal patent costs, employee stock-based compensation expense, marketing and other legal and accounting fees. These expenses also include selling and distribution costs in 2013 as a result of the commercial launch of COMETRIQ in late January 2013.

The increases for the three and six months ended June 30, 2013, as compared to the prior year periods were primarily related to an increase in expenses related to consulting and outside services for the sale of COMETRIQ, as well as increases in marketing expenses, legal and accounting fees, wages and benefits and reduced allocations to research and development as a result of lower headcount. These increases were partially offset by decreases in facilities costs.

Restructuring Charge

In May 2013, we implemented the last of a series of five restructurings which commenced in March 2010 (referred to as the “Restructurings”) as a consequence of our decision to focus our proprietary resources and development efforts on the development and commercialization of cabozantinib and strategy to manage costs. The restructuring implemented in May 2013 related to the termination of drug discovery personnel following the completion of our obligations under our ROR collaboration agreement with Bristol-Myers Squibb. The aggregate reduction in headcount from the Restructurings was 429 employees. Charges and credits related to the Restructurings were recorded in periods other than those in which the

Restructurings were implemented as a result of sublease activities for our buildings in South San Francisco, California, changes in assumptions regarding anticipated sublease activities, the effect of the passage of time on our discounted cash flow computations, and sales of excess equipment and other assets.

Total restructuring charge from our Restructurings were as follows (dollars in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Restructuring charge	$ 609	$ 1,166	$ 728	$ 971
Dollar change	$ (557)		$ (243)	
Percentage change	(48)%		(25)%	

For the three and six months ended June 30, 2013, we recorded restructuring charges of $0.6 million and $0.7 million, respectively, which related to termination benefits and facility charges in connection with the exit of all or portions of three of our buildings in South San Francisco.

Total Other Income (Expense), Net

Total other income (expense), net, were as follows (dollars in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2013	2012	2013	2012
Interest income and other, net	$ 373	$ 340	$ 711	$ 500
Interest expense	(11,239)	(4,092)	(22,296)	(8,096)
Total other expense, net	$ (10,866)	$ (3,752)	$ (21,585)	$ (7,596)
Dollar change	$ (7,114)		$ (13,989)	
Percentage change	190%		184%	

Total other income (expense), net consists primarily of interest expense incurred on our debt, partially offset by interest income earned on our cash and investments.

The change in total other expense, net for the three and six months ended June 30, 2013, compared to the same periods in 2012, were primarily due to the increased interest expense as a result of the August 2012 issuance of the 2019 Notes. Interest expense includes aggregate non-cash interest expense on both the 2019 Notes and the Deerfield Notes of $6.5 million and $12.8 million respectively, for the three and six months ended June 30, 2013, as compared to $2.4 million and $4.7 million for the three and six months ended June 30, 2012, respectively.

Liquidity and Capital Resources

Sources and Uses of Cash

The following table summarizes our cash flow activities for the six months ended June 30, 2013 and 2012 (in thousands):

	Six Months Ended June 30,	
	2013	2012
Net loss	$ (106,890)	$ (62,638)
Adjustments to reconcile net loss to net cash used in operating activities	23,668	13,626
Changes in operating assets and liabilities	(11,227)	(1,345)
Net cash used in operating activities	(94,449)	(50,357)
Net cash provided by (used in) investing activities	66,820	(18,635)
Net cash (used in) provided by financing activities	(10,666)	62,875
Net decrease in cash and cash equivalents	(38,295)	(6,117)
Cash and cash equivalents at beginning of period	170,069	74,257
Cash and cash equivalents at end of period	$ 131,774	$ 68,140

To date, we have financed our operations primarily through the sale of equity, payments and loans from collaborators and banks, debt financing arrangements and equipment financing facilities. We have also financed certain of our research and development activities under our agreements with various collaborators. As of June 30, 2013, we had $524.3 million in cash and investments, which included short- and long-term restricted cash and investments of $12.2 million and $22.0 million, respectively, and short- and long-term unrestricted investments of $220.2 million and $138.1 million, respectively. As of June 30, 2013, we are required to maintain on deposit with Silicon Valley Bank or one of its affiliates short- and long-term unrestricted investments of $2.6 million and $82.8 million, respectively, pursuant to covenants in our loan and security agreement with Silicon Valley Bank.

Operating Activities

Our operating activities used cash of $94.4 million for the six months ended June 30, 2013, compared to cash used of $50.4 million for the six months ended June 30, 2012.

Cash used in operating activities for the six months ended June 30, 2013 related primarily to our $106.9 million in operating expenses for the period, less non-cash expenses for stock-based compensation and depreciation and amortization totaling $5.6 million and $1.6 million, respectively. Our operating expenses were largely attributable to the development of cabozantinib. In addition, we paid $4.0 million for the Restructurings during the period. All of our license and contract revenues during the six months ended June 30, 2013 were non-cash, which was reflected in the $14.8 million reduction in deferred revenue during the period. Cash paid for interest was significantly lower than our interest expense due in large part to $12.8 million of non-cash interest expense related to the accretion of the Deerfield Notes and the 2019 Notes.

Our operating activities used cash of $50.4 million for the six months ended June 30, 2012. Cash used by operating activities for the 2012 period related primarily to our net loss of $62.6 million, which was largely due to the development of cabozantinib, and to a $26.3 million reduction in deferred revenue, primarily due to the timing of revenue recognition of an up-front payment under our P13K-delta license agreement with Merck entered into in December 2011 and non-cash revenue recognized related to our 2007 and 2010 collaboration agreements with Bristol-Meyers Squibb. In addition, we paid $2.0 million for the Restructurings during the period. Uses of cash were partially offset by the receipt of $27.3 million in cash relating to the termination of our 2009 discovery collaboration with Sanofi in December 2011 and the up-front payment received from Merck under our P13K-delta license agreement. In addition, we had non-cash charges totaling $11.4 million relating to stock-based compensation, deprecation and amortization and accretion of implied interest relating to the Deerfield notes.

The increase in cash used for operating activities during 2013 as compared to 2012 was primarily due to the increase in operating expenses during those periods and payments received in 2012 from our collaboration and license agreements with Sanofi and Merck, described above.

Except for 2011, we have been in a net loss position and our cash used in operating activities has been primarily driven by our net loss. Operating cash flows can differ from our consolidated net loss as a result of differences in the timing of cash receipts and earnings recognition and non-cash charges. Going forward for at least the next several years, we expect to continue to use cash for operating activities as we incur net losses associated with our research and development activities, primarily with respect to manufacturing and development expenses for cabozantinib.

Investing Activities

Our investing activities provided cash of $66.8 million for the six months ended June 30, 2013, compared to cash used of $18.6 million for the six months ended June 30, 2012.

Cash provided by investing activities for the 2013 period was primarily due to the maturity of investments of $209.9 million, less investment purchases of $147.8 million.

Cash used by investing activities for the 2012 period was primarily due to the purchase of $160.2 million of investments, less proceeds from the maturity of investments of $141.1 million.

Financing Activities

Our financing activities used cash of $10.7 million for the six months ended June 30, 2013, compared to cash provided of $62.9 million for the six months ended June 30, 2012.

Cash used for financing activities for 2013 was due to principal payments on debt of $11.6 million.

Cash provided by our financing activities for the 2012 period was due to the issuance of 12.7 million shares of common stock for net proceeds of $65.0 million, partially offset by cash used for principal payments on debt of $3.3 million.

Proceeds from collaboration loans and common stock issuances are used for general working capital purposes, such as research and development activities and other general corporate purposes. Over the next several years, we are required to make certain payments on notes and bank obligations. In 2010, we amended our loan and security agreement with Silicon Valley Bank to provide for a new seven-year term loan in the amount of $80.0 million. In addition, in 2010 we sold to Deerfield an aggregate $124.0 million initial principal amount of the Deerfield Notes for an aggregate purchase price of $80.0 million, less closing fees and expenses of approximately $2.0 million. In August 2012, we incurred $287.5 million of indebtedness through the issuance of the 2019 Notes. See “--Certain Factors Important to Understanding Our Financial Condition and Results of Operations.”

Cash Requirements

We have incurred net losses since inception through the quarter ended June 30, 2013, with the exception of the fiscal year ended December 31, 2011. In 2011, we had net income primarily as a result of the acceleration of revenue recognized under our 2008 collaboration agreement with Bristol-Myers Squibb that terminated in October 2011 and under our 2009 discovery collaboration agreement with Sanofi that terminated in December 2011. We anticipate net losses and negative operating cash flow for the foreseeable future. For the six months ended ended June 30, 2013, we had a net loss of $106.9 million; as of June 30, 2013, we had an accumulated deficit of $1.4 billion. We commercially launched COMETRIQ for the treatment of progressive, metastatic MTC in the United States in late January 2013. From the commercial launch through June 30, 2013, we have generated $5.9 million in net revenues from the sale of COMETRIQ. We have derived substantially all of our revenues to date from collaborative research and development agreements. Revenues from research and development collaborations depend upon continuation of the collaborations, research funding, the achievement of milestones and royalties we earn from any future products developed from the collaborative research. If we are unable to successfully achieve we will not earn the revenues contemplated under such collaborative agreements. The amount of our net losses will depend, in part, on the rate of growth, if any, in our sales of COMETRIQ for progressive, metastatic MTC, 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 selling, general and administrative expenses have exceeded our revenues for each year other than 2011, and we expect to spend significant additional amounts to fund the continued development of cabozantinib. As a result, we expect to continue to incur substantial operating expenses, and, consequently, we will need to generate significant additional revenues to achieve future profitability. Because of the numerous risks and uncertainties associated with developing drugs, we are unable to predict the extent of any future losses or when we will become profitable, if at all.

We anticipate that our current cash and cash equivalents, short- and long-term investments and product revenues will enable us to maintain our operations for a period of at least 12 months following the end of the second quarter of 2013. However, our future capital requirements will be substantial, and we may need to raise additional capital in the future. Our capital requirements will depend on many factors, and we may need to use available capital resources and raise additional capital significantly earlier than we currently anticipate. These factors include:

- the progress and scope of the development and commercialization activities with respect to COMETRIQ (cabozantinib);
- repayment of the 2019 Notes;
- repayment of the Deerfield Notes;
- repayment of our loan from Silicon Valley Bank;
- the commercial success of COMETRIQ and the revenues we generate;
- the level of payments received under existing collaboration agreements, licensing agreements and other arrangements;
- the degree to which we conduct funded development activity on behalf of partners to whom we have out-licensed compounds or programs;
- whether we enter into new collaboration agreements, licensing agreements or other arrangements (including, in particular, with respect to COMETRIQ) that provide additional capital;
- our ability to control costs;
- our ability to remain in compliance with, or amend or cause to be waived, financial covenants contained in agreements with third parties;

- the amount of our cash and cash equivalents, short- and long-term investments that serve as collateral for bank lines of credit;
- future clinical trial results;
- our need to expand our product and clinical development efforts;
- the cost and timing of regulatory approvals;
- the cost of clinical and research supplies of our product candidates;
- our obligation to share U.S. marketing and commercialization costs for cobimetinib (GDC-0973/XL518) under our collaboration with Genentech;
- our ability to share the costs of our clinical development efforts 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; and
- the cost of any acquisitions of or investments in businesses, products and technologies.

We may seek to raise funds through the sale of equity or debt securities or through external borrowings. In addition, we may enter into additional strategic partnerships, collaborative arrangements or other strategic transactions. It is unclear whether any such partnership, arrangement or transaction will occur, on satisfactory terms or at all, or what the timing and nature of such a partnership, arrangement or transaction may be. The sale of equity or convertible debt securities in the future may be dilutive to our stockholders, and debt-financing arrangements may require us to pledge certain assets and enter into covenants that would restrict certain business activities or our ability to incur further indebtedness, and may contain other terms that are not favorable to our stockholders or us. If we are unable to obtain adequate funds on reasonable terms, we may be required to curtail operations significantly or obtain funds by entering into financing, supply or collaboration agreements on unattractive terms or we may be required to relinquish rights to technology or product candidates or to grant licenses on terms that are unfavorable to us.

We may need to obtain additional funding in order to stay in compliance with financial covenants contained in our loan and security agreement with Silicon Valley Bank. The loan and security agreement requires that we maintain an amount equal to at least 100%, but not to exceed 107%, of the outstanding principal balance of the term loan and all equipment lines of credit under the loan and security agreement at all times in one or more investment accounts with Silicon Valley Bank or one of its affiliates as support for our obligations under the loan and security agreement. If the balance on our deposit account(s) falls below the required level for more than 10 days, Silicon Valley Bank may declare all or part of the obligations under the loan and security agreement to be immediately due and payable and stop advancing money or extending credit to us. If we are unable to remain in compliance with our financial covenants or if we are unable to renegotiate such covenants and the lender exercises its remedies under the agreement, we would not be able to operate under our current operating plan.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Our market risks at June 30, 2013 have not changed significantly from those discussed in Item 7A of our Annual Report on Form 10-K for the year ended December 31, 2012, filed with the Securities and Exchange Commission on February 21, 2013.

Our exposure to market risk for changes in interest rates relates primarily to our investment portfolio and our long-term debt. As of June 30, 2013, and December 31, 2012, 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 $7.3 million and $8.7 million, respectively.

In addition, we have exposure to fluctuations in certain foreign currencies in countries in which we conduct clinical trials. As of June 30, 2013, and December 31, 2012, approximately $2.4 million and $1.1 million, respectively, of our clinical accrual balance was owed in foreign currencies. An adverse change of one percentage point in the foreign currency exchange rates would have not resulted in a material impact for any periods presented.

Item 4. Controls and Procedures.

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

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

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

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

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

Item 1A. Risk Factors

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

We have marked with an asterisk (*) those risk factors below that reflect substantive changes in risks facing us from the risk factors included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2012 filed with the Securities and Exchange Commission on February 21, 2013.

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

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

We may 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, 2013, we had $524.3 million in cash and investments, which included short- and long-term restricted cash and investments of $12.2 million and $22.0 million, respectively, and short- and long-term unrestricted investments of $220.2 million and $138.1 million, respectively. We are required to maintain on deposit with Silicon Valley Bank or one of its affiliates short- and long-term unrestricted investments of $2.6 million and $82.8 million, respectively, pursuant to covenants in our loan and security agreement with Silicon Valley Bank. We anticipate that our current cash and cash equivalents, short- and long-term investments and product revenues will enable us to maintain our operations for a period of at least 12 months following the end of the second quarter of 2013. However, our future capital requirements will be substantial, and we may need to raise additional capital in the future. Our capital requirements will depend on many factors, and we may need to use available capital resources and raise additional capital significantly earlier than we currently anticipate. These factors include:

- the progress and scope of the development and commercialization activities with respect to COMETRIQ® (cabozantinib);
- repayment of our $287.5 million aggregate principal amount of the 2019 Notes that mature on August 15, 2019, unless earlier converted, redeemed or repurchased;
- repayment of the $114.0 million initial principal amount of the Deerfield Notes, for which we will be required to make mandatory prepayments on an annual basis in 2014 and 2015 equal to 15% of specified payments from our collaborative arrangements received during the prior fiscal year, subject to a maximum annual prepayment amount of $27.5 million and, for the payment due in January 2014, a required minimum prepayment amount of $10.0 million, unless we are able to repay them with our common stock, which we are only able to do under specified conditions;
- repayment of our term loan and line of credit from Silicon Valley Bank, which had an outstanding balance at June 30, 2013, of $83.7 million;
- the commercial success of COMETRIQ and the revenues we generate;
- the level of payments received under existing collaboration agreements, licensing agreements and other arrangements;
- the degree to which we conduct funded development activity on behalf of partners to whom we have out-licensed compounds or programs;

- whether we enter into new collaboration agreements, licensing agreements or other arrangements (including, in particular, with respect to COMETRIQ) that provide additional capital;
- our ability to control costs;
- our ability to remain in compliance with, or amend or cause to be waived, financial covenants contained in agreements with third parties;
- the amount of our cash and cash equivalents, short- and long-term investments that serve as collateral for bank lines of credit;
- future clinical trial results;
- our need to expand our product and clinical development efforts;
- the cost and timing of regulatory approvals;
- the cost of clinical and research supplies of our product candidates;
- our obligation to share U.S. marketing and commercialization costs for cobimetinib (GDC-0973/XL518) under our collaboration with Genentech;
- our ability to share the costs of our clinical development efforts 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; and
- the cost of any acquisitions of or investments in businesses, products and technologies.

We may seek to raise funds through the sale of equity or debt securities or through external borrowings. In addition, we may enter into additional strategic partnerships, collaborative arrangements or other strategic transactions. It is unclear whether any such partnership, arrangement or transaction will occur, on satisfactory terms or at all, or what the timing and nature of such a partnership, arrangement or transaction may be. The sale of equity or convertible debt securities in the future may be dilutive to our stockholders, and debt-financing arrangements may require us to pledge certain assets and enter into covenants that would restrict certain business activities or our ability to incur further indebtedness, and may contain other terms that are not favorable to our stockholders or us. If we are unable to obtain adequate funds on reasonable terms, we may be required to curtail operations significantly or obtain funds by entering into financing, supply or collaboration agreements on unattractive terms or we may be required to relinquish rights to technology or product candidates or to grant licenses on terms that are unfavorable to us.

We may need to obtain additional funding in order to stay in compliance with financial covenants contained in our loan and security agreement with Silicon Valley Bank. The terms of the agreement contains covenants or events of default requiring us to maintain specified collateral balances. The failure to comply with these covenants could result in an acceleration of the underlying debt obligations. If we are unable to remain in compliance with such covenants or if we are unable to renegotiate such covenants and the lender exercises its remedies under the agreement, we would not be able to operate under our current operating plan.

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

We have incurred net losses since inception through the quarter ended June 30, 2013, with the exception of the fiscal year ended December 31, 2011. In 2011, we had net income primarily as a result of the acceleration of revenue recognized under our 2008 collaboration agreement with Bristol-Myers Squibb that terminated in October 2011 and under our 2009 discovery collaboration agreement with Sanofi that terminated in December 2011. We anticipate net losses and negative operating cash flow for the foreseeable future. For the six months ended June 30, 2013, we had a net loss of $106.9 million; as of June 30, 2013, we had an accumulated deficit of $1.4 billion. We commercially launched COMETRIQ for the treatment of progressive, metastatic MTC in the United States in late January 2013. From the commercial launch through June 30, 2013, we have generated $5.9 million in net revenues from the sale of COMETRIQ. We have derived substantially all of our revenues to date from collaborative research and development agreements. Revenues from research and development collaborations depend upon continuation of the collaborations, research funding, the achievement of milestones and royalties we earn from any future products developed from the collaborative research. If we are unable to successfully achieve milestones, our collaborators fail to develop successful products or research funding we receive from collaborators decreases, we will not earn the revenues contemplated under such collaborative agreements. The amount of our net losses will depend, in part, on the rate of growth, if any, in our sales of COMETRIQ for progressive, metastatic MTC, 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 for each year other than 2011, and we expect to spend significant additional amounts to fund the continued development of cabozantinib. As a result, we expect to continue to incur substantial operating expenses, and, consequently, we will need to generate significant

additional revenues to achieve future 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.

Our significant level of indebtedness could limit cash flow available for our operations and expose us to risks that could adversely affect our business, financial condition and results of operations.*

We incurred significant additional indebtedness and substantial debt service requirements as a result of our offering of the 2019 Notes in August 2012. As of June 30, 2013, our total consolidated indebtedness through maturity was $466.3 million (excluding trade payables). We may also incur additional indebtedness to meet future financing needs. If we raise additional indebtedness, it would increase our interest expense, leverage and operating and financial costs.

Our indebtedness could have significant negative consequences for our business, results of operations and financial condition, including:

- making it more difficult for us to meet our payment and other obligations under the 2019 Notes, the Deerfield Notes, our loan and security agreement with Silicon Valley Bank or our other indebtedness;
- resulting in an event of default if we fail to comply with the financial and other restrictive covenants contained in our debt agreements, which event of default could result in all of our debt becoming immediately due and payable;
- increasing our vulnerability to adverse economic and industry conditions;
- subjecting us to the risk of increased sensitivity to interest rate increases on our indebtedness with variable interest rates, including borrowings under our loan and security agreement with Silicon Valley Bank;
- limiting our ability to obtain additional financing;
- requiring the dedication of a substantial portion of our cash flow from operations to service our indebtedness, thereby reducing the amount of our cash flow available for other purposes, including working capital, capital expenditures, acquisitions and other general corporate purposes;
- limiting our flexibility in planning for, or reacting to, changes in our business;
- preventing us from raising funds necessary to purchase the 2019 Notes in the event we are required to do so following a “Fundamental Change” as specified in the indenture governing the 2019 Notes, or to settle conversions of the 2019 Notes in cash;
- dilution experienced by our existing stockholders as a result of the conversion of the 2019 Notes or the Deerfield Notes into shares of common stock; and
- placing us at a possible competitive disadvantage with less leveraged competitors and competitors that may have better access to capital resources.

We cannot assure you that we will continue to maintain sufficient cash reserves or that our business will continue to generate cash flow from operations at levels sufficient to permit us to pay principal, premium, if any, and interest on our indebtedness, or that our cash needs will not increase. If we are unable to generate sufficient cash flow or otherwise obtain funds necessary to make required payments, or if we fail to comply with the various requirements of the 2019 Notes, the Deerfield Notes, our loan and security agreement with Silicon Valley Bank, or any indebtedness which we have incurred or may incur in the future, we would be in default, which would permit the holders or the Trustee of the 2019 Notes or other indebtedness to accelerate the maturity of such notes or other indebtedness and could cause defaults under the 2019 Notes, the Deerfield Notes, our loan and security agreement with Silicon Valley Bank or our other indebtedness. Any default under the 2019 Notes, the Deerfield Notes, our loan and security agreement with Silicon Valley Bank, or any indebtedness that we have incurred or may incur in the future could have a material adverse effect on our business, results of operations and financial condition.

If a Fundamental Change occurs, holders of the 2019 Notes may require us to purchase for cash all or any portion of their 2019 Notes at a purchase price equal to 100% of the principal amount of the Notes to be purchased plus accrued and unpaid interest, if any, to, but excluding, the Fundamental Change purchase date. We may not have sufficient funds to purchase the notes upon a Fundamental Change. In addition, the terms of any borrowing agreements which we may enter into from time to time may require early repayment of borrowings under circumstances similar to those constituting a Fundamental Change. Furthermore, any repurchase of 2019 Notes by us may be considered an event of default under such borrowing agreements.

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

Managing costs is a key element of our business strategy. Consistent with this element of our strategy, and as a consequence of our decision to focus our proprietary resources and development efforts on the late-stage development and commercialization of cabozantinib, we implemented the Restructurings, which resulted in an aggregate reduction in headcount

of 429 employees. We have recorded aggregate restructuring charges of $52.8 million in connection with the Restructurings and anticipate that we will incur additional restructuring charges related to the exit of all or portions of three of our buildings in South San Francisco, California. These charges will be recorded through the end of the building lease terms, the last of which ends in 2017.

As part of the Restructurings, we have entered into sublease agreements for certain of our facilities in South San Francisco. We are still assessing our ability to sublease portions of our facilities in light of the workforce reductions as well as the potential for sublease income. Estimates for sublease income would require significant assumptions regarding the time required to contract with subtenants, the amount of idle space we would be able to sublease and potential future sublease rates. If we are able to vacate portions of our facilities, we would need to continue to update our estimate of the lease exit costs in our financial statements until we were able to negotiate an exit to the lease or negotiate a sublease for the remaining term of the lease.

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

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

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

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

Our cash and cash equivalents are maintained in highly liquid investments with remaining maturities of 90 days or less at the time of purchase. Our short-term and long-term investments consist primarily of readily marketable debt securities with remaining maturities of more than 90 days at the time of purchase. While as of the date of this report we are not aware of any downgrades, material losses, or other significant deterioration in the fair value of our cash equivalents, short-term investments or long-term investments since June 30, 2013, no assurance can be given that a deterioration in conditions of the global credit and financial markets would not negatively impact our current portfolio of cash equivalents or investments or our ability to meet our financing objectives.

Risks Related to COMETRIQ™ (cabozantinib)

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

The success of our business is dependent upon the successful development and commercialization of COMETRIQ. As part of our strategy, we are dedicating all of our proprietary resources to advance COMETRIQ as aggressively as possible. On November 29, 2012, the FDA approved COMETRIQ for the treatment of progressive, metastatic MTC in the United States and we commercially launched COMETRIQ in late January 2013. We have also submitted an MAA for cabozantinib for the proposed indication of treatment of progressive, unresectable, locally advanced MTC to the EMA that was accepted for review in November 2012. We view the approval of COMETRIQ by FDA for the treatment of progressive, metastatic MTC as a transitional event towards our objective of developing COMETRIQ into a major oncology franchise. Our ability to realize this objective or the value of our investment is contingent on, among other things, successful clinical development, regulatory approval and market acceptance of COMETRIQ. If we encounter difficulties in the development of COMETRIQ in other indications beyond progressive, metastatic MTC due to any of the factors discussed in this “Risk Factors” section or otherwise, or we do not receive regulatory approval in such indications or are unable to successfully commercialize COMETRIQ in progressive, metastatic MTC or such other indications if approved, we will not have the resources necessary to continue our business in its current form.

The commercial success of COMETRIQ will depend upon the degree of market acceptance of COMETRIQ among physicians, patients, health care payors, and the medical community.

Our ability to commercialize COMETRIQ for the treatment of progressive, metastatic MTC and potentially other

indications if approved will be highly dependent upon the extent to which COMETRIQ gains market acceptance among: physicians; patients; health care payors, such as Medicare and Medicaid; and the medical community. If COMETRIQ does not achieve an adequate level of acceptance, we may not generate adequate product revenues, if at all, and we may not become profitable. The degree of market acceptance of COMETRIQ will depend upon a number of factors, including:

- the effectiveness, or perceived effectiveness, of COMETRIQ in comparison to competing products;
- the existence of any significant side effects of COMETRIQ, as well as their severity in comparison to those of any competing products;
- potential advantages or disadvantages in relation to alternative treatments;
- the timing of market entry relative to competitive treatments;
- indications for which COMETRIQ is approved;
- the ability to offer COMETRIQ for sale at competitive prices;
- relative convenience and ease of administration;
- the strength of sales, marketing and distribution support; and
- sufficient third-party coverage or reimbursement.

If we are unable to establish and maintain adequate sales, marketing and distribution capabilities or enter into or maintain agreements with third parties to do so, we may be unable to successfully commercialize COMETRIQ.

We have limited experience as a company in the sales, marketing and distribution of pharmaceutical products. We have established a small commercial organization that we believe is commensurate with the size of the market opportunity for progressive, metastatic MTC. We have also designed our commercial organization to maintain the maximum amount of flexibility, and to enable us to quickly scale up if additional indications are approved in the future. We believe we have created an efficient commercial organization, taking advantage of outsourcing options where prudent to maximize the effectiveness of our commercial expenditures. However, we may not be able to correctly judge the size and experience of the sales and marketing force and the scale of distribution necessary to successfully market and sell COMETRIQ. Establishing and maintaining sales, marketing and distribution capabilities are expensive and time-consuming. Such expenses may be disproportional compared to the revenues we may be able to generate on sales of COMETRIQ and have an adverse impact on our results of operations. If we are unable to establish and maintain adequate sales, marketing and distribution capabilities, independently or with others, we may not be able to generate product revenues and our business may be adversely affected.

We currently rely on a single third party logistics provider to handle shipping and warehousing of our commercial supply of COMETRIQ and a single specialty pharmacy to dispense COMETRIQ to patients in fulfillment of prescriptions in the United States. We will also rely on a third party, Swedish Orphan Biovitrum, or Sobi, to distribute and commercialize COMETRIQ for the treatment of metastatic MTC in the European Union. Sobi is currently supporting access to cabozantinib under a Named Patient Use program in the European Union and other countries. Our current and anticipated future dependence upon these third parties may adversely affect our future profit margins and our ability to supply COMETRIQ to the marketplace on a timely and competitive basis. For example, if our third party logistics provider's warehouse suffers a fire or damage from another type of disaster, the commercial supply of COMETRIQ could be destroyed, resulting in a disruption in our commercialization efforts. These third parties may not be able to provide services in the time we require to meet our commercial timelines and objectives or to meet regulatory requirements. We may not be able to maintain or renew our arrangements with these third parties, or enter into new arrangements, on acceptable terms, or at all. These third parties could terminate or decline to renew our arrangements based on their own business priorities, at a time that is costly or inconvenient for us. If we are unable to contract for logistics services or distribution of COMETRIQ on acceptable terms, our commercialization efforts may be delayed or otherwise adversely affected.

We are subject to certain healthcare laws, regulation and enforcement; our failure to comply with those laws could have a material adverse effect on our results of operations and financial condition.*

We are subject to certain healthcare laws and regulations and enforcement by the federal government and the states in which we conduct our business. The laws that may affect our ability to operate include, without limitation:

- the federal Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology and Clinical Health Act and its implementing regulations, which imposes certain requirements relating to the privacy, security and transmission of individually identifiable health information;
- the federal healthcare programs' Anti-Kickback Law, which constrains our marketing practices, educational programs, pricing policies, and relationships with healthcare providers or other entities, by prohibiting, among other things, persons from knowingly and willfully soliciting, receiving, offering or paying remuneration, directly or indirectly, in exchange for or to induce either the referral of an individual for, or the purchase, order or

recommendation of, any good or service for which payment may be made under federal healthcare programs such as the Medicare and Medicaid programs;

- federal civil and criminal false claims laws and civil monetary penalty laws, which prohibit, among other things, individuals or entities from knowingly presenting, or causing to be presented, claims for payment from Medicare, Medicaid, or other third-party payors that are false or fraudulent;
- federal criminal laws that prohibit executing a scheme to defraud any healthcare benefit program or making false statements relating to healthcare matters;
- state law equivalents of each of the above federal laws, such as anti-kickback and false claims laws which may apply to items or services reimbursed by any third-party payor, including commercial insurers, and state laws governing the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and may not have the same effect, thus complicating efforts;
- the Foreign Corrupt Practices Act, a U.S. law which regulates certain financial relationships with foreign government officials (which could include, for example, certain medical professionals);
- federal and state consumer protection and unfair competition laws, which broadly regulate marketplace activities and activities that potentially harm consumers;
- state and federal government price reporting laws that require us to calculate and report complex pricing metrics to government programs, where such reported priced may be used in the calculation of reimbursement and/or discounts on our marketed drugs (participation in these programs and compliance with the applicable requirements may subject us to potentially significant discounts on our products, increased infrastructure costs, and potentially limit our ability to offer certain marketplace discounts); and
- state and federal marketing expenditure tracking and reporting laws, which generally require certain types of expenditures in the United States to be tracked and reported (compliance with such requirements may require investment in infrastructure to ensure that tracking is performed properly, and some of these laws result in the public disclosure of various types of payments and relationships, which could potentially have a negative effect on our business and/or increase enforcement scrutiny of our activities).

In addition, certain marketing practices, including off-label promotion, may also violate false claims laws. If our operations are found to be in violation of any of the laws described above or any other governmental regulations that apply to us, we may be subject to penalties, including civil and criminal penalties, damages, fines, withdrawal of regulatory approval, the curtailment or restructuring of our operations, the exclusion from participation in federal and state healthcare programs and imprisonment, any of which could adversely affect our ability to sell COMETRIQ or operate our business and also adversely affect our financial results.

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

Our ability to successfully commercialize COMETRIQ will be highly dependent on the extent to which coverage and reimbursement for the product candidate will be available from third-party payors, including governmental payors, such as Medicare and Medicaid, and private health insurers. Many patients will not be capable of paying for COMETRIQ themselves and will rely on third-party payors to pay for, or subsidize, their medical needs. If third-party payors do not provide coverage or reimbursement for COMETRIQ, our revenues and prospects for profitability will suffer. In addition, even if third-party payors provide some coverage or reimbursement for COMETRIQ, 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.

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

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

The United States and some foreign jurisdictions are considering or have enacted a number of legislative and regulatory proposals to change the healthcare system in ways that could affect our ability to sell COMETRIQ profitably. Among policy makers and payors in the United States and elsewhere, there is significant interest in promoting changes in

healthcare systems with the stated goals of containing healthcare costs, improving quality and/or expanding access. In the United States, the pharmaceutical industry has been a particular focus of these efforts and has been significantly affected by major legislative initiatives.

For example, under the Patient Protection and Affordable Care Act of 2012, as amended by the Health Care and Education Affordability Reconciliation Act, or collectively, PPACA, substantial changes may be made to the way healthcare is financed by both governmental and private insurers and significantly affects the pharmaceutical industry. Among other things, PPACA creates a new system of health insurance "exchanges," designed to make health policies available to individuals and certain groups though state- or federally-administered marketplaces, beginning in 2014. In connection with such exchanges, certain "essential health benefits" are intended to be made more consistent across plans, setting basically a baseline coverage level. While prescription drugs are broadly considered "essential," there is some discretion to the plans as to what categories of prescription drug products will be covered (and the scope of coverage in each category). We cannot predict at this time whether COMETRIQ would be covered by the health plans offered in any or all or the exchanges. Failure to be covered by plans offered in the exchanges could have a material adverse impact on our business. We anticipate that the PPACA, as well as other healthcare reform measures that may be adopted in the future, may result in more rigorous coverage criteria and an additional downward pressure on the price that we receive for COMETRIQ and any subsequently approved product, and could seriously harm our business. Under the Budget Control Act of 2011, as amended, federal budget "sequestration" became effective in March 2013, automatically reducing payments under various government programs, including, for example, certain Medicare provider and supplier reimbursement payments. Sequestration may have a material adverse effect on our customers and accordingly, our financial operations. Any reduction in reimbursement from Medicare or other government programs may result in a similar reduction in payments from private payors. Insurers may also refuse to provide any coverage of uses of approved products for medical indications other than those for which the FDA has granted market approvals. As a result, significant uncertainty exists as to whether and how much third-party payors will reimburse for newly-approved drugs, which in turn will put pressure on the pricing of drugs.

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

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

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

The biotechnology industry is highly fragmented and is characterized by rapid technological change. In particular, the area of kinase-targeted therapies is a rapidly evolving and competitive field. We face, and will continue to face, intense competition from biotechnology and pharmaceutical companies, as well as academic research institutions, clinical reference laboratories and government agencies that are pursuing research activities similar to ours. Some of our competitors have entered into collaborations with leading companies within our target markets, including some of our existing collaborators. Some of our competitors are further along in the development of their products than we are. In addition, delays in the development of cabozantinib for the treatment of additional tumor types beyond progressive, metastatic MTC could allow our competitors to bring products to market before us, which would impair our ability to commercialize cabozantinib in such tumor types. Our future success will depend upon our ability to maintain a competitive position with respect to technological advances. The markets for which we intend to pursue regulatory approval of cabozantinib are highly competitive. Further, our competitors may be more effective at using their technologies to develop commercial products. Many of the organizations competing with us have greater capital resources, larger research and development staff and facilities, more experience in obtaining regulatory approvals and more extensive product manufacturing and commercial capabilities than we do. As a result, our competitors may be able to more easily develop technologies and products that would render our technologies and products, and those of our collaborators, obsolete and noncompetitive. There may also be drug candidates of which we are not aware at an earlier stage of development that may compete with cabozantinib. In addition, cabozantinib may compete with

existing therapies that have long histories of use, such as chemotherapy and radiation treatments in cancer indications. We believe that the principal competing anti-cancer therapy to COMETRIQ in progressive, metastatic MTC is AstraZeneca's RET, VEGFR and EGFR inhibitor vandetanib, which has been approved by the FDA and the EMA for the treatment of symptomatic or progressive MTC in patients with unresectable, locally advanced, or metastatic disease. In addition, we believe that COMETRIQ also faces competition as a treatment for progressive, metastatic MTC from off-label use of Bayer's and Onyx Pharmaceuticals' multikinase inhibitor sorafenib, Pfizer's multikinase inhibitor sunitinib, and Ariad Pharmaceutical's multikinase inhibitor ponatinib. We believe that if cabozantinib is approved for the treatment of CRPC, its principal competition will be Bayer's and Algeta's alpha-pharmaceutical alpharadin (Radium-223), Janssen Biotech's CYP17 inhibitor abiraterone, Medivation's androgen receptor inhibitor enzalutamide, and chemotherapeutic agents, including Sanofi's cabazitaxel and docetaxel. Examples of potential competition for cabozantinib in other cancer indications include other VEGF pathway inhibitors, including Genentech's bevacizumab, and other MET inhibitors, including Amgen's AMG 208, Pfizer's crizotinib, ArQule's tivantinib (ARQ197), GlaxoSmithKline's foretinib (XL880), and Genentech's onartuzumab.

We lack the manufacturing capabilities and experience necessary to enable us to produce COMETRIQ for clinical development or for commercial sale and rely on third parties to do so, which subjects us to various risks.

We do not have the manufacturing capabilities or experience necessary to enable us to produce materials for our clinical trials or for commercial sale of COMETRIQ and rely on third party contractors to do so. These third-parties 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 parties may adversely affect our future profit margins and our ability to develop and commercialize COMETRIQ on a timely and competitive basis. These third parties may not be able to produce material on a timely basis or manufacture material at the quality or in the quantity required to meet our development and commercial timelines and applicable regulatory requirements. We may not be able to maintain or renew our existing third party manufacturing and supply arrangements, or enter into new arrangements, on acceptable terms, or at all. Our third party manufacturers and suppliers could terminate or decline to renew our manufacturing and supply 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 and commercialization efforts may be delayed or otherwise adversely affected.

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 manufacturing or supply arrangements, we may not be able to obtain approval from the FDA of any alternate manufacturer or supplier in a timely manner, or at all, which could delay or prevent the clinical development and commercialization of COMETRIQ. Failure of our third party manufacturers or suppliers 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 COMETRIQ, injunctions, delays, suspension or withdrawal of approvals, license revocation, seizures or recalls of products and compounds, operating restrictions and criminal prosecutions, any of which could have a significant adverse effect on our business. In addition, COMETRIQ requires 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 have also a significant adverse effect on our business.

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

Cabozantinib is being evaluated in a comprehensive development program for the treatment of CRPC and a variety of other indications beyond progressive, metastatic MTC. Clinical trials are inherently risky and may reveal that cabozantinib is ineffective or has unacceptable toxicity or other side effects that may significantly decrease the likelihood of regulatory approval in such indications.

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

We may experience numerous unforeseen events during, or as a result of, clinical testing that could delay or prevent commercialization of cabozantinib for the treatment of CRPC and other indications, including:

- cabozantinib may not prove to be efficacious or may cause, or potentially cause, harmful side effects;
- negative or inconclusive clinical trial results may require us to conduct further testing or to abandon projects that we had expected to be promising;

- our competitors may discover or commercialize other compounds or therapies that show significantly improved safety or efficacy compared to cabozantinib;
- patient registration or enrollment in our clinical testing may be lower than we anticipate, resulting in the delay or cancellation of clinical testing; and
- regulators or institutional review boards may withhold authorization of, or delay, suspend or terminate clinical research for various reasons, including noncompliance with regulatory requirements or their determination that participating patients are being exposed to unacceptable health risks.

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

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

Completion of clinical trials may take several years or more, but the length of time generally varies substantially according to the type, complexity, novelty and intended use of cabozantinib. 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 who ultimately participate in the clinical trial;
- the duration of patient follow-up that is appropriate in view of the results or required by regulatory authorities;
- the number of clinical sites included in the trials; and
- the length of time required to enroll suitable patient subjects.

Any delay could limit our ability to generate revenues, cause us to incur additional expense and cause the market price of our common stock or the 2019 Notes to decline significantly. Our partners under our collaboration agreements may experience similar risks with respect to the compounds we have out-licensed to them. If any of the events described above were to occur with such programs or compounds, the likelihood of receipt of milestones and royalties under such collaboration agreements could decrease.

If third parties upon which we rely do not perform as contractually required or expected, we may not be able to obtain regulatory approval for or commercialize cabozantinib for the treatment of additional indications beyond progressive, metastatic MTC.

We do not have the ability to independently conduct clinical trials for cabozantinib, including our post-marketing commitments for COMETRIQ for the treatment of progressive, metastatic MTC, and we rely on third parties we do not control such as the federal government (including NCI-CTEP, with whom we have our CRADA), 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 commercialize cabozantinib for additional indications beyond progressive, metastatic MTC.

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

Cabozantinib, as well as the activities associated with its 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 cabozantinib would prevent us from promoting its use. We have only limited experience in preparing and filing the applications necessary to gain regulatory approvals. The process of obtaining regulatory approvals in the United States and other foreign jurisdictions is expensive, and often takes many years, if approval is obtained at all, and can vary substantially based upon the type, complexity and novelty of the product candidates involved. For example, before a New Drug Application, or NDA, or NDA supplement can be submitted to the FDA, or MAA to the EMA or any application or submission to regulatory authorities in other jurisdictions, the product candidate must undergo extensive clinical trials, which can take many years and require substantial expenditures.

In December 2011, we initiated COMET-2, our first phase 3 pivotal trial of cabozantinib in patients with metastatic

castration-resistant prostate cancer, with pain response as the primary efficacy endpoint for the trial. We were not able to reach a timely agreement with the FDA for a Special Protocol Assessment, or SPA, on the proposed design and analysis of the COMET-2 trial. We originally submitted the proposed protocol for this trial using primary endpoints of pain reduction and bone scan response to the FDA in June 2011 with a request for a SPA. The FDA's final response prior to our discontinuation of the SPA process, which we received in October 2011, raised the following concerns regarding the COMET-2 trial design in the context of its consideration of a SPA for the trial, among other comments:

- A concern about the ability to maintain blinding of the trial due to differences in toxicity profiles between cabozantinib and mitoxantrone.
- A view that the assumed magnitude of pain improvement is modest and could represent a placebo effect or be attained with less toxicity by opioid therapy.
- A view that symptomatic improvement should be supported by evidence of anti-tumor activity, an acceptable safety profile and lack of survival decrement. The FDA also expressed the view that if the effect that we believe cabozantinib will have on pain is mediated by anti-tumor activity, that anti-tumor activity should translate into an improvement in overall survival.
- A recommendation that if we use pain response as a primary efficacy endpoint, that we conduct two adequate and well-controlled trials to demonstrate effectiveness as, according to the FDA, a conclusion based on two persuasive studies will always be more secure. The FDA advised that for a single randomized trial to support an NDA, the trial must be well designed, well conducted, internally consistent and provide statistically persuasive efficacy findings so that a second trial would be ethically or practically impossible to perform.

In the context of its consideration of a SPA for the COMET-2 trial, the FDA also recommended that overall survival be the primary efficacy endpoint. The final FDA response prior to our discontinuation of the SPA process stated that we could choose to conduct the trial in the absence of a SPA agreement. We elected to proceed with initiation of the COMET-2 trial and the COMET-1 trial, and to discontinue further attempts to secure a SPA agreement with respect to the COMET-2 trial. We initiated the COMET-2 trial with a pain palliation endpoint in December 2011 and the COMET-1 trial with an overall survival endpoint in May 2012.

Any clinical trial may fail to produce results satisfactory to the FDA or regulatory authorities in other jurisdictions. For example, the FDA could determine that the design of a clinical trial is inadequate to produce reliable results. The regulatory process also requires preclinical testing, and data obtained from preclinical and clinical activities are susceptible to varying interpretations. The FDA has substantial discretion in the approval process and may refuse to approve any NDA (regardless of prior receipt of a SPA) or decide that our data is insufficient for approval and require additional preclinical, clinical or other studies. For example, varying interpretations of the data obtained from preclinical and clinical testing could delay, limit or prevent regulatory approval of cabozantinib.

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

Even if the FDA or a comparable authority in another jurisdiction approves cabozantinib, the approval may impose significant restrictions on the indicated uses, conditions for use, labeling, distribution, advertising, promotion, marketing and/or production of cabozantinib and may impose ongoing requirements for post- approval studies, including additional research and development and clinical trials. For example, in connection with the FDA's approval of COMETRIQ for the treatment of progressive, metastatic MTC, we are subject to the various post marketing requirements, including a requirement to conduct a phase 2 clinical trial comparing a lower dose of COMETRIQ to the approved dose of 140 mg daily COMETRIQ in progressive, metastatic MTC and to conduct other clinical pharmacology and preclinical studies. 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 Our Relationships with Third Parties

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

We have established collaborations with leading pharmaceutical and biotechnology companies, including Bristol-Myers Squibb, Sanofi, Genentech, GlaxoSmithKline, Merck (known as MSD outside of the United States and Canada) and Daiichi Sankyo, for the development and ultimate commercialization of a significant number of compounds generated from our research and development efforts. We may pursue collaborations for selected unpartnered preclinical and clinical programs and compounds. Our dependence on our relationships with existing collaborators for the development and commercialization of our

compounds subjects us to, and our dependence on future collaborators for development and commercialization of additional compounds will subject us to, a number of risks, including:

- we may not be able to control the amount of U.S. marketing and commercialization costs for cobimetinib (GDC-0973/XL518) we are obligated to share under our collaboration with Genentech;
- we are not able to control the amount and timing of resources that our collaborators or potential future collaborators will devote to the development or commercialization of drug candidates or to their marketing and distribution;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial program, stop a clinical trial or abandon a drug candidate, repeat or conduct new clinical trials or require a new formulation of a drug candidate for clinical testing;
- disputes may arise between us and our collaborators that result in the delay or termination of the research, development or commercialization of our drug candidates or that result in costly litigation or arbitration that diverts management's attention and resources;
- collaborators may experience financial difficulties;
- collaborators may not be successful in their efforts to obtain regulatory approvals in a timely manner, or at all;
- collaborators may not properly maintain or defend our intellectual property rights or may use our proprietary information in such a way as to invite litigation that could jeopardize or invalidate our proprietary information or expose us to potential litigation;
- business combinations or significant changes in a collaborator's business strategy may adversely affect a collaborator's willingness or ability to complete its obligations under any arrangement;
- a collaborator could independently move forward with a competing drug candidate developed either independently or in collaboration with others, including our competitors;
- we may be precluded from entering into additional collaboration arrangements with other parties in an area or field of exclusivity;
- future collaborators may require us to relinquish some important rights, such as marketing and distribution rights; and
- collaborations may be terminated (as occurred with respect to cabozantinib and XL281, which were previously subject to our 2008 collaboration agreement with Bristol-Myers Squibb, and with respect to our 2009 discovery collaboration with Sanofi, which was terminated in December 2011) or allowed to expire, which would delay, and may increase the cost of development of, our drug candidates.

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

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

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

If any of these agreements is terminated early (as occurred with respect to cabozantinib and XL281, which were previously subject to our 2008 collaboration agreement with Bristol-Myers Squibb, and with respect to our 2009 discovery collaboration with Sanofi, which was terminated in December 2011), whether unilaterally or by mutual agreement, our revenues could suffer. Most of our collaboration agreements contain early termination provisions. In addition, from time to time we review and assess certain aspects of our collaborations, partnerships and agreements and may amend or terminate, either by mutual agreement or pursuant to any applicable early termination provisions, such collaborations, partnerships or agreements if we deem them to be no longer in our economic or strategic interests. We may not be able to enter into new collaboration agreements on similar or superior financial terms to offset the loss of revenues from the termination or expiration of any of our existing or recently terminated arrangements.

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

Our strategy includes the pursuit of new collaborations with leading pharmaceutical and biotechnology companies for the development and ultimate commercialization of selected preclinical and clinical programs and compounds, particularly those drug candidates for which we believe that the capabilities and resources of a partner can accelerate development and help

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

Risks Related to Our Intellectual Property

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

Our success will depend in part upon our ability to obtain patents and maintain adequate protection of the intellectual property related to our technologies and products. The patent positions of biotechnology companies, including our patent position, are generally uncertain and involve complex legal and factual questions. We will be able to protect our intellectual property rights from unauthorized use by third parties only to the extent that our technologies are covered by valid and enforceable patents or are effectively maintained as trade secrets. We will continue to apply for patents covering our technologies and products as and when we deem appropriate. However, these applications may be challenged or may fail to result in issued patents. In addition, because patent applications can take many years to issue, there may be pending applications, unknown to us, which may later result in issued patents that cover the production, manufacture, commercialization or use of our product candidates. Our existing patents and any future patents we obtain may not be sufficiently broad to prevent others from practicing our technologies or from developing competing products. Furthermore, others may independently develop similar or alternative technologies or design around our patents. In addition, our patents may be challenged or invalidated or may fail to provide us with any competitive advantages, if, for example, others were the first to invent or to file patent applications for these inventions.

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

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

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

Third parties may accuse us of employing their proprietary technology without authorization. In addition, third parties may obtain patents that relate to our technologies and claim that use of such technologies infringes on their patents. Regardless of their merit, such claims could require us to incur substantial costs, including the diversion of management and technical

personnel, in defending ourselves against any such claims or enforcing our patents. In the event that a successful claim of infringement is brought against us, we may be required to pay damages and obtain one or more licenses from third parties. We may not be able to obtain these licenses at a reasonable cost, or at all. Defense of any lawsuit or failure to obtain any of these licenses could adversely affect our ability to develop and commercialize products.

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

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

Risks Related to Employees and Location

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

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

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

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

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

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

Security breaches may disrupt our operations, subject us to liability and harm our operating results.*

Our network security and data recovery measures may not be adequate to protect against computer viruses, break-ins, and similar disruptions from unauthorized tampering with our computer systems. The misappropriation, theft, sabotage or any other type of security breach with respect to any of our proprietary and confidential information that is electronically stored, including research or clinical data, could subject us to liability and have a material adverse impact on our business, operating

results and financial condition. Additionally, any break-in or trespass of our facilities that results in the misappropriation, theft, sabotage or any other type of security breach with respect to our proprietary and confidential information, including research or clinical data, or that results in damage to our research and development equipment and assets, could subject us to liability and have a material adverse impact on our business, operating results and financial condition.

Risks Related to Environmental and Product Liability

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

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

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

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

We may be held liable if any product we or our collaborators develop causes injury or is found otherwise unsuitable during product testing, manufacturing, marketing or sale. Regardless of merit or eventual outcome, product liability claims could result in decreased demand for our product candidates, injury to our reputation, withdrawal of patients from our clinical trials, substantial monetary awards to trial participants and the inability to commercialize any products that we may develop. These claims might be made directly by consumers, health care providers, pharmaceutical companies or others selling or testing our products. We have obtained limited product liability insurance coverage for our clinical trials and commercial activities for cabozantinib in the amount of $15.0 million per occurrence and $15.0 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. On occasion, juries have awarded large judgments in class action lawsuits for claims based on drugs that had unanticipated side effects. In addition, the pharmaceutical and biotechnology industries, in general, have been subject to significant medical malpractice litigation. A successful product liability claim or series of claims brought against us could harm our reputation and business and would decrease our cash reserves.

Risks Related to Our Common Stock and the 2019 Notes

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

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

- the progress and scope of our development and commercialization activities;
- the commercial success of COMETRIQ and the revenues we generate;
- recognition of upfront licensing or other fees or revenues;
- payments of non-refundable upfront or licensing fees, or payment for cost-sharing expenses, to third parties;
- acceptance of our technologies and platforms;
- the success rate of our efforts leading to milestone payments and royalties;
- the introduction of new technologies or products by our competitors;
- the timing and willingness of collaborators to further develop or, if approved, commercialize our product out-licensed to them;
- our ability to enter into new collaborative relationships;
- the termination or non-renewal of existing collaborations;

- the timing and amount of expenses incurred for clinical development and manufacturing of cabozantinib;
- adjustments to expenses accrued in prior periods based on management's estimates after the actual level of activity relating to such expenses becomes more certain;
- the impairment of acquired goodwill and other assets;
- the impact of the Restructurings; and
- general and industry-specific economic conditions that may affect our collaborators' research and development expenditures.

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

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

Our stock price may be extremely volatile.

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

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

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

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

Future sales of our common stock or conversion of our convertible notes, or the perception that such sales or conversions may occur, may depress our stock price and adversely impact the trading price of the 2019 Notes.

A substantial number of shares of our common stock is reserved for issuance upon conversion of the 2019 Notes, upon the exercise of stock options, upon vesting of restricted stock unit awards, upon sales under our employee stock purchase program and upon conversion of the Deerfield Notes. The issuance and sale of substantial amounts of our common stock, including upon conversion of convertible notes, or the perception that such issuances and sales may occur, could adversely affect the market price of our common stock and impair our ability to raise capital through the sale of additional equity or equity-related securities in the future at a time and price that we deem appropriate. Any market that develops for the 2019 Notes is likely to influence and be influenced by the market for our common stock. For example, the price of our common stock could be affected by possible sales of common stock by investors who view the 2019 Notes as a more attractive means of equity participation in our company and by hedging or arbitrage trading activity that we expect to occur involving our common stock.

The accounting method for convertible debt securities that may be settled in cash, such as the 2019 Notes, could have a material effect on our reported financial results.

Under Accounting Standards Codification, or ASC, Subtopic 470-20, issuers of certain convertible debt instruments that have a net settlement feature and may be settled in cash upon conversion, including partial cash settlement, are required to separately account for the liability (debt) and equity (conversion option) components of the instrument. As a result of the application of ASC 470-20, we recognized $143.2 million as the initial debt discount with a corresponding increase to paid-in capital, the equity component, for the 2019 Notes. We will be required to record the amortization of this debt discount over the terms of the 2019 Notes, which may adversely affect our reported or future financial results and the market price of our common stock. In addition, if the 2019 Notes become convertible, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the 2019 Notes as a current rather than long-term liability, which would result in a material reduction of our net working capital. Finally, we expect to use the if-converted method to compute earnings per share, which could be more dilutive than using the treasury stock method.

Certain provisions in the 2019 Notes and the indenture pursuant to which such notes were issued could delay or prevent an otherwise beneficial takeover or takeover attempt.

Certain provisions in the 2019 Notes and the indenture pursuant to which such notes were issued could make it more difficult or more expensive for a third party to acquire us. For example, if an acquisition event constitutes a Fundamental Change, holders of the 2019 Notes will have the right to require us to purchase their notes in cash. In addition, if an acquisition event constitutes a make-whole Fundamental Change, we may be required to increase the conversion rate for holders who convert their 2019 Notes in connection with such make-whole Fundamental Change. In any of these cases, and in other cases, our obligations under the 2019 Notes and the indenture pursuant to which such notes were issued, as well as provisions of our organizational documents and other agreements, could increase the cost of acquiring us or otherwise discourage a third party from acquiring us or removing incumbent management.

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

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

- a classified Board of Directors;
- a prohibition on actions by our stockholders by written consent;
- the inability of our stockholders to call special meetings of stockholders;
- the ability of our Board of Directors to issue preferred stock without stockholder approval, which could be used to institute a "poison pill" that would work to dilute the stock ownership of a potential hostile acquirer, effectively preventing acquisitions that have not been approved by our Board of Directors;

- limitations on the removal of directors; and
- advance notice requirements for director nominations and stockholder proposals.

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

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

Not applicable.

Item 3. Defaults Upon Senior Securities.

Not applicable.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

Not applicable.

Item 6. Exhibits.

(a) Exhibits

See the Exhibit Index immediately following the signature page to this Quarterly Report on Form 10-Q, which is incorporated by reference here.

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.

August 6, 2013	/s/ FRANK KARBE
Date	**Frank Karbe**
	Executive Vice President and Chief Financial Officer
	(Duly Authorized Officer and Principal Financial and Accounting Officer)

EXHIBIT INDEX

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/ Appendix Reference	Filing Date	
3.1	Amended and Restated Certificate of Incorporation of Exelixis, Inc.	10-K	000-30235	3.1	3/10/2010	
3.2	Certificate of Amendment of Amended and Restated Certificate of Incorporation of Exelixis, Inc.	10-K	000-30235	3.2	3/10/2010	
3.3	Certificate of Amendment of Amended and Restated Certificate of Incorporation of Exelixis, Inc.	8-K	000-30235	3.1	5/25/2012	
3.4	Amended and Restated Bylaws of Exelixis, Inc.	8-K	000-30235	3.1	12/5/2011	
4.1	Specimen Common Stock Certificate.	S-1, as amended	333-96335	4.1	2/7/2000	
4.2	Form of Warrant, dated June 10, 2009, to purchase 500,000 shares of Exelixis, Inc. common stock in favor of Symphony Evolution Holdings LLC.	10-Q, as amended	000-30235	4.4	7/30/2009	
4.3	Warrant Purchase Agreement, dated June 9, 2005, between Exelixis, Inc. and Symphony Evolution Holdings LLC.	10-Q	000-30235	10.8	8/5/2010	
4.4*	Form Warrant to Purchase Common Stock of Exelixis, Inc. issued or issuable to Deerfield Private Design Fund, L.P., Deerfield Private Design International, L.P., Deerfield Partners, L.P. and Deerfield International Limited	8-K	000-30235	4.9	6/9/2008	
4.5	Form of Note, dated July 1, 2010, in favor of Deerfield Private Design International, L.P.	10-Q	000-30235	10.1 (Exhibit A-1)	8/5/2010	
4.6	Form of Note, dated July 1, 2010, in favor of Deerfield Private Design Fund, L.P.	10-Q	000-30235	10.1 (Exhibit A-2)	8/5/2010	
4.7	Indenture dated August 14, 2012 by and between Exelixis, Inc. and Wells Fargo Bank, National Association	8-K	000-30235	4.1	8/14/2012	
4.8	First Supplemental Indenture dated August 14, 2012 to Indenture dated August 14, 2012 by and between Exelixis, Inc. and Wells Fargo Bank, National Association	8-K	000-30235	4.2	8/14/2012	
4.9	Form of 4.25% Convertible Senior Subordinated Note due 2019	8-K	000-30235	4.2 (Exhibit A)	8/14/2012	
10.1**	Product Development and Commercialization Agreement, dated as of October 28, 2002, by and between SmithKlineBeecam Corporation and Exelixis, Inc.					X
31.1	Certification required by Rule 13a-14(a) or Rule 15d-14(a).					X
31.2	Certification required by Rule 13a-14(a) or Rule 15d-14(a).					X

Exhibit Number	Exhibit Description	Incorporation by Reference				Filed Herewith
		Form	File Number	Exhibit/ Appendix Reference	Filing Date	
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).					X
101.INS	XBRL Instance Document					X
101.SCH	XBRL Taxonomy Extension Schema Document					X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document					X
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document					X
101.LAB	XBRL Taxonomy Extension Labels Linkbase Document					X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document					X

* Confidential treatment granted for certain portions of this exhibit.

** 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 Exelixis, Inc. 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.

PRODUCT DEVELOPMENT AND COMMERCIALIZATION AGREEMENT

BETWEEN

SMITHKLINE BEECHAM CORPORATION
DOING BUSINESS AS GLAXOSMITHKLINE

AND

EXELIXIS, INC.

DATED AS OF

OCTOBER 28, 2002

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LIST OF SCHEDULES

PRODUCT DEVELOPMENT AND COMMERCIALIZATION AGREEMENT

THIS PRODUCT DEVELOPMENT AND COMMERCIALIZATION AGREEMENT is made as of the 28th day of October, 2002 (the "**Effective Date**") by and between Exelixis, Inc., a Delaware corporation ("**EXEL**"), and SmithKline Beecham Corporation, a Pennsylvania corporation, doing business as GlaxoSmithKline ("**GSK**"). EXEL and GSK are each referred to herein by name or as a "**Party**" or, collectively, as the "**Parties**."

RECITALS

A. EXEL has developed certain capabilities for the discovery and development of pharmaceutical products for the treatment of human diseases or conditions.

B. GSK possesses pharmaceutical research, development, manufacturing and commercialization expertise.

C. GSK desires to engage in a collaborative effort with EXEL, pursuant to which GSK shall partially fund the research costs incurred by EXEL, and EXEL shall engage in a research and development program to discover and develop compounds with demonstrated efficacy in humans (*i.e.*, completion of Phase IIa clinical trials) that will be offered by EXEL to GSK.

D. At the end of Contract Year Two (as defined below) GSK shall have the ability to select, in its sole discretion, either the Limited Program Option (as defined below) or the Expanded Program Option (as defined below).

E. From the compounds offered by EXEL hereunder, GSK may accept for further development and commercialization, for any and all uses in the Territory (as defined below), [*] compounds in the event GSK [*], or [*] compounds in the event GSK [*], all on the terms and conditions set forth herein.

F. Upon acceptance of such compounds by GSK, EXEL shall grant to GSK, and GSK shall obtain, an exclusive license in the Territory under this Agreement to make, have made, use, sell, offer for sale and import certain Licensed Products (as defined below) throughout the Territory on the terms and conditions set forth herein.

G. The Parties acknowledge that any rights GSK acquires under this Agreement, as defined below, will be held by GSK in accordance with GSK's and its group's inter-company agreements, as in effect from time to time.

H. Contemporaneously with the execution of this Agreement, the Parties have executed: (i) a Stock Purchase and Stock Issuance Agreement (the "**Stock Purchase Agreement**") under which (A) GSK shall purchase common stock of EXEL; and (B) EXEL shall have the option to sell to GSK additional shares of common stock of EXEL at a certain specified point in time; and (ii) a Loan and Security Agreement (the "**Loan Agreement**") under which GSK shall make available a loan against which EXEL may draw down advances during the Development Term (as defined below) of up to an aggregate maximum total of Eighty-Five Million Dollars ($85,000,000) in the event GSK [*] or [*] in the event GSK [*].

Now, therefore, in consideration of the premises and mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

[*] = 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.

ARTICLE 1

DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth in this Article 1 unless context dictates otherwise:

1.1 **"Activity Threshold"** shall mean[*].

1.2 **"Affiliate"** shall mean any Person, whether *de jure* or *de facto*, which directly or indirectly through one (1) or more intermediaries controls, is controlled by, or is under common control with, a Party to this Agreement. A Person shall be deemed to "control" another Person if it (i) owns, directly or indirectly, beneficially or legally, at least fifty percent (50%) of the outstanding voting securities or capital stock (or such lesser percentage which is the maximum allowed to be owned by a Person in a particular jurisdiction) of such other Person, or has other comparable ownership interest with respect to any Person other than a corporation; or (ii) has the power, whether pursuant to contract, ownership of securities or otherwise, to direct the management and policies of the Person.

1.3 **"Agreement"** shall mean this Product Development and Commercialization Agreement together with the recitals and all exhibits, schedules and attachments hereto.

1.4 **"Alliance Managers"** shall have the meaning assigned to such term in Section 2.3.

1.5 **"Annual Research and Development Payments"** shall have the meaning assigned to such term in Section 3.8.1.

1.6 **"Artemis"** shall have the meaning assigned to such term in Section 8.1.1(a).

1.7 **"Artemis Agreement"** shall that certain Asset Purchase and Transfer Agreement between Artemis Pharmaceuticals GmbH and Exelixis Deutschland GmbH dated as of December 18, 2001.

1.8 **"Artemis Intellectual Property"** shall have the meaning assigned to such term in Section 10.2.15.

1.9 **"Back-up Compound"** shall mean [*].

1.10 **"Bankruptcy Code"** shall have the meaning assigned to such term in Section 12.4.2.

1.11 **"Biotechnology Company"** shall have the meaning assigned to such term in Section 13.2.2.

1.12 **"Biotherapeutic Product"** shall mean [*].

1.13 **"Biotherapeutic Target"** shall mean [*].

1.14 **"Breaching Party"** shall have the meaning assigned to such term in Section 12.2.1.

1.15 **"Calendar Quarter"** shall mean a period of three (3) consecutive months ending at midnight, Eastern Time on the last day of March, June, September, or December, respectively.

1.16 **"cGMP"** shall mean current Good Manufacturing Practices as defined in Parts 210 and 211 of Title 21 of the U.S. Code of Federal Regulations, as may be amended from time to time, or any successor thereto.

1.17 **"Change of Control"** shall mean a transaction in which [*].

1.18 **"Change of Control Compound"** shall have the meaning assigned to such term in Section 13.1.2(f)(i).

1.19 **"Change of Control Licensed Product"** shall have the meaning assigned to such term in Section 13.1.2(f)(i).

1.20 **"Collaboration Committee"** shall have the meaning assigned to such term in Section 2.2.

1.21 **"Collaboration Compound"** shall mean [*].

1.22 **"Collaboration Targets"** shall mean [*].

1.23 **"Collaboration Technology"** shall mean [*].

1.24 **"Combination Product"** shall mean a product that is a preparation incorporating two (2) or more therapeutically active ingredients [*]. Notwithstanding the foregoing, ingredients or components other than active ingredients, including without limitation drug delivery vehicles, adjuvants, and excipients, shall not be deemed to be "therapeutically active ingredients," and their presence shall not be deemed to create a Combination Product for purposes of this Section 1.24.

1.25 **"Commercialization Liaison"** shall have the meaning assigned to such term in Section 5.3.4(a).

1.26 **"Commercialization Program"** shall have the meaning assigned to such term in Section 5.3.1.

1.27 **"Commercialization Term"** shall have the meaning assigned to such term in Section 5.3.1.

1.28 **"Competitive Infringement"** shall have the meaning assigned to such term in Section 8.3.2.

1.29 **"Competitive Product"** shall have the meaning assigned to such term in Section 5.4.1.

1.30 **"Compound Inventions"** shall have the meaning assigned to such term in Section 8.1.1(b).

1.31 **"Compound Patents"** shall have meaning assigned to such term in Section 8.1.1(b)(i).

1.32 **"Confidential Information"** shall have the meaning assigned to such term in Section 9.1.

1.33 **"Contract Year"** shall mean a year of 365 days (or 366 days in a leap year) beginning on the Effective Date and ending one (1) year thereafter and so on year-by-year during

the Term. "**Contract Year One**" shall mean the first such year; "**Contract Year Two**" shall mean the second such year, and so on, year-by-year.

1.34 **"Control," "Controls," "Controlled" or "Controlling"** shall mean possession by the granting Party of the ability to grant the licenses or sublicenses to the other Party, as provided in this Agreement, without violating the terms of any agreement or other arrangement with any Third Party. A Party shall be deemed to Control Collaboration Technology to the extent of its individual or joint interest therein, as applicable. Notwithstanding the foregoing, for purposes of Sections 6.4.1(a), 6.4.2(c), and 6.4.3, Control shall mean possession of the ability to grant licenses or sublicenses without violating the terms of any agreement or other arrangement with any Third Party.

1.35 **"Co-promote" or "Co-promotion"** shall mean, with respect to EXEL, to engage in the promotional activities that may be agreed upon as further described in Section 5.3.4(c).

1.36 **"Co-promotion Right"** shall have the meaning assigned to such term in Section 5.3.4(c).

1.37 **"Cost of Goods Sold"** shall mean all reasonable costs allocable to the Licensed Product calculated by using GSK's standard accounting procedures, consistently applied. [*].

1.38 **"Data Package"** shall have the meaning assigned to such term in Section 3.5.1.

1.39 **"Developability Criteria"** shall mean [*].

1.40 **"Development Candidate"** shall mean [*].

1.41 **"Development Candidate Liaison"** shall have the meaning assigned to such term in Section 3.4.

1.42 **"Development Candidate Plan"** shall have the meaning assigned to such term in Section 3.3.2(a).

1.43 **"Development Compound"** shall mean [*].

1.44 **"Development Election"** shall have the meaning assigned to such term in Section 4.1.

1.45 **"Development Information"** shall have the meaning assigned to such term in Section 4.3.2(b)(ii).

1.46 **"Development Operating Plan" or "DOP"** shall have the meaning assigned to such term in Section 3.3.1.

1.47 **"Development Program"** shall mean the program, to be conducted by EXEL during the Development Term and the Extension Period, if any, as set forth in Article 3, of Identification and validation of Collaboration Targets, and research, discovery, characterization, optimization, pre-clinical development and early-stage clinical development of Development Compounds through completion of Proof of Concept Trials.

1.48 **"Development Term"** shall have the meaning assigned to such term in Section 3.1.1.

1.49 **"Disclosing Party"** shall have the meaning assigned to such term in Section 9.1.

1.50 **"Drafting Party"** shall have the meaning assigned to such term in Section 2.2.3(a).

1.51 **"Effective Date"** shall have the meaning assigned to such term in the Preamble.

1.52 **"EMEA"** shall mean the European Medicines Evaluation Agency and any successor entity thereto.

1.53 **"Employee Agreements"** shall have the meaning assigned to such term in Section 10.2.15.

1.54 **"Encumbered Compound"** shall have the meaning assigned to such term in Section 7.4.3.

1.55 **"Encumbered Target"** shall have the meaning assigned to such term in Section 7.4.3.

1.56 **"Excluded Targets"** shall mean [*].

1.57 **"Executive Officers"** shall have the meaning assigned to such term in Section 2.2.4.

1.58 **"EXEL"** shall have the meaning assigned to such term in the Preamble.

1.59 **"EXEL Biotherapeutic Product"** shall have the meaning assigned to such term in Section 6.4.3.

1.60 **"EXEL Entities"** shall mean, as of the Effective Date, [*].

1.61 **"EXEL Know-How"** shall mean: (i) all Information that EXEL discloses to GSK under this Agreement or has disclosed under the Non-Disclosure Agreement executed by EXEL and GSK dated [*]; (ii) all Information that is within the Control of the EXEL Entities, on the Effective Date or during the Term; and (iii) all non-patentable Inventions Controlled by the EXEL Entities, during the Term, in each of clauses (i), (ii) and (iii) that are necessary or useful for GSK: [*] for the further development of Licensed Products; [*]. Notwithstanding anything herein to the contrary, EXEL Know-How excludes Information contained in any published EXEL Patents.

1.62 **"EXEL Patents"** shall mean all Patents in the Territory Controlled by the EXEL Entities, as of the Effective Date as set forth on *Schedule 1.62*, and any other Patent Controlled by the EXEL Entities during the Term that claims or covers: [*]. EXEL shall update GSK regarding any EXEL Patents: (A) during [*] on an annual basis commencing on the first day of [*]; and (B) upon request by GSK after [*] with respect to EXEL Patents to which GSK retains a license hereunder.

1.63 **"EXEL Product"** shall have the meaning assigned to such term in Section 6.4.1.

1.64 **"EXEL Technology"** shall mean EXEL Patents and EXEL Know-How, including without limitation any Collaboration Technology owned by EXEL either jointly or solely.

1.65 **"Existing Biotherapeutic Target"** shall mean [*].

1.66 **"Existing Compound"** shall mean [*].

1.67 **"Existing Targets"** shall mean [*].

1.68 **"Existing Third Party Collaboration"** shall mean any of those collaboration agreements between EXEL and a Third Party listed on *Schedule 1.68*.

1.69 **"Expanded Program Option"** shall have the meaning assigned to such term in Section 3.5.1(b).

1.70 **"Extension Period"** shall have the meaning assigned to such term in Section 3.1.2(b).

1.71 **"FDA"** shall mean the U.S. Food and Drug Administration, and any successor entity thereto.

1.72 **"Field**" shall mean the areas of vascular biology-based disease, oncology and inflammatory disease, subject to the rights of certain Third Parties pursuant to the Existing Third Party Collaborations. [*].

1.73 **"First Commercial Sale"** shall mean, with respect to each Product, the first sale for which payment has been received for use or consumption by the general public of such Product in any country in the Territory after all required Marketing Approvals have been granted, or such sale is otherwise permitted, by the Regulatory Authority in such country, excluding registration samples, compassionate use sales and the like.

1.74 **"First Option Period"** shall have the meaning assigned to such term in Section 4.3.1(a).

1.75 **"Follow-up Compound"** shall mean [*].

1.76 **"Future Third Party Collaboration"** shall mean an agreement between EXEL and a Third Party after the Effective Date.

1.77 **"Gross Margin"** shall mean, with respect to a Licensed Product, [*].

1.78 **"GSK"** shall have the meaning assigned to such term in the Preamble.

1.79 **"GSK Compound Inventions"** shall have the meaning assigned to such term in Section 8.1.1(b).

1.80 **"GSK Know-How"** shall mean: (i) Information which GSK discloses to EXEL under this Agreement or has disclosed under the Non-Disclosure Agreement executed by EXEL and GSK dated [*]; (ii) all Information that is within the Control of GSK or its Affiliates on the Effective Date or during the Term; and (iii) all non-patentable Inventions Controlled by GSK or its Affiliates during the Term, if any; in each of clauses (i), (ii) and (iii), that are necessary or useful for EXEL: [*]. Notwithstanding anything herein to the contrary, GSK Know-How excludes Information contained in any published GSK Patents.

1.81 **"GSK Licensed Product"** shall have the meaning assigned to such term in Section 12.6.3(b).

1.82 **"GSK Patents"** shall mean all Patents in the Territory Controlled by GSK or its Affiliates as of the Effective Date, and any other Patent Controlled by GSK during the Term, necessary or useful for EXEL: [*].

1.83 **"GSK Screened-Compound"** shall have the meaning assigned to such term in Section 12.6.3(b).

1.84 **"GSK Technology"** shall mean any GSK Patents and GSK Know-How, including without limitation any Collaboration Technology owned by GSK either jointly or solely.

1.85 **"HSR Act"** shall have the meaning assigned to such term in Section 14.6.1.

1.86 **"Identify," "Identified," "Identifying" or "Identification"** shall mean [*].

1.87 **"Included Compound"** shall mean [*].

1.88 **"IND"** shall mean any investigational new drug application filed with the FDA pursuant to Part 312 of Title 21 of the U.S. Code of Federal Regulations, including any amendments thereto. References herein to IND shall include, to the extent applicable, any comparable filing(s) outside the U.S. (such as a CTA in the European Union).

1.89 **"Indemnitee"** shall have the meaning assigned to such term in Section 11.3.

1.90 **"Information"** shall mean information and materials within the Control of (i) with respect to GSK, GSK or its Affiliates; or (ii) with respect to EXEL, the EXEL Entities, in either case that is necessary or useful for the conduct of the Development Program or the Commercialization Program and that exists as of the Effective Date or is discovered, developed or acquired during the Term, and including, without limitation: (A) techniques and data, including, but not limited to, screens, models, inventions, methods, test data including, but not limited to, pharmacological, toxicological and clinical test data, analytical and quality control data, marketing, pricing, distribution, costs, and sales data, manufacturing information (including any relevant Third Party manufacturing information to the extent Controlled by, and in the possession of, GSK or its Affiliates, or the EXEL Entities), and patent and legal data or descriptions (to the extent that disclosure thereof would not result in loss or waiver of privilege or similar protection); and (B) compositions of matter, including but not limited to compounds, biological materials, vectors and assays. As used herein, **"clinical test data"** shall be deemed to include all information related to the clinical or preclinical testing of a Development Compound, or Licensed Product, including without limitation, patient report forms, investigators' reports, biostatistical, pharmaco-economic and other related analyses, regulatory filings and communications, and the like.

1.91 **"Invention"** shall mean any new or useful process, machine, manufacture, or composition of matter relating to or comprising [*], whether patentable or unpatentable, or any improvement thereof, that is conceived during the Term in connection with the Parties' activities under this Agreement.

1.92 **"Loan Agreement"** shall have the meaning assigned to such term in the Recitals.

1.93 **"Licensed Product(s)"** shall mean [*].

1.94 **"Licensed Product Diligence Plan"** shall have the meaning assigned to such term in Section 5.4.1.

1.95 **"Limited Program Option"** shall have the meaning assigned to such term in Section 3.5.1(a).

1.96 **"Losses"** shall have the meaning assigned to such term in Section 11.1.

1.97 **"Major Country"** shall mean [*].

1.98 **"Major Pharmaceutical Company"** shall have the meaning assigned to such term in Section 13.1.4.

1.99 **"Marketing Approval"** shall mean all approvals, licenses, registrations or authorizations of any federal, state or local regulatory agency, department, bureau or other governmental entity, necessary for the manufacturing, use, storage, import, transport and sale of a Product in a regulatory jurisdiction. "Marketing Approval" shall be deemed to occur upon first receipt of notice from a Regulatory Authority that a Product has been approved for commercial sale. For countries where governmental approval is required for pricing or for the Product to be reimbursed by national health insurance (*i.e.*, other than the United States), "Marketing Approval" shall not be deemed to occur until such pricing or reimbursement approval is obtained. Marketing Approval shall be deemed to have occurred in such country where government approval of pricing or reimbursement has not been obtained if, at any time, the Party begins the commercial sale of such Product in the country without obtaining pricing approval or reimbursement, with the date of such Marketing Approval to be deemed to occur on the date of the First Commercial Sale of the Product in the country.

1.100 **"Marketing Approval Application" or "MAA"** shall mean a New Drug Application (as defined in Title 21 of the U.S. Code of Federal Regulations, Section 314.50, *et. seq.*), or a comparable filing for Marketing Approval (not including pricing or reimbursement approval) in a country, in each case with respect to a Product in the Territory.

1.101 **"Material Breach"** shall have the meaning assigned to such term in Section 12.2.1.

1.102 **"Net Sales"** shall mean [*].

In the event a Product is sold which is a Combination Product, for purposes of determining payments due hereunder, Net Sales of Combination Products shall be calculated by multiplying the Net Sales of the Combination Product by the fraction A over A+B, in which A is the Gross Selling Price of the Product when such Product is sold in substantial quantities comprising a Development Compound as the sole therapeutically active ingredient during the applicable accounting period in which the sales of the Product were made, and B is the sum of the Gross Selling Price of the other therapeutically active ingredients contained in the Combination Product sold separately in substantial quantities during the accounting period in question. All Gross Selling Prices of the therapeutically active ingredients of the Product and Combination Products shall be calculated as the average Gross Selling Price of the therapeutically active ingredients in such Products and Combination Products during the applicable accounting period for which the Net Sales are being calculated. In the event that no separate sale of either the Product comprising a single Development Compound as the sole therapeutically active ingredient or the other therapeutically active ingredients of the Combination Product are made during the accounting period in which the sale was made or if the Gross Selling Price for a particular therapeutically active ingredient included in a Combination Product cannot be determined for an accounting period, Net Sales allocable to each of the therapeutically active ingredients in the Combination Product shall be determined by mutual agreement reached in good faith by the Parties prior to the end of the accounting period in question based on an equitable method of determining same that takes into account, in the Territory, variations in potency, the relative contribution of each therapeutically active ingredient in the Combination Product, and relative value to the end-user of each therapeutically active ingredient. For purposes of this Section 1.102, "**Gross Selling Price**" shall mean [*].

1.103 **"Non-breaching Party"** shall have the meaning assigned to such term in Section 12.2.1.

1.104 **"Non-Selected Target"** shall have the meaning assigned to such term in Section 7.4.2.

1.105 **"North America"** shall mean [*].

1.106 **"Oncology Collaborator"** shall have the meaning assigned to such term in Section 7.4.1.

1.107 **"Other Breach"** shall have the meaning assigned to such term in Section 12.2.2.

1.108 **"Other Field"** shall have the meaning assigned to such term in Section 7.2.1.

1.109 **"Party" or "Parties"** shall have the meaning assigned to such term in the Preamble, or where the context requires, shall mean GSK or its Affiliates and/or the EXEL Entities.

1.110 **"Patent"** shall mean: (i) issued and unexpired letters patent, including any extension, registration, confirmation, reissue, continuation, supplementary protection certificate, divisional, continuation-in-part, re-examination or renewal thereof, (ii) pending applications for letters patents, and (iii) foreign counterparts of any of the foregoing; in each case to the extent the same has not been held, by a court or governmental agency of competent jurisdiction, to be invalid or unenforceable in a decision from which no appeal can be taken.

1.111 **"Patent Costs"** shall mean the reasonable fees and expenses paid to outside legal counsel, and filing, maintenance and other out-of-pocket expenses paid to Third Parties, incurred in connection with the Prosecution and Maintenance of Patents.

1.112 **"Patent Subcommittee"** shall have the meaning assigned to such term in Section 8.1.5(a).

1.113 **"Payee"** shall have the meaning assigned to such term in Section 6.5.1.

1.114 **"Payor"** shall have the meaning assigned to such term in Section 6.5.1.

1.115 **"Person"** shall mean any corporation, firm, partnership or other entity.

1.116 **"Pipeline Option Period"** shall have the meaning assigned to such term in Section 4.3.2(b)(ii).

1.117 **"Pivotal Registration Study"** shall mean a human clinical trial conducted to demonstrate evidence of the efficacy and safety of a drug for inclusion in the MAA to support Marketing Approval as more fully defined in Section 312.21(c) of Title 21 of the U.S. Code of Federal Regulations.

1.118 **"Product"** shall mean [*].

1.119 **"Product Acceptance Milestone"** shall have the meaning assigned to such term in Section 6.2.1(a).

1.120 **"Product Report"** shall have the meaning assigned to such term in Section 4.2.

1.121 **"Proposed Biotherapeutic Target"** shall have the meaning assigned to such term in Section 2.5.2.

1.122 **"Proof of Concept Trial"** or **"PoC Trial"** shall mean an initial phase II clinical trial of a Development Candidate [*].

1.123 **"Prosecuting Party"** shall have the meaning assigned to such term in Section 8.1.5(b).

1.124 **"Prosecution and Maintenance" or "Prosecute and Maintain"** shall mean, with regard to a Patent, the preparing, filing, prosecuting and maintenance of such Patent, as well as the conduct of re-examinations, reissues, and requests for patent term extensions with respect to such Patent, together with the conduct of interferences, the defense of oppositions and other similar proceedings with respect to the particular Patent. For clarification, "Prosecution and Maintenance" or "Prosecute and Maintain" shall not include any other enforcement actions taken with respect to a Patent.

1.125 **"Receiving Party"** shall have the meaning assigned to such term in Section 9.1.

1.126 **"Refused Candidate"** shall have the meaning assigned to such term in Section 4.3.1(b).

1.127 **"Regulatory Authority" or "Regulatory Authorities"** shall mean the FDA in the U.S., and any health regulatory authority(ies) in any country in the Territory that is a counterpart to the FDA and holds responsibility for granting regulatory marketing approval for a Product in such country, and any successor(s) thereto.

1.128 **"Report Date"** shall have the meaning assigned to such term in Section 4.3.1(a).

1.129 **"Research and Development Payments"** shall have the meaning assigned to such term in Section 3.8.

1.130 **"Returned Licensed Product"** shall have the meaning assigned to such term in Section 5.5.1.

1.131 **"Review Subcommittee"** shall have the meaning assigned to such term in Section 2.2.6(b).

1.132 **"SAC SEC Filing"** shall have the meaning assigned to such term in Section 13.1.2(d)(i).

1.133 **"Second Option Period"** shall have the meaning assigned to such term in Section 4.3.1(c)(ii).

1.134 **"Stock Purchase Agreement"** shall have the meaning assigned to such term in the Recitals.

1.135 **"Subcommittee"** shall have the meaning assigned to such term in Section 2.2.6.

1.136 **"Subject Transaction"** shall have the meaning assigned to such term in Section 13.1.

1.137 **"Sublicensee"** shall mean, with respect to a particular Development Compound or Product, a Third Party to whom GSK or EXEL, as applicable, has granted a sublicense under

any Collaboration Technology, technology and/or intellectual property licensed to such Party pursuant to this Agreement.

1.138 **"Subsequent Product Report"** shall have the meaning assigned to such term in Section 4.3.1(c)(ii).

1.139 **"Subsequently Affiliated Company"** shall have the meaning assigned to such term in Section 13.1.

1.140 **"Successful PoC Completion"** shall mean [*].

1.141 **"Target Product Profile"** shall mean [*].

1.142 **"Term"** shall have the meaning assigned to such term in Section 12.1.2.

1.143 **"Territory"** shall mean anywhere [*].

1.144 **"Third Party"** shall mean any entity other than EXEL or GSK or an Affiliate of EXEL or GSK.

1.145 **"United States" or "U.S."** shall mean the United States of America.

1.146 **"Written Disclosure"** shall have the meaning assigned to such term in Section 14.1.

ARTICLE 2

OVERSIGHT OF THE COLLABORATION

2.1 **In General**. Except as set forth herein (including without limitation as set forth in Section 5.5), EXEL shall have principal responsibility for all research, discovery and development activities with respect to Development Compounds prior to exercise by GSK of its Development Election with respect to such Development Compounds, and GSK shall have principal responsibility for all research, development and commercialization activities with respect to such Development Compounds selected as Licensed Products by GSK thereafter.

2.2 **The Collaboration Committee**. Promptly after the Effective Date, the Parties shall establish a collaboration committee (the "**Collaboration Committee**") as more fully described in this Section 2.2. The Collaboration Committee shall have review and oversight responsibilities for all research, development and commercialization activities performed hereunder, including oversight of both the Development Program and the Commercialization Program, in each case as more specifically provided herein; *provided, however*, that the Collaboration Committee shall have no authority to amend this Agreement. Each Party agrees to keep the Collaboration Committee reasonably informed of its progress and activities within the Development Program and the Commercialization Program.

2.2.1 *Membership*. The Collaboration Committee shall be comprised of an equal number of representatives from each of GSK and EXEL. The exact number of such representatives shall be [*] for each of GSK and EXEL, or such other number as the Parties may agree. Each Party shall provide the other with a list of its initial members of the Collaboration Committee [*]. Each Party may replace any or all of its representatives on the Collaboration Committee at any time upon written notice to the other Party in accordance with Section 14.9 of this Agreement. Such representatives shall include individuals within the senior management of each Party, and those representatives of each Party shall, individually or

collectively, have expertise in business, pharmaceutical drug discovery, development and commercialization. Any member of the Collaboration Committee may designate a substitute to attend and perform the functions of that member at any meeting of the Collaboration Committee. Each Party may, in its reasonable discretion, invite non-member representatives of such Party to attend meetings of the Collaboration Committee. If the Collaboration Committee chooses to designate a chairperson, such chairperson shall be appointed for a one (1) year term and the right to name the chairperson shall alternate between the Parties.

2.2.2 *Meetings*. [*], the Collaboration Committee shall meet [*], and more frequently as the Parties deem appropriate, on such dates, and at such places and times, as provided herein or as the Parties shall agree. Thereafter, the Collaboration Committee shall meet, in person or otherwise, at least [*] to provide EXEL an update regarding GSK's efforts under the Commercialization Program and otherwise to perform the responsibilities assigned to it under this Agreement; *provided*, *however*, that [*], the Parties agree to periodically discuss in good faith the appropriate frequency of such ongoing meetings. Meetings of the Collaboration Committee that are held in person shall alternate between the offices of the Parties, or such other place as the Parties may agree. The members of the Collaboration Committee also may convene or be polled or consulted from time to time by means of telecommunications, video conferences, electronic mail or correspondence, as deemed necessary or appropriate.

2.2.3 *Minutes*. [*], EXEL shall be responsible for preparing and circulating minutes of such meeting setting forth, *inter alia*, a description, in reasonable detail, of the discussions at the meeting and a list of any actions, decisions or determinations approved by the Collaboration Committee and a list of any issues to be resolved by the Executive Officers pursuant to Section 2.2.4. Thereafter GSK shall be responsible for such minutes. Such minutes shall be effective only after approved by both Parties. With the sole exception of specific items of the meeting minutes to which the members cannot agree and which are escalated to the Executive Officers as provided in Section 2.2.3(d) below, definitive minutes of all Collaboration Committee meetings shall be finalized no later than thirty (30) days after the meeting to which the minutes pertain, as follows:

(a) Within [*] after each Collaboration Committee meeting, the Party responsible for preparing the minutes (the "**Drafting Party**") shall prepare and distribute to all members of the Collaboration Committee draft minutes of the meeting.

(b) The non-Drafting Party shall then have [*] after receiving such draft minutes to collect comments thereon from its members of the Collaboration Committee and provide them to the Drafting Party.

(c) Upon the expiration of such [*] period, the Parties shall have [*] to discuss each other's comments and finalize the minutes. A member of the Collaboration Committee from each Party shall sign and date the final minutes. The signature of each Party's Collaboration Committee member upon the final minutes shall indicate such Party's assent to the minutes.

(d) If at any time during the preparation and finalization of the Collaboration Committee minutes, the Parties do not agree on any issue with respect to the minutes, such issue shall be resolved by the escalation process as provided in Section 2.2.4. The decision resulting from the escalation process shall be promptly recorded by the Drafting Party in amended finalized minutes for said meeting.

2.2.4 *Decision Making*. Except as otherwise provided herein, decisions of the Collaboration Committee [*]. In the event that the Collaboration Committee is unable to reach [*] after it has met and attempted to reach such decision, then either Party may, by written

notice to the other, have such issue referred to the Chief Executive Officer of EXEL, or such other person holding a similar position designated by EXEL from time to time, and the Chairman, Research and Development, Pharmaceuticals of GSK, or such other person holding a similar position designated by GSK from time to time (collectively, the "**Executive Officers**"), for resolution. The Executive Officers shall meet promptly to discuss the matter submitted and to determine a resolution. If the Executive Officers are unable to determine a resolution in a timely manner, which shall in no case be [*] after the matter was referred to them, the issue shall be resolved as follows:

(a) Except as set forth in Section 3.3.4 and as otherwise set forth in this Agreement, [*]; and

(b) [*].

2.2.5 *Responsibilities*. The Collaboration Committee shall be responsible for overseeing the entire collaboration between GSK and EXEL under this Agreement, including both the Development Program and the Commercialization Program. Without limiting the foregoing, the Collaboration Committee shall perform the following functions, some or all of which may be addressed directly at any given meeting of the Collaboration Committee:

(a) [*];

(b) [*];

(c) [*];

(d) [*];

(e) [*];

(f) [*];

(g) [*];

(h) review and coordinate all of the Parties' activities under this Agreement;

(i) [*];

(j) [*]; and

(k) such other responsibilities as may be assigned to the Collaboration Committee pursuant to this Agreement or as may be mutually agreed upon by the Parties in writing from time to time.

2.2.6 *Subcommittee(s)*. From time to time, the Collaboration Committee may establish subcommittees to oversee particular projects or activities, as it deems necessary or advisable (each, a "**Subcommittee**"). Each Subcommittee shall consist of such number of members of each Party as the Collaboration Committee determines is appropriate from time to time. Such members shall be individuals with expertise and responsibilities in the areas of preclinical development, clinical development, intellectual property, process sciences, manufacturing, regulatory affairs, product development and/or product commercialization, as applicable to the stage of development of the project or activity. Each Subcommittee shall meet with such frequency as the Collaboration Committee shall determine.

(a) Each Subcommittee shall operate by [*] in all decisions. If, with respect to a matter that is subject to a Subcommittee's decision-making authority, the Subcommittee cannot reach [*], the matter shall be referred to the Collaboration Committee, which shall resolve such matter in accordance with Section 2.2.4.

(b) The Parties acknowledge and agree that at the first meeting of the Collaboration Committee a temporary subcommittee shall be established to continue the initial review of all Existing Targets and Existing Compounds (the "**Review Subcommittee**"). The Review Subcommittee shall be responsible for reviewing proposals from the respective Parties regarding [*]. In addition, the Review Subcommittee shall be responsible for recommending the initial prioritization of EXEL's activities with respect to [*].

2.2.7 *Expenses*. Each Party shall bear its own travel related expenses and other costs with respect to its activities relating to membership on the Collaboration Committee or any Subcommittee.

2.3 **Alliance Managers**. Promptly after the Effective Date, each Party shall appoint an individual(s) (other than an existing member of the Collaboration Committee) to act as the alliance manager(s) for such Party (the "**Alliance Managers**"). Each Alliance Manager shall thereafter be permitted to attend meetings of the Collaboration Committee and any Subcommittee as a nonvoting observer. The Alliance Managers shall be the primary point of contact for the Parties regarding the collaboration activities contemplated by this Agreement and shall facilitate all such activities hereunder including, but not limited to, the exchange of Information described in Section 3.7. The Alliance Managers shall also be responsible for assisting the Collaboration Committee in performing its oversight responsibilities by: (i) maintaining a current roster of: (A) Collaboration Committee members; and (B) Subcommittees and each of their respective members; and (ii) ensuring the prompt appointment and maintaining current contact information for each of the Development Candidate Liaisons and Commercialization Liaisons, as and when applicable. In addition, the Alliance Managers shall be responsible for coordinating with the Development Candidate Liaison all enabling activities to provide for a smooth transition in the event GSK exercises its Development Election with respect to such Development Candidate for advancement to become a Licensed Product, coordinating with the Commercialization Liaison all communications between the Parties with respect to the further development and commercialization of the Licensed Products, as well as any other duties as may be assigned to the Alliance Managers from time to time by the Collaboration Committee or EXEL and GSK, as the case may be. The name and contact information for such Alliance Managers, as well as any replacement(s) chosen by EXEL or GSK, in their sole discretion, from time to time, shall be promptly provided to the other Party in accordance with Section 14.9 of this Agreement.

2.4 **Liaisons**. GSK shall appoint a Development Candidate Liaison for each Development Candidate selected by EXEL in accordance with Section 3.3.2, who shall be responsible for, and shall undertake, those activities as set forth in, and pursuant to, Section 3.4; and EXEL shall appoint a Commercialization Liaison for each Licensed Product for which GSK has exercised a Development Election, who shall be responsible for, and shall undertake, those activities as set forth in, and pursuant to, Section 5.3.4(a).

2.5 **Biotherapeutic Targets**.

2.5.1 *Existing Biotherapeutic Targets*. GSK agrees and acknowledges that EXEL has identified and/or conducted research with respect to the Existing Biotherapeutic Targets prior to the Effective Date. It is expressly understood that Existing Biotherapeutic Targets shall be excluded from the Development Program [*].

2.5.2 *Ongoing Identification.* The Parties agree that it is their intention that targets identified by EXEL during the Development Program that are only amenable to the development of Biotherapeutic Products shall be excluded from the Development Program to the extent necessary to allow EXEL to develop Biotherapeutic Products [*].

2.5.3 *Criteria.* In general, a Biotherapeutic Target or an Existing Biotherapeutic Target shall be [*].

ARTICLE 3

DEVELOPMENT PROGRAM

3.1 **Commencement; Term**. The Development Program shall commence [*]. EXEL shall have principal responsibility for the conduct of the Development Program, including all scientific, clinical, legal and regulatory activities consistent with the Development Operating Plan described in Section 3.3.1 and, where applicable, the Development Candidate Plans. GSK shall provide consultation and advice with respect to such activities, which shall be considered in good faith by EXEL.

3.1.1 *Term.* The Development Program will terminate upon the first to occur of: (A) [*]; or (B) the end of Contract Year Six, unless earlier terminated in accordance with the provisions hereof (the "**Development Term**").

3.1.2 *Extension Option.* [*] GSK shall have the right and option to elect to extend the Development Program for a period not to exceed the first to occur of:

(a) [*]; or

(b) [*] in either case, (the "**Extension Period**").

To exercise such option, GSK shall so notify EXEL, in writing, at least [*] prior to the end of [*] or, in the event GSK has exercised its Development Election [*] after such exercise, and make the applicable annual payments set forth in Section 3.8.3.

3.2 **Objectives; Diligence**.

3.2.1 *Objectives.* The common objectives of the Parties are:

(a) in the event GSK [*];

(b) in the event GSK [*];

(c) for EXEL to [*].

3.2.2 *Diligence.* The Parties acknowledge and agree that, in order to achieve these objectives, EXEL will [*]

3.2.3 *EXEL's Responsibilities*. In order to achieve the objectives set forth in Section 3.2.1, [*] EXEL shall:

(a) have the right and responsibility to manufacture, or have manufactured, the Development Compounds prior to GSK's exercise of its Development Election with respect thereto, including all required bulk drug substance and clinical materials [*]

(b) conduct all research and development activities it reasonably determines are required to further utilize [*]; *provided however*, that EXEL shall have no obligation to GSK to conduct research with respect to any Excluded Target or, subject to Section 2.5.2, any Biotherapeutic Target as part of the Development Program [*];

(c) conduct all pre-clinical activities and clinical trials [*];

(d) conduct formulation development [*];

(e) develop pharmacogenomic, biomarker or similar assays [*];

(f) keep GSK informed, through [*] written reports [*]; such reports shall contain, at a minimum, the information set forth in *Schedule 3.2.3(f)*;

(g) [*];

(h) be responsible for preparing and filing all regulatory filings [*];

(i) [*]; and

(j) perform such other obligations with respect to [*] consistent with the Development Operating Plan.

3.2.4 [*]

(a) [*] EXEL shall:

(b) [*] use commercially reasonable efforts to perform the continuing research activities to be conducted by EXEL pursuant to the Development Program [*]

(c) [*].

3.3 **Development Operating Plan; Development Candidate Plan(s)**.

3.3.1 *Development Operating Plan*. The Development Program will be carried out by EXEL pursuant to an annual overall development operating plan (the "**Development Operating Plan**" or "**DOP**") [*]. The DOP for Contract Year One, dated as of October 28, 2002, shall be [*]. The Development Operating Plan shall be updated by EXEL [*]. As provided in Section 3.2.3(f), the reports being provided by EXEL under such Section shall provide updates of EXEL's progress under the Development Operating Plan [*].

3.3.2 *Development Candidate Plan(s)*.

(a) At the first meeting of the Collaboration Committee, the Collaboration Committee shall [*] Based on these discussions, EXEL will prepare [*] a development plan for each Development Candidate [*] (a "**Development Candidate Plan**") for review by the Collaboration Committee at its next regularly scheduled meeting. [*]

3.3.3 *Ongoing Review*. The Development Operating Plan and each Development Candidate Plan with respect to a Development Candidate [*] will be reviewed as necessary at each meeting of the Collaboration Committee [*].

3.3.4 [*]

3.4 **Development Candidate Liaison**. [*] GSK shall appoint an internal contact to act as a liaison between EXEL and GSK regarding further development of each such Development Candidate (the "**Development Candidate Liaison**"). The Development Candidate Liaison shall be responsible for [*]. The name and contact information for each such Development Candidate Liaison, as well as any replacement(s) chosen by GSK, in its sole discretion, from time to time, shall be promptly provided to EXEL in accordance with Section 14.9 of this Agreement. EXEL shall [*]. During [*], the Development Candidate Liaison shall provide to EXEL regular, periodic written reports, at least [*] and not later than [*] in advance of each Collaboration Committee meeting [*]. The Development Candidate Liaison position for each Development Candidate shall [*].

3.5 **Program Option Election**.

3.5.1 *Election Period*. Commencing as of the [*] in which to provide to GSK [*], along with a data package containing, to the extent then available and with respect to [*] (the "**Data Package**"). GSK shall [*] from receipt of the Data Package to choose either to:

(a) [*] for further development under the Development Program (the "**Limited Program Option**"); or

(b) have EXEL [*] as part of the Development Program (the "**Expanded Program Option**").

In the event that GSK [*] GSK shall [*].

3.5.2 *Selection of the Limited Program Option*. In the event GSK [*].

3.6 **Regulatory Matters**.

3.6.1 *Compliance*. EXEL shall conduct all pre-clinical activities and clinical trials in good scientific manner and in compliance with all requirements of applicable laws, rules and regulations, and all other applicable requirements of cGMP, good laboratory practice and current good clinical practice.

3.6.2 *Ownership*. EXEL shall own and maintain all regulatory filings for Development Compounds developed pursuant to this Agreement, including all INDs. Upon exercise by GSK of its Development Election with respect to a Development Candidate, EXEL shall transfer ownership of such regulatory filings for such Development Candidate [*], including all relevant INDs for any of the foregoing to GSK, and provide GSK with copies of such INDs and other regulatory filings, and all pre-clinical and clinical data and results (including pharmacology, toxicology, formulation, and stability studies). GSK or its designee shall own all Marketing Approval Applications for Licensed Products.

3.6.3 *Adverse Event Reporting*. Beginning on the Effective Date and continuing until such time, if any, that GSK exercises its Development Election with respect to a Development Candidate to be a Licensed Product, EXEL shall be responsible for reporting all adverse drug reaction experiences related to the activities of EXEL under this Agreement to the appropriate Regulatory Authorities in the countries in the Territory in which the Development Candidate is being developed, in accordance with the appropriate laws and regulations of the relevant countries and Regulatory Authorities. EXEL shall provide copies of all such reports to GSK within [*] of any filing with a Regulatory Authority.

3.7 **Exchange of Information**. In addition to the [*] reports to be provided under Section 3.2.3(f), and subject in all cases to the provisions of Article 9, [*] EXEL shall [*]. Any significant new Information shall be communicated [*]. All such exchanges of Information shall be coordinated by the Alliance Managers.

3.8 **Development Program Funding**. As consideration for, and to partially fund the costs to be incurred by EXEL for, the research activities to be conducted by EXEL for the intended benefit of GSK pursuant to the Development Program, GSK shall pay the following research and development payments (collectively, the "**Research and Development Payments**"):

3.8.1 *Annual Payments*. GSK shall pay the following annual non-refundable and non-creditable payments (collectively, the "**Annual Research and Development Payments**") to EXEL on or before the date set forth:

(a) regardless of GSK's selection pursuant to Section 3.5:

[*]

; and either

(b) under the Expanded Program Option:

[*]

or

(c) under the Limited Program Option:

[*]

3.8.2 *Incentive Payments*.

(a) [*], GSK shall make a one (1)-time non-refundable non-creditable payment to EXEL, within [*] of GSK's Development Election for the [*] Licensed Product, equal to the amount of any remaining, unpaid Research and Development Payments set forth in Section 3.8.1(a) and (b); or

(b) If GSK [*], GSK shall make a one (1)-time non-refundable non-creditable payment to EXEL, within [*] of GSK's Development Election for the [*] Licensed Product, equal to the amount of any remaining, unpaid Research and Development Payments set forth in Section 3.8.1(a) and (c).

3.8.3 *Extension Period Option Payments*.

(a) In the event GSK [*], GSK shall pay to EXEL the following non-refundable, non-creditable payments to EXEL [*]: (1) [*] upon [*]; and (2) [*]; or

(b) In the event GSK [*], GSK shall pay to EXEL the following non-refundable, non-creditable payments to EXEL [*]: (1) [*]; and (2) [*].

(c) [*].

3.9 **Future Acquired Technology**. [*].

3.10 **GSK Technology**. [*].

3.11 **Subcontracting**. Each Party shall have the right to engage Third Party subcontractors to perform certain of its obligations under this Agreement in accordance with the terms of Section 5.1.1. In the event that any Affiliate of EXEL other than an EXEL Entity performs any of EXEL's obligations under this Agreement, such Affiliate shall be deemed to be a subcontractor of EXEL for purposes of this Section 3.11. Any subcontractor to be engaged by a Party to perform a Party's obligations set forth in the Agreement shall meet the qualifications typically required by such Party for the performance of work similar in scope and complexity to the subcontracted activity. [*]

ARTICLE 4

GSK'S ELECTION RIGHTS

4.1 **Development Election**. During [*], GSK shall have the exclusive right, in its sole discretion, to elect to develop and commercialize each Development Compound proposed to it by EXEL as set forth below in Section 4.3, under the terms and conditions set forth in this Agreement (the "**Development Election**"). Subject to Section 5.5, any such Development Election by GSK shall be irrevocable.

4.2 **Product Report**. Once a Development Candidate [*], EXEL shall, within [*], provide a data package to GSK containing information addressing all the criteria for such Development Candidate as agreed upon by the Parties and listed in *Schedule 4.2*, [*]. The Collaboration Committee shall meet and review such Product Report within [*] of its receipt by GSK.

4.3 **Development Election Options**.

4.3.1 *Exercise During Development Term or Extension Period*. During the Development Term or the Extension Period, if any:

(a) FIRST OPTION. GSK may exercise its Development Election with respect to a Development Candidate [*] for further development as a Licensed Product by delivery to EXEL of written notice of exercise, not later than [*] after receipt of the Product Report from EXEL with respect to that Development Candidate (such date of receipt, the "**Report Date**"), specifying the Development Candidate as to which the Development Election is being exercised. The [*] period during which the Development Election must be exercised, as set forth herein, shall be referred to in this Agreement as the "**First Option Period**."

(b) REFUSED CANDIDATE. If GSK does not exercise its Development Election with respect to a particular Development Candidate (a "**Refused Candidate**") within the First Option Period, then the Development Election shall expire with respect to that Refused Candidate [*]. Upon the expiration of a Development Election with respect to a Refused Candidate (subject to the rights of GSK set forth in Section 4.3.1(c) and Section 4.4), GSK shall [*].

(c) SECOND OPTION. Following expiration of GSK's Development Election with respect to a particular Development Candidate within the First Option Period and until [*]:

(i) EXEL shall not [*]; and

(ii) [*] EXEL shall: (A) promptly notify GSK of [*] with respect to such Refused Candidate (the "**Subsequent Product Report**"). During the [*] period immediately following delivery to GSK of the Subsequent Product Report (the "**Second Option Period**"), GSK shall have the exclusive right to exercise a second Development Election with respect to such Refused Candidate and accept such Refused Candidate as a Licensed Product by delivery to EXEL of written notice of exercise.

(iii) Notwithstanding the foregoing, upon [*], GSK shall [*]. It is further understood that in the event GSK elects not to exercise a Development Election during the Second Option Period with respect to a particular Refused Candidate, its rights with respect to such Refused Candidate under Section 4.3.1(c)(ii) shall be exhausted, and GSK shall have only those rights as may arise pursuant to Section 4.3.2(b) or 4.4.

4.3.2 *Exercise upon Expiration of the Development Term or Extension Period*.

(a) EFFECT ON FIRST AND SECOND OPTION PERIODS. If upon the expiration of the Development Term, or the Extension Period, if any, a Development Candidate or Refused Candidate has been proposed to GSK either under a First Option Period or a Second Option Period, as the case may be, GSK shall have [*] to exercise its Development Election with respect to such Development Candidate or Refused Candidate under such First Option Period or Second Option Period, as the case may be, [*].

(b) PIPELINE OPTION. [*].

4.4 **The Discussion Opportunity**. [*].

ARTICLE 5

GRANT OF RIGHTS; COMMERCIALIZATION

5.1 **License Grants**.

5.1.1 *Development*.

(a) EXEL hereby grants to GSK, subject to the terms and conditions of this Agreement, a non-exclusive, non-royalty bearing, license in the Territory to use subject matter within the EXEL Technology solely for the purpose of performing internal development activities [*]. The license granted under this Section 5.1.1(a) shall not include the right to grant or authorize sublicenses; *provided*, *however*, that the engagement by GSK of subcontractors to conduct activities under this Agreement shall not be construed as having been granted a sublicense.

(b) [*]

5.1.2 *Commercialization*. Upon GSK's exercise of its Development Election and acceptance of each Licensed Product, EXEL shall be hereby deemed to have granted, and hereby grants to GSK, subject to the terms and conditions of this Agreement, during the Term, the exclusive (even as to EXEL), right and license in the Territory, with the right to grant sublicenses, under the EXEL Technology, to make, have made, use, sell, offer for sale and import such Licensed Products for any and all purposes.

5.1.3 *License to Co-promote*. In the event the Parties [*]:

(a) GSK shall grant to EXEL [*]; and

(b) The licenses granted to GSK under Section 5.1.2 shall be deemed to be modified to the extent necessary in order to allow EXEL to undertake its Co-promotion activities thereunder.

(c) For each Co-promotion license granted to EXEL pursuant to Section 5.1.3(a) with respect to a particular Licensed Product, GSK covenants that [*]

5.2 **Technology Transfer**.

5.2.1 *Initial Transfer*. After GSK exercises its Development Election for a Development Candidate pursuant to Section 4.3, EXEL shall:

(a) promptly deliver to GSK [*] all EXEL Technology and other Information Controlled by the EXEL Entities relating to [*]; and

(b) transfer to GSK, or its designee [*]; and

(c) without limiting the foregoing, EXEL shall [*].

5.2.2 [*].

5.2.3 [*].

5.3 **Commercialization Program**.

5.3.1 *Commencement; Term*. GSK shall promptly commence and pursue a program of ongoing development and commercialization for the Licensed Products [*] (the "**Commercialization Program**"). Subject to the provisions of Article 12, the Commercialization Program shall terminate, on a Licensed Product-by-Licensed Product basis, and a country-by-country basis, upon the expiration of this Agreement with respect to such Licensed Product in such country pursuant to Section 12.1.1 (the "**Commercialization Term**").

5.3.2 *GSK Responsibilities; Rights*. Except as set forth in Section 5.3.4(c), GSK, either itself and/or by and through its Affiliates, Sublicensees or contractors, shall be responsible for, and shall have the exclusive right to engage in, all development, manufacturing, marketing, advertising, promotional, launch and sales activities in connection with the marketing of the Licensed Products. As part of the Commercialization Program, during the Commercialization Term, GSK shall:

(a) have the exclusive right and responsibility for manufacturing all bulk drug substance or drug product material with respect to Licensed Products for ongoing development and commercial requirements, consistent with GSK's reasonable internal practices, industry standards and all applicable laws and regulations;

(b) own all MAAs, Marketing Approvals and other regulatory filings and approvals for the Licensed Product(s) in the Territory;

(c) prepare overview marketing plans for each of the Licensed Products in the Territory;

(d) conduct, or cause to be conducted, manage and oversee all analysis and other support necessary with respect to the manufacture, marketing and sale of all Licensed Products in the Territory;

(e) [*];

(f) [*]; and

(g) maintain records, in sufficient detail, which shall be complete and accurate and shall fully and properly reflect all work done and results achieved in connection with the Commercialization Program in the form required under all applicable laws and regulations.

5.3.3 *GSK Diligence*. During the Commercialization Term, GSK shall [*].

5.3.4 *EXEL Responsibilities; Rights*. As part of the Commercialization Program, EXEL shall:

(a) appoint an internal contact to act as a project liaison between EXEL and GSK for the further development and commercialization of such Licensed Product (the "**Commercialization Liaison**"). The Commercialization Liaison shall be responsible for [*]. The name and contact information for such Commercialization Liaison, as well as any replacement(s) chosen by EXEL, in its sole discretion, from time to time, shall be promptly provided to GSK in accordance with Section 14.9 of this Agreement. The Commercialization Liaison position for each Licensed Product shall [*];

(b) transfer ownership of all regulatory filings for Licensed Products, including all INDs to GSK, and provide GSK with copies of such INDs and other regulatory filings, all pre-clinical and clinical data and results for Licensed Products as set forth in Sections 3.6.2 and 5.2; and

(c) have the right to Co-promote each Licensed Product throughout North America (the "**Co-promotion Right**") only pursuant to the following conditions:

(i) GSK shall promptly notify EXEL of the filing by GSK of the first MAA for Marketing Approval for each Licensed Product in North America, and EXEL shall have [*] from the date of receipt of such notice from GSK to exercise the Co-promotion Right;

(ii) if EXEL so exercises the Co-promotion Right, the Parties shall, within [*] from such exercise, meet to commence good faith negotiations to determine [*]. Such discussions will include [*]. If the Parties agree [*].

5.4 **Competitive Products**.

5.4.1 *After GSK's Development Election*. In the event that, at any time after GSK exercises its Development Election and accepts a particular Licensed Product for further development and commercialization, GSK [*].

5.4.2 [*].

5.5 **Returned Licensed Products**.

5.5.1 *Termination of Development by GSK*. In the event that GSK exercises its Development Election and accepts a particular Licensed Product into the Commercialization Program and thereafter [*], GSK shall be deemed to have terminated its rights to such Licensed Product in such country(ies) or the Territory, as the case may be (except for GSK's right to

receive royalties under Section 6.4.2), and thereafter such Licensed Product shall be deemed a "**Returned Licensed Product**" in such country(ies) or the Territory, as applicable.

5.5.2 *Effect of Termination*. Upon any such termination [*].

5.5.3 *EXEL's Right to Commercialize*. Thereafter, EXEL shall be free to develop and commercialize the Returned Licensed Product in such country(ies) or the Territory, as applicable, either alone, through an Affiliate or with any Third Party, subject to the payments set forth in Section 6.4.2. In the event EXEL decides to further develop and/or commercialize such Returned Licensed Product in such country(ies) or the Territory, as applicable, either alone, through an Affiliate or with any Third Party, EXEL shall be responsible for any and all obligations of EXEL or GSK to Third Parties with respect to such Returned Licensed Product including, but not limited to, any ongoing obligations of GSK under Third Party manufacturing or licensing agreements.

5.5.4 *Unauthorized Sales*. In the event that EXEL acquires the rights with respect to a Returned Licensed Product in some, but not all, countries in the Territory, each Party shall use commercially reasonable efforts, consistent with applicable laws, to assist the other Party in maintaining such other Party's exclusive rights with respect to such Licensed Product or Returned Licensed Product, as the case may be, within the countries in its respective territory. Each Party shall also take all reasonable actions, and shall use all commercially reasonable efforts to require its Affiliates, Sublicensees and distributors to take all reasonable actions, not to solicit or facilitate sales of such Licensed Product or Returned Licensed Product, as the case may be, outside the countries in its respective territory, unless permitted in writing by the other Party. In addition, each Party shall notify the other Party immediately if it becomes aware of any such sales.

ARTICLE 6

MILESTONES AND ROYALTIES; PAYMENTS

6.1 **Upfront Payment to EXEL**. As consideration for, and to partially fund the costs to be incurred by EXEL for, the research activities to be conducted by EXEL for the intended benefit of GSK pursuant to the Development Program, GSK shall pay to EXEL a non-refundable, non-creditable up-front payment of:

(a) Thirty Million Dollars ($30,000,000) [*]; and

(b) [*] payable [*].

6.2 **Milestones Payments to EXEL**. As partial consideration to EXEL for the license and other rights granted to GSK under Article 5 of this Agreement, GSK shall pay to EXEL the following non-refundable milestone payments upon the occurrence of each event set forth below:

6.2.1 *Product Acceptance Milestones*.

(a) Subject to Section 6.2.1(b), GSK shall pay to EXEL the following milestone payments upon GSK's exercise of its Development Election for a particular Development Candidate to become a Licensed Product (each, a "**Product Acceptance Milestone**"):

(i) FIRST OPTION. If GSK exercises its Development Election for a Development Candidate during the First Option Period for such Development Candidate

pursuant to Section 4.3.1(a) or 4.3.2(a) [*], then GSK shall pay to EXEL within [*] of the delivery of notice to EXEL regarding such exercise (subject to Section 14.6) the following amount [*]

(ii) SECOND OPTION. If GSK's Development Election is exercised for a Refused Candidate during the Second Option Period for such Refused Candidate pursuant to Sections 4.3.1(c) or 4.3.2(a), the Product Acceptance Milestone(s) to be paid to EXEL shall be [*], which shall be determined [*] and shall be paid within [*] of the delivery of notice to EXEL regarding such exercise (subject to Section 14.6).

(iii) PIPELINE OPTION. If GSK's Development Election is exercised for a Development Compound during the Pipeline Option Period pursuant to Section 4.3.2(b) [*], then GSK shall pay to EXEL the following amount [*]

All payments under this Section 6.2.1(a)(iii) shall be made within [*] after [*] with respect to any such Development Compound [*].

(b) Any such Product Acceptance Milestone(s) [*].

6.2.2 *Commercialization Milestones.*

(a) Subject to Section 6.2.2(b), GSK shall, within [*] of the first occurrence of each event set forth below with respect to each Licensed Product, pay to EXEL the following non-refundable milestone payments:

(i) FIRST OPTION. If GSK's Development Election was exercised for a Development Candidate to become a Licensed Product during the First Option Period for such Development Candidate pursuant to Sections 4.3.1(a) or 4.3.2(a) [*]:

Milestone Event	**Milestone Payment**
1. – [*]	[*]
2. – [*]	[*]
3. – [*]	[*]

(ii) SECOND OPTION. If GSK's Development Election for a Refused Candidate to become a Licensed Product was exercised during the Second Option Period for such Refused Candidate pursuant to Sections 4.3.1(c) or 4.3.2(a), the milestone payment to EXEL for such Licensed Product shall be [*]; and

(iii) PIPELINE OPTION. If GSK's Development Election for a Development Compound to become a Licensed Product was exercised during the Pipeline Option Period for such Development Compound pursuant to Sections 4.3.2(b) (which is not otherwise deemed to have been exercised during the First Option Period pursuant to Section 6.2.1(a)(iii)):

Milestone Event	Milestone Payment
1. – [*]	[*]
2. – [*]	[*]
3. – [*]	[*]

(b) GSK shall be responsible for promptly informing EXEL when a milestone has been achieved. Any milestone payments made pursuant to this Section 6.2.2 [*].

(c) Notwithstanding anything contained herein to the contrary, in the event that a particular Licensed Product: (1) has not achieved one or more of the milestone events set forth in Section 6.2.2(a); and (2) total cumulative Net Sales for [*] for such Licensed Product exceed [*] in the Territory, GSK shall pay to EXEL (subject to Section 6.2.2(b)) all milestone payments for such Licensed Product as if all milestone events had occurred and such Licensed Product shall have been deemed to have achieved such milestone event(s) for all purposes hereunder.

6.2.3 [*].

6.2.4 *Payments Only Once*. For purposes of clarification, it is understood and agreed that: (A) with respect to the milestone events set forth in Sections 6.1.1 and 6.1.2, a milestone payment shall be made by GSK with respect to each Licensed Product based on whether GSK's Development Election with respect to the Development Candidate as such Licensed Product was exercised during the First Option Period, the Second Option Period or the Pipeline Option Period; and (B) with respect to all milestone payments set forth in this Section 6.2, a particular milestone payment will be made with respect to each Licensed Product only one (1) time [*].

6.3 **Royalty Payments to EXEL**. As further consideration to EXEL for the license and other rights granted to GSK under Article 5 of this Agreement, GSK shall pay to EXEL royalties as follows:

6.3.1 *Licensed Product Royalty Payments*.

(a) Subject to Section 6.3.3, GSK shall pay EXEL a royalty on annual Net Sales of Licensed Products by GSK, its Affiliates or Sublicensees in the Territory. Such royalty shall be determined by: [*], in each case as set forth in the following tables:

(i) FIRST OPTION PERIOD. If GSK's Development Election for the applicable Licensed Product was made during the First Option Period pursuant to Sections 4.3.1(a) or 4.3.2(a) (or GSK is deemed to have done so pursuant to Section 6.2.1(a)(iii)): (A) the royalty rate for all Licensed Products shall [*]; and (B) the royalty rate for the individual Licensed Product so accepted during the First Option Period shall be as follows:

[*]

(ii) SECOND OPTION PERIOD. If GSK's Development Election for a particular Licensed Product was made during the Second Option Period pursuant to Sections 4.3.1(c) or 4.3.2(a): (A) the royalty rate for all Licensed Products shall [*]; and (B) the royalty rate for the individual Licensed Product so accepted during the Second Option Period shall be as follows:

[*]

(iii) PIPELINE OPTION PERIOD. If GSK's Development Election for a particular Licensed Product is made during the Pipeline Option Period pursuant to Section 4.3.2(b) [*]: (A) the royalty rate for all Licensed Products [*]; and (B) the royalty rate for the individual Licensed Product so accepted during the Pipeline Option Period shall be [*], as follows:

[*]

(b) For purposes of determining the royalty rates applicable under Section 6.3.1, it is understood that "total annual Net Sales" shall be determined [*]. Further, it is understood that the royalty rates set forth herein shall be [*].

(c) In the event the Gross Margin for a Licensed Product [*].

6.3.2 [*].

6.3.3 *Termination of Royalty Obligation*. For each Licensed Product, the obligation to pay royalties under Section 6.3.1 shall terminate, on a country-by-country basis, upon the expiration of the later of: (A) [*]; or (B) [*] of such Licensed Product in such country; *provided, however*, that the royalty rate set forth in the respective tables in this Article 6 shall be applicable for [*] claiming or covering the manufacture, use of sale of such Licensed Product, and thereafter the royalty rate shall be [*] for such Licensed Product for the remainder, if any, of the royalty term for such Licensed Product set forth in this Section 6.3.3.

6.3.4 *Schedule of Examples*. To further clarify the application of Sections 6.1 and 6.2, *Schedule 6.3.4* sets forth examples of the milestone payments and royalty rates that will apply in different scenarios.

6.4 **Royalty Payments to GSK**. As further consideration to GSK for its support of, and activities under, the Development Program, EXEL shall pay to GSK royalties as follows:

6.4.1 *EXEL Product Royalties*. With respect to any Refused Candidate that EXEL is free to develop and commercialize as provided in Section 4.3.1(b), which Refused Candidate is subsequently commercialized by EXEL, or its Affiliates or Sublicensees, EXEL shall pay to GSK a royalty of three percent (3%) of total Net Sales in the Territory of all products incorporating [*], and/or formulations, mixtures or compositions incorporating any of the foregoing (an "**EXEL Product**") by EXEL, its Affiliates or Sublicensees.

(a) The obligation to pay royalties under Section 6.4.1 for each EXEL Product so commercialized shall terminate, on a country-by-country basis, upon the expiration of the later of: (1) the expiration of [*] claiming or covering the manufacture, use or sale of such EXEL Product in such country; or (2) [*] of such EXEL Product in such country; *provided, however*, the royalty rate set forth herein shall be applicable for [*] described above claiming or covering the manufacture, use or sale of such EXEL Product, and thereafter the royalty rate shall be [*] for such EXEL Product for the remainder, if any, of the royalty term for such EXEL Product set forth in this Section 6.4.1(a).

6.4.2 *Returned Licensed Product Royalties*. With respect to any Returned Licensed Product under Section 5.5 that is subsequently commercialized by EXEL, either alone or with a Third Party (including any Sublicensee), EXEL shall pay to GSK a royalty on total Net Sales of such Returned Licensed Product by EXEL, its Affiliates or Sublicensees as follows:

(a) an amount equal to [*] of the aggregate Net Sales of such Returned Licensed Product if GSK terminated its commercialization of such Returned Licensed Product [*]; or

(b) an amount equal to [*] of the aggregate Net Sales of such Returned Licensed Product if GSK terminated its commercialization of such Returned Licensed Product [*].

(c) The obligation to pay royalties under Section 6.4.2 for each Returned Licensed Product so commercialized shall terminate on a country-by-country basis upon the expiration of the later of: (1) the expiration of [*] claiming or covering the manufacture, use or sale of such Returned Licensed Product in such country; or (2) [*] of such Returned Licensed Product in such country; *provided*, *however*, that the royalty rate set forth herein shall be applicable for [*] described above claiming or covering the manufacture, use or sale of such Returned Licensed Product, and thereafter the royalty rate shall be [*] for such Returned Licensed Product for the remainder, if any, of the royalty term for such Returned Licensed Product set forth in this Section 6.4.2(c).

6.4.3 *Royalties on EXEL Biotherapeutic Products*. EXEL shall pay to GSK a royalty of [*] of total Net Sales, reduced by royalties due to Third Parties, as described in Section 6.4.4, by EXEL, its Affiliates or Sublicensees, on a country-by-country basis, of all Biotherapeutic Products which EXEL, either alone or through an Affiliate or Third Party, develops and commercializes for [*] (each, an "**EXEL Biotherapeutic Product**"). The obligation to pay royalties under this Section 6.4.3 for each EXEL Biotherapeutic Product so commercialized shall terminate, on a country-by-country basis, upon the expiration of the later of: (A) the expiration of [*] claiming or covering the manufacture, use or sale of such EXEL Biotherapeutic Product is directed; or (B) [*] of such EXEL Biotherapeutic Product; *provided*, *however*, the royalty rate set forth above shall be applicable for [*] described above claiming or covering the manufacture, use or sale of such EXEL Biotherapeutic Product, and thereafter the royalty rate shall be [*] for such EXEL Biotherapeutic Product for the remainder, if any, of the royalty term for such EXEL Biotherapeutic Product set forth in this Section 6.4.3.

6.4.4 *EXEL Royalties Offsets*. If, during the Term, EXEL deems it necessary to seek or obtain a license from any Third Party in order to develop and commercialize any EXEL Product, Returned Licensed Product or EXEL Biotherapeutic Product under this Agreement, EXEL shall be entitled to offset against royalties otherwise due GSK under Section 6.4 [*] of any royalties or other fees paid by EXEL to such Third Party under such license; *provided*, *however*, in no event shall such deduction reduce the royalties otherwise payable to GSK during any calendar year by more than [*]; *further provided*, *however*, that any deductible amounts not applied in a particular calendar year shall be carried over and applied in subsequent calendar years until the full deduction has been taken.

6.5 **Payments**.

6.5.1 *Commencement*. Beginning with the Calendar Quarter in which the First Commercial Sale for an applicable Product is made and for each Calendar Quarter thereafter, royalty payments shall be made to either EXEL pursuant to Sections 6.3, or GSK pursuant to Section 6.4 (the "**Payee**") within [*] following the end of each such Calendar Quarter. Each royalty payment shall be accompanied by a report, summarizing the total Net Sales for the applicable Product during the relevant Calendar Quarter and the calculation of royalties, if any, due thereon. In the event that no royalties are payable in respect of a given Calendar Quarter, the Party making the payments (the "**Payor**") shall submit a royalty report so indicating.

6.5.2 *Mode of Payment*. All payments due under this Agreement shall be payable, in full, in U.S. dollars, regardless of the country(ies) in which sales are made or in which payments are originated. For the purposes of computing Net Sales of Products sold in a currency other than U.S. dollars, such currency shall be converted into U.S. dollars as calculated at the actual average rates of exchange for the pertinent quarter or year to date, as the case may be, as used by the Payor in producing its quarterly and annual accounts, as confirmed by the Payor's auditors. Subject to Sections 6.4.4, Section 6.7 and Section 6.8.2, such payments shall be without deduction of exchange, collection or other charges.

6.5.3 *Records Retention*. Commencing with the First Commercial Sale of a Product, the Payor shall keep complete and accurate records pertaining to the sale of such Products, for a period of [*] after the year in which such sales occurred, and in sufficient detail to permit the Payee to confirm the accuracy of the royalties paid by the Payor hereunder.

6.5.4 *Expatriated Payments*. If by law, regulation, or fiscal policy of a particular country, conversion into United States dollars or transfer of funds of a convertible currency to the United States is restricted or forbidden, the Payor shall give the Payee prompt written notice of such restriction, which notice shall satisfy the payment deadlines in this Agreement. The Payor shall pay any amounts due to the Payee through whatever lawful method it chooses, including without limitation making such payments in the local currency of such country, provided such choice is consistent with seeking to make the payment in the most expeditious manner possible.

6.6 **Audits**. During the term of this Agreement and for a period of [*] thereafter, at the request and expense of the Payee, the Payor shall permit an independent, certified public accountant of nationally recognized standing appointed by the Payee, and reasonably acceptable to the Payor, at reasonable times and upon reasonable notice, but in no case no more than once per calendar year thereafter, to examine such records as may be necessary for the sole purpose of verifying the calculation and reporting of Net Sales and the correctness of any royalty payment made under this Agreement for any period within the preceding [*]. Results of any such examination shall be made available to both Payor and Payee. The independent, certified public accountant shall disclose to the Payee only the royalty amounts which the independent auditor believes to be due and payable hereunder to the Payee and shall disclose no other information revealed in such audit. Any and all records examined by such independent accountant shall be deemed the Payor's Confidential Information which may not be disclosed by said independent, certified public accountant to any Third Party. If, as a result of any inspection of the books and records of the Payor, it is shown that a Payee's payments under this Agreement were less than the amount which should have been paid, then the Payor shall make all payments required to be made to eliminate any discrepancy revealed by said inspection within [*]. The Payee shall pay for such audits, except that in the event that the royalty payments made by the Payor were less than [*] of the undisputed amounts that should have been paid during the period in question, the Payor shall pay the reasonable costs of the audit.

6.7 **Taxes**.

6.7.1 *Sales or Other Transfers*. The recipient of any transfer under this Agreement of EXEL Technology, GSK Technology, Information, Development Compounds, Licensed Products or Returned Licensed Products, as the case may be, shall be solely responsible for any sales, use, value added, excise or other non-income taxes applicable to such transfer.

6.7.2 *Withholding*. In the event that the Payor, or any of its Affiliates or Sublicensees is required to withhold any tax to the tax or revenue authorities in any country regarding any payment to the Payee due to the laws of such country: (A) such amount shall be promptly paid by the Payor or its Affiliate or Sublicensee for and on behalf of the Payee to the

appropriate governmental authority; (B) such amount shall be deducted from the payment to be made by the Payor; and (C) the Payor shall promptly notify the Payee of such withholding and, within a reasonable amount of time after making such deduction, furnish the Payee with proof of payment of such tax together with copies of any tax certificate or other documentation evidencing such withholding sufficient to enable the Payee to support a claim, if permissible, for income tax credit in respect of any amount so withheld. Each of Payor and Payee agrees to cooperate with the other in claiming exemptions from such deductions or withholdings under any agreement or treaty from time to time in effect. However, any such deduction or withholding shall be an expense of and borne solely by the Payee.

6.8 **Credit against Payments for Third Party License**.

6.8.1 *Payments under Third Party Agreements Entered into by EXEL*. EXEL shall have sole financial responsibility for all royalty and other payments required to be paid to any Third Party as a result of, or relating to, EXEL's activities under this Agreement including, without limitation, payments due on sales of Licensed Products. Such payments shall be made by EXEL directly to the relevant Third Party in accordance with the provisions of the applicable Third Party license agreement.

6.8.2 *Right of Offset*. GSK shall be entitled to an offset against royalties as follows:

(a) if, during the Term, GSK, [*] deems it necessary to seek or obtain a license from any Third Party in order to develop and commercialize a Licensed Product pursuant to the rights and licenses granted hereunder, [*] of any royalties or other fees paid to such Third Party under such license shall be deducted from royalties otherwise due EXEL under this Agreement; *provided*, *however*, in no event shall such deduction reduce the royalties otherwise payable to EXEL during any calendar year by more than [*]; *further provided*, *however*, that any deductible amounts not applied in a particular calendar year shall be carried over and applied in subsequent calendar years until the full deduction has been taken; and

(b) [*]

6.8.3 *Consultation*. GSK shall [*] for which GSK would seek to deduct royalties under Section 6.8.2, and shall [*] with respect to such proposed license agreement.

6.9 **Compulsory Licenses**. In the event that a governmental agency in any country in the Territory grants, or compels EXEL to grant, a license to any Third Party for a Licensed Product, other than to an Affiliate or Sublicensee of GSK, GSK shall [*]. For the avoidance of doubt, any sales of Licensed Products by a licensee pursuant to a compulsory license shall in no case be included in the Net Sales calculation or be the basis of any milestone payment(s) under this Agreement.

ARTICLE 7

EXCLUSIVITY

7.1 **EXEL Prohibited Activities**.

7.1.1 *Regarding Targets and Compounds.* Except as necessary to perform its obligations under this Agreement, EXEL shall not, either alone, through an Affiliate or with any Third Party:

(a) during [*];

(b) during [*]; or

(c) during [*].

7.1.2 *Regarding EXEL Technology.* With respect to any given Development Compound, from [*] EXEL shall [*].

7.2 **EXEL Permitted Activities**. Subject to Section 7.1, but notwithstanding anything else in this Agreement to the contrary:

7.2.1 *Outside the Field.* GSK acknowledges and agrees that EXEL is engaged generally in the elucidation of biological pathways in model systems, that biological systems are by their nature redundant, and that, therefore, different pathways may contain the same human molecular target. For example, and without limitation, EXEL has been, and may be in the future, engaged by a Third Party to identify targets in a research field or disease area other than the Field (an "**Other Field**"). Such research may result in the identification of human molecular targets that are the same as Existing Targets or Collaboration Targets, and in the case where such identification arises under a Future Third Party Collaboration during [*], EXEL shall [*].

7.2.2 *Regarding EXEL Biotherapeutic Products.* EXEL will not be restricted from conducting any activities related to researching, developing and/or commercializing any EXEL Biotherapeutic Products, *provided, however*, that EXEL shall [*].

7.2.3 *Regarding Targets.* EXEL will not be restricted from conducting any activities: (A) related to any Excluded Targets, or (B) with respect to targets outside the Field.

7.2.4 *Regarding Development Compounds.* EXEL shall at all times have the right to use any Development Compound [*].

7.3 **GSK Activities**. GSK will not be restricted from conducting any activities, including, without limitation, activities in the Field outside this Agreement; *provided that* the foregoing shall not be construed to grant to GSK any license under the EXEL Technology except as expressly provided in this Agreement. GSK covenants [*].

7.4 **Existing Third Party Collaborations**.

7.4.1 *Oncology Collaborations.* GSK acknowledges [*] (each, an "**Oncology Collaborator**"), and [*].

7.4.2 *Non-Selected Targets.* Notwithstanding the foregoing, pursuant to an Existing Third Party Collaboration with an Oncology Collaborator, with respect to [*] (each, a "**Non-Selected Target**"), EXEL hereby agrees [*].

7.4.3 *Encumbered Targets and Compounds.* Pursuant to an Existing Third Party Collaboration with an Oncology Collaborator, EXEL retains the right to [*] (each, an "**Encumbered Target**"). However, GSK understands and acknowledges that such Existing Third Party Collaboration [*] (each, an "**Encumbered Compound**"), including without limitation, [*]. At any time [*].

7.5 **Excluded Compounds**. The Parties expressly acknowledge and agree that GSK shall have no rights under this Agreement with respect to [*].

ARTICLE 8

OWNERSHIP OF INTELLECTUAL PROPERTY AND PATENT RIGHTS

8.1 **Ownership**.

8.1.1 *Generally*.

(a) GSK and its Affiliates shall retain all of their right, title and interest in and to the GSK Technology existing as of the Effective Date, and the EXEL Entities (subject to completion by Artemis Pharmaceuticals GmbH (**"Artemis"**) of its asset transfer obligations under the Artemis Agreement) shall retain all of their right, title and interest in and to the EXEL Technology existing as of the Effective Date; including without limitation the right to transfer or license such intellectual property to Third Parties for any purpose, subject only to each Party's obligations under this Agreement, including but not limited to the obligations set forth in Article 7 and the licenses granted in Article 5. Following the Effective Date, subject to Section 8.1.1(b), GSK and its Affiliates shall retain all of their right, title and interest in and to the GSK Technology, and the EXEL Entities (subject to completion by Artemis of its asset transfer obligations under the Artemis Agreement) shall retain all of their right, title and interest in and to the EXEL Technology, in each case developed during the Term, subject to the rights granted to each Party under this Agreement.

(b) Notwithstanding Section 8.1.1(a), all right, title and interest in and to all [*], shall be owned by [*], except that any [*] ("**GSK Compound Inventions**") shall be solely owned by [*]. GSK shall [*]. For purposes of this Agreement, "**Compound Inventions**" shall mean [*] that is discovered, conceived or created solely or jointly by employees, agents or consultants of [*] in the course of performing their respective activities under the Development Program.

(i) For the avoidance of doubt, Patents [*] ("**Compound Patents**"), if any, shall be [*].

(ii) To the extent that any such Compound Patent [*] GSK shall [*].

(c) All right, title and interest in and to all [*], shall be owned by GSK or its Affiliates. All right, title and interest in and to all [*], shall be jointly owned by GSK or the relevant Affiliate and the EXEL Entities in equal and undivided shares. Except as expressly provided in this Agreement, neither Party shall have any obligation to account to the other for profits, or to obtain any consent of the other Party to license or exploit patented jointly-owned subject matter, by reason of joint ownership thereof, and each Party hereby waives any right it may have under the laws of any jurisdiction to require any such consent or accounting.

8.1.2 *Patent Filings*. The Party responsible for Prosecution and Maintenance of Patents claiming any Collaboration Technology as set forth in Sections 8.1.3 and 8.1.4 shall use reasonable diligent efforts (which shall include, without limitation, ensuring that, in the case of EXEL, EXEL Deutschland GmbH, and in the case of GSK, its Affiliates, comply with all reasonable requests relating to such Prosecution and Maintenance of Patents) to obtain a reasonable scope of protection for Development Compounds and Licensed Products, as applicable, and will consider in good faith reasonable comments provided by the other Party.

8.1.3 *Compound Patents and Joint Patents*. The responsibility and strategy for Prosecution and Maintenance of Compound Patents and Patents claiming any jointly owned Collaboration Technology shall be [*]. The Parties shall cooperate to prepare and prosecute

patent applications for Compound Patents and Patents claiming any such Collaboration Technology in a manner that ensures a reasonable scope of protection for the relevant subject matter.

8.1.4 *Solely Owned Patents*. GSK or EXEL, as the case may be, shall control the Prosecution and Maintenance of Patents claiming any Collaboration Technology owned solely by GSK or its Affiliates, or the EXEL Entities, as the case may be, and as set forth in Section 8.1.1, in each case [*]; *provided, however*, that the control of the Prosecution and Maintenance of Compound Patents shall be subject to 8.1.3 and the Patent Costs related thereto shall be subject to Section 8.2.1.

8.1.5 *Other Matters Pertaining to Prosecution of Patents*.

(a) The Collaboration Committee shall establish a subcommittee (the "**Patent Subcommittee**") to coordinate Prosecution and Maintenance of the Compound Patents and patents claiming any jointly owned Collaboration Technology. The Patent Subcommittee shall report to the Collaboration Committee. Each Party shall submit to the Patent Subcommittee copies of all correspondence with patent authorities covering such Collaboration Technology for which such Party has responsibility for Prosecution and Maintenance. Each Party shall keep the Patent Subcommittee informed as to material developments with respect to the Prosecution and Maintenance of Patents claiming such Collaboration Technology, including without limitation, by providing upon request copies of any substantive documents that such Party or its relevant Affiliate receives from any patent office, including notice of all interferences, reissues, re-examinations, oppositions or requests for patent term extensions, and by providing the other Party the opportunity to have reasonable input into the strategic aspects of such Prosecution and Maintenance. Without limiting the foregoing, neither Party shall [*].

(b) If, during the Term, the Party responsible for prosecuting a Patent claiming jointly owned Collaboration Technology or any Compound Patent (the "**Prosecuting Party**"), intends to allow such Patent to lapse or become abandoned without having first filed a substitute, the Prosecuting Party shall, whenever practicable, notify the other Party of such intention at least [*] prior to the date upon which such Patent shall lapse or become abandoned, and such other Party shall thereupon have the right, but not the obligation, to assume responsibility for the Prosecution and Maintenance thereof [*].

8.2 **Patent Costs**.

8.2.1 *Collaboration Technology and Compound Patents*. As set forth in Section 8.1.4, [*] shall be responsible for [*] associated with the Prosecution and Maintenance of Patents claiming any [*]; *provided, however*, that EXEL and GSK shall [*]. EXEL and GSK shall [*], unless the Parties otherwise agree.

8.2.2 *Existing EXEL Technology and GSK Technology*. EXEL shall be responsible for [*] with respect to EXEL Technology existing as of the Effective Date. GSK shall be responsible for [*] with respect to GSK Technology existing as of the Effective Date. If a Party chooses not to Prosecute and Maintain a [*], then to the extent such Party owns such Patent, it shall use good faith efforts to promptly notify the other Party of its decision. Thereafter, if such Patent [*], the other Party shall [*].

8.3 **Enforcement Rights**.

8.3.1 *Defense and Settlement of Third Party Claims*.

(a) *Development Compounds*. If a Third Party asserts that a Patent or other right owned by it is infringed by the manufacture, use, sale or importation of [*], the Party first having knowledge of such a claim shall promptly provide the other Party notice of such claim and the related facts in reasonable detail. In such event, [*] shall determine best how to control the defense of any such claim; provided, however, that if such claim also covers [*] then [*] shall control. In the event [*] on the strategy for the defense of any such claim, such defense shall be controlled by [*]; *provided*, that [*] shall have the right [*] to participate in such defense and to be represented by counsel of its choice. The Party that controls the defense of a given claim with respect to [*], shall also have the right to control settlement of such claim.

(b) *Licensed Products*. If a Third Party asserts that a Patent or other right owned by it is infringed by the manufacture, use, sale or importation of [*], [*] shall have the primary right but not the obligation to control the defense of any such assertions [*]. In the event [*] elects to control the defense of any such Third Party claims, [*] shall have the right to control the settlement of such claims; *provided, however*, that no settlement shall be entered into [*]. Any Third Party royalties that arise in connection with the settlement of a Third Party claim of infringement against a Licensed Product shall be subject to [*]. In any event, the Parties shall reasonably assist one another and cooperate in any such litigation at the other's request without expense to the requesting Party. Each Party may [*] join any defense brought by the other Party.

8.3.2 *Infringement by Third Parties*. If any Party learns of an infringement, unauthorized use, misappropriation or ownership claim or threatened infringement or other such activity by a Third Party with respect to [*] ("**Competitive Infringement**"), such Party shall promptly notify the other Party and shall provide such other Party with available evidence of such Competitive Infringement.

(a) [*] shall have the primary right, but not the obligation, to institute, prosecute, and control any action or proceeding with respect to Competitive Infringement of a Patent claiming [*], by counsel of its own choice, and [*] shall have the right, [*], to be represented in that action by counsel of its own choice. If [*] fails to bring an action or proceeding within a period of [*] after a request by [*] to do so, then, to the extent that such Competitive Infringement relates to [*], [*] shall have the right to bring and control any such action by counsel of its own choice, and [*] shall have the right to be represented in any such action by counsel of its own choice [*]. Notwithstanding the foregoing, in the event that a Competitive Infringement implicates a Patent that covers [*].

(b) [*] shall have the primary right, but not the obligation, to institute, prosecute, and control any action or proceeding with respect to Competitive Infringement of a Patent claiming [*], by counsel of its own choice, and [*] shall have the right, at its own expense, to be represented in that action by counsel of its own choice. If [*] fails to bring an action or proceeding within a period of [*] after a request by [*] to do so, [*] shall have the right to bring and control any such action by counsel of its own choice, and [*] shall have the right to be represented in any such action by counsel of its own choice [*].

(c) If one Party brings any such action or proceeding in accordance with this Section 8.3.2, the second Party agrees to be joined as a party plaintiff and to give the first Party reasonable assistance and authority to file and prosecute the suit. The costs and expenses of the Party bringing suit under this Section 8.3.2 shall be borne by [*], and any damages or other monetary awards recovered shall be shared [*]. A settlement or consent

judgment or other voluntary final disposition of a suit under this Section 8.3.2 may be entered into without the consent of the Party not bringing the suit; *provided that* [*].

(d) Subject to Sections 8.3.2(a), (b) and (c), with respect to Patents claiming [*], [*] may proceed in such manner as the law permits. [*] shall bear [*], and the amount of recovery actually received by [*] shall first be applied to reimburse [*]; and then any remaining proceeds shall be allocated [*].

ARTICLE 9

CONFIDENTIALITY

9.1 **Confidentiality; Exceptions**. Except to the extent expressly authorized by this Agreement or otherwise agreed in writing, the Parties agree that the receiving Party (the "**Receiving Party**") shall keep confidential and shall not publish or otherwise disclose or use for any purpose other than as provided for in this Agreement any Information or other confidential and proprietary information and materials patentable or otherwise, in any form (written, oral, photographic, electronic, magnetic, or otherwise) which is disclosed to it by the other Party (the "**Disclosing Party**") or otherwise received or accessed by a Receiving Party in the course of performing its obligations under this Agreement including, but not limited to trade secrets, know-how, proprietary information, formulae, processes, techniques and information relating to a Party's past, present and future marketing, financial, and research and development activities of any product of the Disclosing Party and the pricing thereof (collectively, "**Confidential Information**"), except to the extent that it can be established by the Receiving Party that such Confidential Information:

9.1.1 was in the lawful knowledge and possession of the Receiving Party prior to the time it was disclosed to, or learned by, the Receiving Party, or was otherwise developed independently by the Receiving Party, as evidenced by written records kept in the ordinary course of business, or other documentary proof of actual use by the Receiving Party;

9.1.2 was generally available to the public or otherwise part of the public domain at the time of its disclosure to the Receiving Party;

9.1.3 became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the Receiving Party in breach of this Agreement; or

9.1.4 was disclosed to the Receiving Party, other than under an obligation of confidentiality, by a Third Party who had no obligation to the Disclosing Party not to disclose such information to others.

Notwithstanding any disclosure of Confidential Information of the Disclosing Party to the Receiving Party, no ownership of such Confidential Information shall be transferred as a result of such disclosure.

9.2 **Authorized Disclosure**. Except as expressly provided otherwise in this Agreement, a Receiving Party may use and disclose Confidential Information of the Disclosing Party as follows: (i) under appropriate confidentiality provisions substantially equivalent to those in this Agreement, in connection with the performance of its obligations or exercise of rights granted or reserved in this Agreement through an Affiliate or any Third Party (including the rights to commercialize Licensed Products and to grant licenses and sublicenses hereunder); or (ii) to the extent such disclosure is reasonably necessary in filing or prosecuting patent, copyright and trademark applications, prosecuting or defending litigation, complying with applicable

governmental regulations, obtaining regulatory approval, conducting preclinical activities or clinical trials, marketing Licensed Products, or otherwise required by law; *provided, however*, that if a Receiving Party is required by law or regulation to make any such disclosure of a Disclosing Party's Confidential Information it will, except where impracticable for necessary disclosures, for example in the event of medical emergency, give reasonable advance notice to the Disclosing Party of such disclosure requirement and, except to the extent inappropriate in the case of patent applications, will use its reasonable efforts to secure confidential treatment of such Confidential Information required to be disclosed; or (iii) in communication with investors, consultants, advisors or others on a need to know basis, in each case under appropriate confidentiality provisions substantially equivalent to those of this Agreement; or (iv) to the extent mutually agreed to in writing by the Parties.

9.3 **Additional Confidentiality Requirements**. In addition to the foregoing, any Information or other Collaboration Technology developed pursuant to the Development Program that solely relates to Development Compounds (for so long as GSK's ability to exercise a Development Election with respect to same have not expired) or Licensed Products that is necessary or useful for GSK to continue to develop such Development Compounds or Licensed Products, shall be deemed to be the Confidential Information of each Party as a Disclosing Party and each Party shall have the obligations of a Receiving Party pursuant to this Article 9, except for disclosures to permitted Sublicensees as set forth in this Agreement, and except to any Third Party in connection with EXEL's rights pursuant to Section 4.4, without the prior written consent of both Parties This obligation shall not apply to any Information or other Collaboration Technology that has general utility as it relates to any use or application other than such Development Compounds or Licensed Products.

9.4 **Termination of Prior Agreement**. This Agreement supersedes the Non-Disclosure Agreement executed by EXEL and GSK dated [*] (including any and all amendments thereto). All information exchanged between the Parties under that Agreement shall be deemed Confidential Information hereunder and shall be subject to the terms of this Article 9.

9.5 **Remedies**. Each Party shall be entitled, in addition to any other right or remedy it may have, at law or in equity, to an injunction, without the posting of any bond or other security, enjoining or restraining the other Party from any violation or threatened violation of this Article 9.

9.6 **Publications**. Each Party shall submit any proposed publication containing Confidential Information of the other Party to the other Party at least [*] in advance to allow that Party to review such planned public disclosure. The reviewing Party will promptly review such proposed publication and respond in any event within [*] and make any objections that it may have to the publication of Confidential Information of the reviewing Party contained therein. Should the reviewing Party make an objection to the publication of any such Confidential Information, then the Parties shall discuss the advantages and disadvantages of publishing such Confidential Information. If the Parties are unable to agree on whether to publish the same, subject to Section 14.1, [*] shall attempt to resolve the matter but if it is unable to do so such matter shall be resolved in accordance with the dispute resolution provisions of Section 14.2. Notwithstanding the foregoing, upon the reviewing Party's request, the other Party shall not submit any such publication until the reviewing Party is given a reasonable period of time to secure patent protection for any material in such publication that it believes to be patentable.

ARTICLE 10

REPRESENTATIONS; WARRANTIES AND COVENANTS

10.1 **Representations and Warranties of Both Parties**. Each Party represents and warrants to the other Party, as of the Effective Date, that:

10.1.1 such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has full corporate power and authority to enter into this Agreement and to carry out the provisions hereof;

10.1.2 such Party has taken all necessary action on its part to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder;

10.1.3 this Agreement has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid, binding obligation, enforceable against it in accordance with the terms hereof;

10.1.4 the execution, delivery and performance of this Agreement by such Party, including without limitation the grant of rights to the other Party pursuant to this Agreement, does not: (A) conflict with, nor result in any violation of or default under, any agreement, instrument or understanding, oral or written, to which it or any Affiliate is a party or by which it or any Affiliate is bound; (B) conflict with any rights granted by such Party to any Third Party or breach any obligation that such Party has to any Third Party; nor (C) violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over such Party;

10.1.5 no government authorization, consent, approval, license, exemption of or filing or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, under any applicable laws, rules or regulations currently in effect is necessary for, or in connection with, the transaction contemplated by this Agreement or any other agreement or instrument executed in connection herewith, or for the performance by it of its obligations under this Agreement and such other agreements except as may be required under the Stock Purchase Agreement; and

10.1.6 it has not employed (and, to the best of its knowledge without further duty of inquiry, has not used a contractor or consultant that has employed) any individual or entity debarred by the FDA (or subject to a similar sanction of EMEA), 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 EMEA), in the conduct of the preclinical or clinical studies of Development Compounds and its activities under the Development Program.

10.2 **Representations and Warranties of EXEL**. EXEL represents and warrants to GSK, as of the Effective Date, that:

10.2.1 to the best of its knowledge and belief, EXEL Controls all rights it purports to grant to GSK to the EXEL Know-How and EXEL Patents under this Agreement;

10.2.2 to the best of its knowledge and belief: (A) the issued EXEL Patents, if any, listed as *Schedule 1.62* are valid and in full force and effect; (B) the EXEL Patents are not the subject of any interference or opposition proceedings; and (C) EXEL is not aware of any pending or threatened action, suit proceeding or claim by a Third Party challenging the ownership rights in, validity or scope of such EXEL Patents;

10.2.3 to the best of its knowledge and belief: (A) EXEL is not aware of any notice from any Third Party asserting any ownership rights to any of the EXEL Know-How; and (B) EXEL is not aware of any pending or threatened action, suit, proceeding or claim by a Third Party asserting that EXEL is infringing or otherwise is violating any patents, trade secret or other proprietary right of any Third Party as would reasonably be expected to result in a material adverse effect upon the ability of EXEL to fulfill any of its obligations under this Agreement;

10.2.4 to the best of its knowledge and belief, EXEL has not granted any right to any Third Party relating to the EXEL Technology which conflicts with the rights granted to GSK hereunder;

10.2.5 No [*] Controls any [*] that are [*];

10.2.6 EXEL has all [*] to conduct the activities to be conducted by EXEL under this Agreement and to fulfill its obligations under this Agreement;

10.2.7 the agreements identified on *Schedule 1.68* comprise a complete and accurate list of all collaboration agreements between EXEL and a Third Party in existence on the Effective Date that [*] pursuant to this Agreement;

10.2.8 (A) the Existing Third Party Collaborations [*]; (B) EXEL has [*];

10.2.9 EXEL is not a party to any arrangement or agreement that EXEL reasonably believes [*];

10.2.10 the compounds identified on *Schedule 1.66* comprise a complete and accurate list of all compounds identified as [*] as of the Effective Date;

10.2.11 the human molecular targets identified on *Schedule 1.67* comprise a complete and accurate list of all human molecular targets [*] as of the Effective Date and do not include any Excluded Targets or Biotherapeutic Targets;

10.2.12 to the best of its knowledge and belief, the targets identified on *Schedule 1.65* meet all of the criteria set forth in Section 2.5.3;

10.2.13 other than as described in the SEC Filings (as defined in Section 4.5.1 of the Stock Purchase Agreement, there are no claims, actions, or proceedings pending or, to EXEL's knowledge, threatened; nor, except as disclosed on Schedule 4.6 of the Stock Purchase Agreement, are there any formal inquiries or notices which may lead to the institution of such legal proceedings, against EXEL or its properties, assets or business, which if adversely decided, would, individually or in the aggregate, have a material adverse effect or prevent EXEL's ability to conduct the Development Program or to grant the licenses to be granted to GSK upon the exercise of GSK's Development Election;

10.2.14 EXEL has not [*] which EXEL reasonably believes would [*]; and

10.2.15 to the best of EXEL's knowledge and belief the Employee Agreements and the Artemis Intellectual Property constitute substantially all of the intellectual property rights and other enabling rights [*] (as defined in the Artemis Agreement). For purposes of this Section 10.2.15: (A) the "**Employee Agreements**" means the employee agreements, between Artemis Pharmaceutical GmbH and its employees that were transferred to Exelixis Deutschland GmbH; and (B) the "**Artemis Intellectual Property**" means the Assets, Know-how, Contracts and Joint Contracts (as the same are defined under Artemis Agreement) that were transferred, to

be transferred, or to be managed under the Artemis Agreement in accordance with the provisions thereof.

10.3 **Covenants of EXEL**. EXEL covenants and agrees, from and after the Effective Date and during the Term, that:

10.3.1 EXEL shall provide access to Confidential Information of GSK only to EXEL's employees, consultants and independent contractors who, in each case, need such access (including without limitation access to GSK Know-How on any database that is owned or controlled by EXEL or its Affiliates which access shall in all cases be password-protected or otherwise similarly restricted) to perform services or activities under the Development Program and who, prior to such access, have executed appropriate confidentiality and invention assignment agreements to protect the Confidential Information of GSK and to retain or obtain ownership of all EXEL Technology;

10.3.2 EXEL shall not amend the terms of any [*] in such a manner as would have a material adverse effect on EXEL's performance of its obligations under this Agreement, in whole or in part, without the prior written consent of GSK;

10.3.3 EXEL shall not enter into any agreement with any Third Party that EXEL reasonably believes would materially adversely affect EXEL's ability to successfully conduct the Development Program;

10.3.4 all Collaboration Technology that is discovered, conceived or created solely or jointly by the employees, agents, consultants or subcontractors (with respect to subcontractors, subject to Section 3.11) of EXEL or its Affiliates shall be Controlled by the EXEL Entities during the Term;

10.3.5 subject to Section 7.1.1, during the Term, EXEL shall not grant any right to any Third Party relating to the EXEL Technology which conflicts with the rights granted to GSK hereunder. Except as may be provided under the Loan Agreement, during the Term EXEL shall not encumber the EXEL Patents with liens, mortgages, security interests or another similar interest that would give the holder the right to convert the interest into patent ownership, unless the encumbrance is expressly subject to the licenses herein;

10.3.6 it shall 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 EMEA), 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 EMEA), in the conduct of the preclinical or clinical studies of Development Compounds and its activities under the Development Program;

10.3.7 EXEL shall perform its activities under the Development Program in compliance with good laboratory and clinical practices and cGMP, in each case as applicable under the laws and regulations of the country where such activities are conducted;

10.3.8 none of the EXEL Entities will initiate any legal suits, claims, actions, proceedings or demands under any EXEL Technology based upon GSK using any Existing Targets or Collaboration Targets solely for the further development of Licensed Products; and

10.3.9 EXEL shall use all reasonable efforts to ensure that [*].

10.4 **Representation and Warranty of GSK**. GSK represents and warrants to EXEL, as of the Effective Date, that GSK [*].

10.5 **Covenants of GSK**. GSK covenants and agrees, from and after the Effective Date and during the Term, that:

10.5.1 GSK shall provide access to Confidential Information of EXEL only to GSK's employees, consultants and independent contractors who, in each case, need such access (including without limitation access to EXEL Know-How on any database that is owned or controlled by GSK or its Affiliates which access shall in all cases be password-protected or otherwise similarly restricted) to perform services or development activities under this Agreement, and who, prior to such access, have executed appropriate confidentiality and invention assignment agreements to protect the Confidential Information of EXEL and to retain or obtain ownership of all GSK Technology;

10.5.2 it shall 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 EMEA), 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 EMEA), in the conduct of the preclinical or clinical studies of Development Compounds and its development activities; and

10.5.3 GSK shall perform its development activities in compliance with good laboratory and clinical practices and cGMP, in each case as applicable under the laws and regulations of the country where such activities are conducted.

10.6 **Disclaimer**. Except as otherwise expressly set forth in this Agreement, neither Party makes any representation or extends any warranty of any kind either express or implied, including, but not limited to, any warranty that any Patents are valid or enforceable or that their exercise does not infringe any patent rights of Third Parties. A holding of invalidity or unenforceability of any Patent, from which no further appeal is or can be taken, shall not affect any obligation already accrued hereunder, but shall only eliminate royalties otherwise due under such Patent from the date such holding becomes final in accordance with this Agreement.

ARTICLE 11

INDEMNIFICATION; INSURANCE

11.1 **Indemnification by GSK**. GSK shall indemnify, defend and hold harmless EXEL, and its Affiliates, and their respective directors, officers, employees and agents, from and against any and all liabilities, damages, losses, costs and expenses including, but not limited to, the reasonable fees of attorneys and other professionals (collectively "**Losses**"), arising out of or resulting from any and all Third Party suits, claims actions, proceedings or demands based upon:

11.1.1 negligence, recklessness or wrongful intentional acts or omissions of GSK or its Affiliates and their respective directors, officers, employees and agents, in connection with GSK's performance of its obligations under this Agreement; *except*, in each case, to the comparative extent such claim arose out of or resulted from the negligence, recklessness or wrongful intentional acts or omissions of EXEL or its Affiliates, and their respective directors, officers, employees and agents (including their Sublicensees and subcontractors);

11.1.2 any breach of any representation or warranty made by GSK under Article 10; or

11.1.3 the research, development, manufacture, use, handling, storage, sale or other disposition of chemical agents or Licensed Products by GSK, its Affiliates, agents or Sublicensees.

11.2 **Indemnification by EXEL**. EXEL shall indemnify, defend and hold harmless GSK and its Affiliates, and their respective directors, officers, employees and agents, from and against any and all Losses, arising out of or resulting from any and all Third Party suits, claims, actions, proceedings or demands based upon:

11.2.1 negligence, recklessness or wrongful intentional acts or omissions of EXEL or its Affiliates and their respective directors, officers, employees and agents, in connection with EXEL's performance of its obligations under this Agreement; except, in each case, to the comparative extent such claim arose out of or resulted from the negligence, recklessness or wrongful intentional acts or omissions of GSK or its Affiliates, and their respective directors, officers, employees and agents (including their Sublicensees and subcontractors);

11.2.2 any breach of any representation, warranty or covenant made by EXEL under Article 10; or

11.2.3 the development, manufacture, use, handling, storage, sale or other disposition of chemical agents or Development Compounds (including, without limitation, all Development Candidates, Refused Candidates and Returned Licensed Products) by EXEL, its Affiliates, agents or Sublicensees.

11.3 **Procedure**. In the event that any person (an "**Indemnitee**") entitled to indemnification under Section 11.1 or Section 11.2 is seeking such indemnification, such Indemnitee shall: (i) inform, in writing, the indemnifying Party of the claim as soon as reasonably practicable after such Indemnitee receives notice of such claim; (ii) permit the indemnifying Party to assume direction and control of the defense of the claim (including the sole right to settle it at the sole discretion of the indemnifying Party; *provided that* such settlement does not impose any obligation on, or otherwise adversely affect, the Indemnitee or other Party); (iii) cooperate as requested (at the expense of the indemnifying Party) in the defense of the claim; and (iv) undertake all reasonable steps to mitigate any loss, damage or expense with respect to the claim(s).

11.4 **Complete Indemnification**. All costs and expenses incurred by an Indemnitee in connection with enforcement of Sections 11.1 and 11.2 shall also be reimbursed by the indemnifying Party.

11.5 **Insurance**.

11.5.1 *EXEL's Insurance Obligations*. EXEL shall maintain, at its cost, adequate insurance against liability and other risks associated with its activities contemplated by this Agreement, including but not limited to its clinical trials and its indemnification obligations herein, in such amounts and on such terms as are customary in the biotechnology industry for the activities to be conducted by it under this Agreement and shall name GSK as an additional insured as its interest may appear in such insurance policies. At a minimum, EXEL shall maintain, at its cost, a general liability insurance policy providing coverage of at least [*]. EXEL shall furnish to GSK evidence of such insurance, upon request

11.5.2 *GSK's Insurance Obligations*. GSK shall maintain, at its cost, adequate insurance against liability and other risks associated with its activities and obligations under this Agreement in such amounts and on such terms as are customary in the pharmaceutical industry for the activities to be conducted by it under this Agreement. Alternatively, GSK shall have the right to satisfy its obligations under this Section 11.5.2 through a program of self-insurance. GSK shall furnish to EXEL evidence of such insurance, upon request.

ARTICLE 12

TERM AND TERMINATION

12.1 **Term; Expiration**. This Agreement shall become effective as of the Effective Date and, unless earlier terminated pursuant to the other provisions of this Article 12, shall expire as follows:

12.1.1 on a Product-by-Product, and country-by-country, basis until the expiration of all payment obligations under this Agreement with respect to such Product in such country; and

12.1.2 in its entirety upon the expiration of all payment obligations under this Agreement with respect to the last Product in all countries in the Territory pursuant to Section 12.1.1. The period from the Effective Date to the expiration of the entire Agreement pursuant to this Section 12.1.2 shall be the "**Term**."

12.2 **Termination for Cause; Other Breaches**.

12.2.1 *Material Breach.* Either Party (the "**Non-breaching Party**") may, without prejudice to any other remedies available to it at law or in equity, terminate this Agreement in its entirety in the event the other Party (the "**Breaching Party**") shall have committed a Material Breach and such Material Breach shall have continued and/or remained uncured for [*] after written notice thereof was provided to the Breaching Party by the Non-breaching Party. Any such termination shall become effective at the end of such [*] period, unless the Breaching Party has cured any such Material Breach prior to the expiration of such [*]. The right of either Party to terminate this Agreement as provided in this Section 12.2.1 shall not be affected in any way by such Party's waiver or failure to take action with respect to any previous default. A "**Material Breach**" shall mean: (A) with respect to GSK, that [*]; or (B) with respect to EXEL, that [*].

12.2.2 *Other Breach.* For any breach other than a Material Breach (an "**Other Breach**"), the Non-breaching Party shall have all rights and remedies available to it at law or in equity, as may be appropriate and, in accordance with Section 14.2, to protect the interest of the Non-breaching Party with respect to such Other Breach, provided that the right of the Non-breaching Party to proceed with its rights and remedies hereunder shall: (A) if such Other Breach relates to any matter other than non-payment of any amounts due hereunder, not be effective for [*] after written notice thereof was provided to the Breaching Party by the Non-breaching Party; or (B) if such Other Breach resulted from the Breaching Party's failure to pay any amounts due hereunder, not be effective for [*] after written notice thereof was provided to the Breaching Party by the Non-breaching Party. Upon the Breaching Party's receipt of such notice and until the earlier of the Breaching Party's cure of such Other Breach or the resolution of such Other Breach pursuant to Section 14.2, [*].

12.3 **GSK Unilateral Termination Rights**.

12.3.1 *For Failure of Performance Requirements.* GSK shall have the right, for a period of [*] commencing [*], to terminate this Agreement in its entirety upon written notice to EXEL in the event EXEL has failed to meet its minimum performance requirement set forth in [*]. In such event, GSK's obligation to make the Research and Development Payment [*] shall be tolled until [*]. For the avoidance of doubt, any decision by GSK not to terminate this Agreement pursuant to this Section 12.3.1, shall not be deemed to be acceptance of any Development Compound as a Development Candidate.

12.3.2 *Discretionary.* GSK shall have the right to terminate this Agreement in its entirety for any reason or no reason at all, at its sole discretion, upon [*] prior written notice to EXEL; *provided* that such notice may not be given until [*].

12.3.3 *Licensed Product by Licensed Product.* GSK may terminate, for any reason or no reason at all, in its sole discretion, this Agreement as to any particular Licensed Product, on a country-by-country basis, upon [*] prior written notice to EXEL.

12.4 **Termination for Insolvency**.

12.4.1 *Insolvency.* Either Party may terminate this Agreement, if, at any time, the other Party shall file 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 Party or of substantially all of its assets, or if the other Party proposes a written agreement of composition or extension of substantially all of its debts, or if the other Party shall be served with an involuntary petition against it, filed in any insolvency proceeding, and such petition shall not be dismissed within [*] after the filing thereof, or if the other Party shall propose or be a party to any dissolution or liquidation, or if the other Party shall make an assignment of substantially all of its assets for the benefit of creditors.

12.4.2 *Bankruptcy Code Section 365(n).* All rights and licenses granted under or pursuant to any section of this Agreement are and shall otherwise be deemed to be for purposes of Section 365(n) of Title 11, United States Code (the "**Bankruptcy Code**") licenses of rights to "intellectual property" as defined in Section 101(56) of the Bankruptcy Code. The Parties shall retain and may fully exercise all of their respective rights and elections under the Bankruptcy Code. Upon the bankruptcy of any Party, the non-bankrupt Party shall further be entitled to a complete duplicate of, or complete access to, any such intellectual property, and such, if not already in its possession, shall be promptly delivered to the non-bankrupt Party, unless the bankrupt Party elects to continue, and continues, to perform all of its obligations under this Agreement.

12.5 **Effect of Termination upon Certain Payment Terms**. Notwithstanding anything herein to the contrary, GSK shall not be obligated to pay any payment otherwise payable under Section 6.2.2 as a result of the occurrence of a milestone event if the milestone occurs after the last day of the cure period described in Section 12.2.1 for the breach event which remained uncured and gave rise to a right of termination by GSK pursuant to Section 12.2.1. Similarly, in the event that GSK terminates this Agreement with respect to a particular Licensed Product in a particular country or countries in the Territory in accordance with Section 12.3.3, GSK shall not be obligated to pay any milestone payment under Section 6.2.2 as the result of the occurrence of a milestone event with respect to such terminated Licensed Product if the milestone event occurs in any terminated country more than [*] after notice of such termination is properly given by GSK pursuant to Section 12.3.3.

12.6 **Effect of Termination**.

12.6.1 *Upon Expiration of the Term*.

(a) Following the expiration of the Term with respect to a Licensed Product in a country pursuant to Section 12.1.1, subject to the terms and conditions of this Agreement, GSK shall have a non-exclusive, fully-paid, right and license, with the right to grant sublicenses, under the EXEL Technology licensed hereunder solely to continue to make, have made, use, sell, offer for sale and import the Licensed Product in such country, for so long as it continues to do so. Following the expiration of the Term with respect to any Returned Licensed Product or EXEL Product in a country pursuant to Section 12.1.1, subject to the terms and conditions of this Agreement, EXEL shall have a non-exclusive, fully-paid, right and license, with the right to grant sublicenses, under the GSK Technology licensed hereunder solely to continue to make, have made, use, sell, offer for sale and import the applicable Returned Licensed Product or EXEL Product, as the case may be, in such country, for so long as it continues to do so.

(b) Following expiration of the Term in its entirety pursuant to Section 12.1.2, subject to the terms and conditions of this Agreement, GSK shall have a non-exclusive, fully-paid, right and license, with the right to grant sublicenses, under the EXEL Technology licensed hereunder solely to continue to make, have made, use, sell, offer for sale and import all Licensed Products in the Territory, for so long as it continues to do so. Following the expiration of the Term in its entirety pursuant to Section 12.1.2, subject to the terms and conditions of this Agreement, EXEL shall have a non-exclusive, fully-paid, right and license, with the right to grant sublicenses, under GSK Technology licensed hereunder solely to continue to make, have made, use, sell, offer for sale and import the applicable Returned Licensed Product, or EXEL Product, as the case may be, for so long as it continues to do so.

12.6.2 *Upon Unilateral Termination by GSK*.

(a) FOR FAILURE OF PERFORMANCE REQUIREMENTS. [*]

(b) DISCRETIONARY. [*]

(c) LICENSED PRODUCT BY LICENSED PRODUCT. In the event of a termination of this Agreement by GSK pursuant to Section 12.3.3 with respect to a given Licensed Product in a given country(ies): (1) such Licensed Product in such country(ies) shall be deemed to be a Returned Licensed Product under Section 5.5; and (2) thereafter, the terms and conditions of this Agreement shall apply with respect to such Returned Licensed Product in such country(ies).

12.6.3 *Upon Termination by GSK for Cause*. In the event of a termination of this Agreement in its entirety by GSK: (A) pursuant to Section 12.2.1 upon Material Breach by EXEL; or (B) pursuant to Section 12.4 upon the insolvency of EXEL:

[*]

12.6.4 *Upon Termination by EXEL for Cause*. In the event of a termination of this Agreement in its entirety: (A) by EXEL pursuant to Section 12.2.1 upon Material Breach by GSK; or (B) pursuant to Section 12.4 upon the insolvency of GSK:

[*]

12.6.5 *Accrued Rights; Surviving Obligations.*

(a) Termination, relinquishment or expiration of this Agreement for any reason shall be without prejudice to any rights that shall have accrued to the benefit of any Party prior to such termination, relinquishment or expiration including, without limitation, the

payment obligations under Article 6 hereof and any and all damages arising from any breach hereunder. Such termination, relinquishment or expiration shall not relieve any Party from obligations which are expressly indicated to survive termination of this Agreement.

(b) In addition to the provisions of this Agreement which expressly survive as set forth in this Article 12 or elsewhere in this Agreement, all of the Parties' rights and obligations under, and/or the provisions contained in, Sections 6.5, 6.6, 6.7, 12.5, 12.6, 13.1.2, and Articles 1, 8 (except for Sections 8.1.2 and 8.1.5), 9, 11 and 14 shall survive the expiration, termination or relinquishment of this Agreement.

ARTICLE 13

CHANGE OF CONTROL

13.1 **Major Pharmaceutical Company**. In the event of a Change of Control of EXEL (each such event, a "**Subject Transaction**"), and the surviving Person (each, a "**Subsequently Affiliated Company**") is a Major Pharmaceutical Company:

13.1.1 *Automatic Effect.* In all cases hereunder, regardless of whether GSK elects to terminate this Agreement or not, in accordance with Section 13.1.2, effective [*] the consummation of such Subject Transaction:

[*]

13.1.2 *GSK Right to Terminate.* In the event that such Subject Transaction occurs prior to the expiration of the Development Term, or the Extension Period, if any, then GSK shall have the right, upon written notice to EXEL within [*] of the consummation of such Change of Control, to terminate this Agreement. In the event GSK so elects to terminate this Agreement:

[*]

13.1.3 *Effect of No Termination.* In the event GSK elects not to terminate this Agreement as set forth in Section 13.1.2, then:

[*]

13.1.4 *Major Pharmaceutical Company Defined.* As used in Section 13.1 and 13.2, a "**Major Pharmaceutical Company**" shall mean any Person that, together with its Affiliates, has [*].

13.2 **Biotechnology Company**. If the Subsequently Affiliated Company is a Biotechnology Company:

13.2.1 *Automatic Effect.* Effective [*] the consummation of such Subject Transaction:

[*]

13.2.2 *Biotechnology Company Defined.* As used herein, a "**Biotechnology Company**" shall mean any Person other than a Major Pharmaceutical Company.

ARTICLE 14

MISCELLANEOUS

14.1 **Publicity**. Neither Party shall originate any written publicity, news release or other announcement or statement relating to the announcement or terms of this Agreement (collectively, a "**Written Disclosure**"), without the prompt prior review and written approval of the other Party, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, either Party may make any public Written Disclosure it believes in good faith based upon the advice of counsel is required by applicable law, rule or regulation or any listing or trading agreement concerning its or its Affiliates' publicly traded securities; *provided, however*, that such Written Disclosure shall minimize to the extent possible the financial information disclosed, and that prior to making such Written Disclosure, the disclosing Party shall provide to the other Party a copy of the materials proposed to be disclosed and provide the receiving Party with an opportunity to promptly review the Written Disclosure and provide comments within [*] of the proposed drafts of the Written Disclosure. Notwithstanding the foregoing, the Parties shall agree upon a press release to announce the execution of this Agreement, together with a corresponding question & answer outline for use in responding to inquiries about the Agreement; thereafter, GSK and EXEL may each disclose to Third Parties the information contained in such press release and question & answer outline without the need for further approval by the other.

14.2 **Dispute Resolution**. Prior to the commencement of any litigation under this Agreement, the Executive Officer of the Party considering commencement of such litigation shall notify the Executive Officer of the other Party that such litigation is being contemplated. For at least [*] following the delivery of such notice, the Parties' Executive Officers shall use good faith efforts to make themselves available to discuss the dispute and attempt to resolve the matter. If the dispute is not resolved within such [*], the Parties agree to submit the dispute for non-binding mediation (with the understanding that the role of the mediator shall not be to render a decision but to assist the Parties in reaching a mutually acceptable resolution), which shall occur within a period of not more than [*]. If the dispute is not resolved within such [*], either Party may commence litigation with respect to the subject matter of the dispute and with respect to any other claims it may have and thereafter neither Party hereto shall have any further obligation under this Section 14.2.

14.3 **Governing Law; Jurisdiction**. This Agreement and any dispute arising from the performance or breach hereof shall be governed by and construed and enforced in accordance with the laws of the State of New York, U.S.A., without reference to conflicts of laws principles.

14.4 **Waiver of Jury Trial**. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY HERETO (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THAT FOREGOING WAIVER, AND (ii) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND ANY RELATED INSTRUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 14.4.

14.5 **Assignment**. This Agreement shall not be assignable by either Party to any Third Party hereto without the written consent of the other Party hereto. Notwithstanding the

foregoing, either Party may assign this Agreement, without the written consent of the other Party, to an Affiliate or to an entity that acquires all or substantially all of the business or assets of such Party to which this Agreement pertains (whether by merger, reorganization, acquisition, sale or otherwise), and agrees in writing to be bound by the terms and conditions of this Agreement. No assignment and transfer shall be valid and effective unless and until the assignee/transferee shall agree in writing to be bound by the provisions of this Agreement. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the permitted successors and assigns of the Parties.

14.6 **Regulatory Review.**

14.6.1 *Tolling of Payment Obligations.* If the exercise by GSK of any Development Election under Section 4.3 requires the making of filings under the Hart-Scott-Rodino Antitrust Improvements Act (the "**HSR Act**"), or under any similar premerger notification provision in the European Union or any other jurisdiction, then all rights and obligations related to the exercise of such Development Election shall be tolled until the applicable waiting period has expired or been terminated or until approval or clearance from the reviewing authority has been received, and each Party agrees to diligently make any such filings and respond to any request for information to expedite review of such transaction.

14.6.2 *Resolution of Regulatory Authority Opposition.* If the antitrust enforcement authorities in the U.S. make a second request under the HSR Act, or any antitrust enforcement authority in another jurisdiction commences an investigation into the exercise by GSK of a Development Election, then the Parties shall, in good faith, cooperate with each other and take reasonable actions to attempt to: (A) resolve all enforcement agency concerns about the transaction under investigation; and (B) diligently oppose any enforcement agency opposition to such transaction. In the event the enforcement agency files a formal action to oppose the transaction, the Parties shall confer in good faith to determine the appropriate strategy for resolving the enforcement agency opposition, including without limitation, and where appropriate, the renegotiation of their obligations under this Agreement with respect to that Development Election, with the objective of placing each Party, to the maximum extent possible, in the same economic position that each Party would have occupied if GSK had been permitted to exercise such Development Election. Notwithstanding the foregoing, nothing in this Section 14.6 shall require either party to divest any assets.

14.7 **Performance Warranty**. Each Party hereby acknowledges and agrees that it shall be responsible for, and irrevocably, absolutely and unconditionally guarantees, the full and timely performance as and when due under, and observance of all the covenants, terms, conditions and agreements set forth in this Agreement by its Affiliate(s) and Sublicensees.

14.8 **Force Majeure**. No Party shall be held liable or responsible to the other Party nor be deemed to be in default under, or in breach of any provision of, this Agreement for failure or delay in fulfilling or performing any obligation of this Agreement when such failure or delay is due to *force majeure*, and without the fault or negligence of the Party so failing or delaying. For purposes of this Agreement, *force majeure* is defined as causes beyond the control of the Party, including, without limitation, acts of God; acts, regulations, or laws of any government; war; civil commotion; destruction of production facilities or materials by fire, flood, earthquake, explosion or storm; labor disturbances; epidemic; and failure of public utilities or common carriers. In the event of force majeure EXEL or GSK, as the case may be, shall immediately notify the other Parties of such inability and of the period for which such inability is expected to continue. The Party giving such notice shall thereupon be excused from such of its obligations under this Agreement as it is thereby disabled from performing for so long as such Party is so disabled, up to a maximum of ninety (90) days, after which time the Party not affected by the

force majeure, may terminate this Agreement. To the extent possible, each Party shall use reasonable efforts to minimize the duration of any *force majeure*.

14.9 **Notices**. Any notice or request required or permitted to be given under or in connection with this Agreement shall be deemed to have been sufficiently given if in writing and personally delivered or sent by certified mail (return receipt requested), facsimile transmission (receipt verified), or overnight express courier service (signature required), prepaid, to the Party for which such notice is intended, at the address set forth for such Party below:

If to EXEL,

addressed to: Exelixis, Inc.
170 Harbor Way
PO Box 511
South San Francisco, CA 94083
Attention: Chief Executive Officer
Telephone: [*]
Telecopy: [*]

with a copy to: Cooley Godward LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306
Attention: Barbara Kosacz, Esq.
Telephone: [*]
Telecopy: [*]

If to GSK,

addressed to: SmithKline Beecham Corporation,
doing business as GlaxoSmithKline
2301 Renaissance Blvd. (Bldg. #510)
King of Prussia, PA 19406
Attention: Vice President, Alliance and Joint
Venture Management
Telephone: [*]
Telecopy: [*]

with a copy to: GlaxoSmithKline
Corporate Legal Department
One Franklin Plaza
200 N. 16th Street / FP 2360
Philadelphia, PA 19103
Attention: Senior Vice President and Associate
General Counsel-R&D Legal Operations
Telephone: [*]
Telecopy: [*]

or to such other address for such Party as it shall have specified by like notice to the other Parties, provided that notices of a change of address shall be effective only upon receipt thereof. If delivered personally or by facsimile transmission, the date of delivery shall be deemed to be the date on which such notice or request was given. If sent by overnight express courier service, the date of delivery shall be deemed to be the next business day after such notice or request was

deposited with such service. If sent by certified mail, the date of delivery shall be deemed to be the third business day after such notice or request was deposited with the U.S. Postal Service.

14.10 **Export Clause**. Each Party acknowledges that the laws and regulations of the United States restrict the export and re-export of certain commodities and technical data of United States origin. Each Party agrees that it will not export or re-export any restricted commodities or any restricted technical data of the other Party in any form without any necessary United States and foreign government licenses.

14.11 **Waiver**. Neither Party may waive or release any of its rights or interests in this Agreement except in writing. The failure of either Party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition. No waiver by either Party of any condition or term in any one or more instances shall be construed as a continuing waiver of such condition or term or of another condition or term.

14.12 **Severability**. If any provision hereof should be held invalid, illegal or unenforceable in any jurisdiction, the Parties shall negotiate in good faith a valid, legal and enforceable substitute provision that most nearly reflects the original intent of the Parties and all other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to carry out the intentions of the Parties hereto as nearly as may be possible. Such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of such provision in any other jurisdiction.

14.13 **Entire Agreement**. This Agreement, including the schedules and exhibits hereto, together with the Stock Purchase Agreement and the Loan Agreement, set forth all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties hereto and supersede and terminate all prior agreements and understanding between the Parties. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as set forth herein and therein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties hereto unless reduced to writing and signed by the respective authorized officers of the Parties.

14.14 **Independent Contractors**. Nothing herein shall be construed to create any relationship of employer and employee, agent and principal, partnership or joint venture between the Parties. Each Party is an independent contractor. Neither Party shall assume, either directly or indirectly, any liability of or for the other Party. Neither Party shall have the authority to bind or obligate the other Party and neither Party shall represent that it has such authority.

14.15 **Headings**. Headings used herein are for convenience only and shall not in any way affect the construction of or be taken into consideration in interpreting this Agreement.

14.16 **Use of Name**. Except as otherwise provided herein, no Party shall have any right, express or implied, to use in any manner the name or other designation of the other Parties or any other trade name, trademark or logos of the other Parties for any purpose in connection with the performance of this Agreement.

14.17 **Books and Records**. Any books and records to be maintained under this Agreement by a Party or its Affiliates or Sublicensees shall be maintained in accordance with U.S. generally accepted accounting principles, consistently applied, except that the same need not be audited.

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

14.19 **Parties in Interest**. All of the terms and provisions of this Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties hereto and their respective permitted successors and assigns.

14.20 **Construction of Agreement**. The terms and provisions of this Agreement represent the results of negotiations between the Parties and their representatives, each of which has been represented by counsel of its own choosing, and neither of which has acted under duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and each of the Parties hereto hereby waives the application in connection with the interpretation and construction of this Agreement of any rule of law to the effect that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party whose attorney prepared the executed draft or any earlier draft of this Agreement.

14.21 **Supremacy**. In the event of any express conflict or inconsistency between this Agreement and the DOP or any Development Candidate Plan, the terms of this Agreement shall control.

14.22 **Counterparts**. This Agreement may be signed in counterparts, each and every one of which shall be deemed an original, notwithstanding variations in format or file designation which may result from the electronic transmission, storage and printing of copies of this Agreement from separate computers or printers. Facsimile signatures shall be treated as original signatures.

* - * - * - *

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Exelixis, Inc. **SmithKline Beecham Corporation**

By: /s/ George Scangos By: /s/ T. Yamada

Name: George Scangos Name: Tachi Yamada

Title: President & CEO Title: Director

Date: 10/28/2002 Date: 10/28/2002

.

SCHEDULE 1.62

EXEL 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.

SCHEUDLE 1.65

Existing Biotherapeutic Target

[*]

[*] = 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 1.66

Existing Compounds

[*]

[*] = 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 1.67

Existing Targets

#	Target
[*]	

[*] = 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 1.68

Existing Third Party Collaborations

[*]

[*] = 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 3.2.3(f)

Minimum Information Requirements for Exel's Periodic Reports

[*]

[*] = 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 4.2

Criteria to be
Included in Product Reports

[*]

[*] = 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 5.1.1

Sample GSK Internal Development Activities

[*]

[*] = 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 6.3.4

Examples of Application of Milestone and Royalty Payments

[*]

[*] = 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 31.1

CERTIFICATION

I, Michael M. Morrissey, Ph.D., Chief Executive Officer of Exelixis, Inc., certify that:

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

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

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

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

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

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

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

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

/s/ MICHAEL M. MORRISSEY

Michael M. Morrissey, Ph.D.

President and Chief Executive Officer

Date: August 6, 2013

Exhibit 31.2

CERTIFICATION

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

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

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

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

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

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

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

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

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

/s/ FRANK KARBE

Frank Karbe
Chief Financial Officer

Date: August 6, 2013

Exhibit 32.1

CERTIFICATION

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, and Section 1350 of Chapter 63 of Title 18 of the United States Code, Michael M. Morrissey, Ph.D., the Chief Executive Officer of Exelixis, Inc. (the "Company"), and Frank Karbe, the Chief Financial Officer of the Company, each hereby certifies that, to the best of his knowledge:

1. The Company's Quarterly Report on Form 10-Q for the period ended June 28, 2013, to which this Certification is attached as Exhibit 32.1 (the "Quarterly Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Quarterly 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 6th day of August 2013.

/s/ MICHAEL M. MORRISSEY

Michael M. Morrissey, Ph.D.

Chief Executive Officer
(Principal Executive Officer)

/s/ FRANK KARBE

Frank Karbe

Chief Financial Officer
(Principal Financial Officer)