

# Deloitte Recap Executive Analysis



<b>Licensor</b>	Exelixis	<b>Product</b>	XL147, XL765 & PI3K Inhibitors
<b>Licensee</b>	Sanofi-Aventis	<b>Field</b>	Tumors & Other Diseases ex-Oncology
<b>Date</b>	5/2009	<b>Territory</b>	WW

## Pre-Commercial Paymts & Rights

### Upfront Payment

- \$140M to Exelixis

### Equity Investments

- None

### R&D Costs

- Sanofi-Aventis is solely responsible for all development of each Product, at its expense
- Sanofi-Aventis funds \$21M in R&D over the 3-year PI3K discovery and preclinical Collaboration under shared efforts
- Exelixis is responsible for the Exelixis Clinical Trials, all CON

### Milestone Payments

- Dev and reg milestones, all CON
  - Success fees for Collaboration, all CON
  - Sales based milestones, all CON
- (Press Release: Dev, reg, and commercial milestones of over \$1B in the aggregate.)

### Termination Rights

- Exelixis – for Sanofi-Aventis’ challenge of Exelixis Patents
- Sanofi-Aventis – for convenience
- Either – for material breach

### Reversion Rights upon Termination

- All to Exelixis

### Change of Control

- Not assignable without consent unless in connection with M&A

## Commercial Payments & Rights

### License Grant

- Exelixis grants Sanofi-Aventis:
- Exclusive license to develop, make, use, and sell Products worldwide for tumors and all other diseases ex-oncology.
  - Exclusive license during the Collaboration term to conduct research and manufacturing

### Booking of Sales / Commercial Rights

- Sanofi-Aventis is responsible for Product commercialization and books all sales

### Sublicense Rights

- Yes, with written notice to Exelixis
- Sanofi-Aventis may not sublicense its rights under the Collaboration except to contract research organizations

### Royalty or Profit Split

- Tiered royalties on annual, worldwide, aggregate Net Sales, all CON
- Minimum royalty floor, CON

### Royalty Offsets

- Certain reductions to royalties upon expiration of Patents on a country-by-country basis, all CON

### Term of Agreement

- Royalties owed as long as product sold in a country, on a country-by-country, product-by-product basis
- Certain royalty terms CON
- Effective until last valid claim to expire

### Accounting

- Standard definition of Net Sales:
- amounts invoiced by Sanofi-Aventis or sublicensees minus customary deductions

## Manufacturing Rights

- Sanofi-Aventis shall manufacture for commercial sale
- Exelixis shall manufacture and supply for clinical uses pending transfer of manufacturing to Sanofi-Aventis
- All clinical manufacturing costs for requirements for the first Phase I trial borne solely by Sanofi-Aventis
- Exelixis supply cost reimbursements all CON

## Governance & Disputes

- Joint Executive Committee (“JEC”)
  - Joint Development Committee (“JDC”)
  - Joint Research & Development Committee (“JR&DC”)
  - Alliance Managers
  - Certain decisions by Sanofi-Aventis, all CON
- Dispute Escalation:
- Alliance Managers
  - JEC or JDC, with tie-breaking vote by CON
  - Executive Officers
  - Arbitration

## Diligence

- Diligent Efforts defined as for those of Sanofi-Aventis’ products of similar commercial and scientific potential

## Options

- None