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

FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 or 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2010
OR
☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
for the transition period from to

Commission File No. 0-14710

XOMA Ltd.

(Exact name of registrant as specified in its charter)

Bermuda	**52-2154066**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
2910 Seventh Street, Berkeley, California 94710	**(510) 204-7200**
(Address of principal executive offices, including zip code)	(Telephone Number)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	**Name of each exchange on which registered**
Common Shares, U.S. $0.0075 par value	The NASDAQ Global Market
Preference Share Purchase Rights	

Securities registered pursuant to Section 12(g) of the Act:
None

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

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

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

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

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

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act of 1934). Yes ☐ No ☒

The aggregate market value of voting shares held by non-affiliates of the registrant is $104,378,157 as of June 30, 2010

Number of Common Shares outstanding as of March 8, 2011: 29,510,963

DOCUMENTS INCORPORATED BY REFERENCE:

Portions of the Company's Proxy Statement for the Company's 2010 Annual General Meeting of Shareholders are incorporated by reference into Part III of this Report.

XOMA Ltd.
2010 FORM 10-K ANNUAL REPORT
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PART I

Item 1. Business

Overview

XOMA Ltd. ("XOMA"), a Bermuda company, is a biopharmaceutical company focused on the discovery, development and manufacture of therapeutic antibodies designed to treat autoimmune, infectious, inflammatory and oncological diseases. Our proprietary development pipeline includes XOMA 052, an antibody that inhibits interleukin-1 beta ("IL-1 beta"), which is expected to advance into Phase 3 development for the treatment of Behcet's uveitis and is in Phase 2 clinical development for Type 2 diabetes with cardiovascular biomarkers; XOMA 3AB, a biodefense anti-botulism product candidate comprised of a combination, or cocktail, of antibodies; and preclinical antibody discovery programs in several indications, including autoimmune, cardio-metabolic, inflammatory, and oncological diseases. We have a fully integrated product development platform, extending from preclinical science and clinical development to scale-up development and manufacturing.

We have entered into a license and collaboration agreement with Les Laboratoires Servier ("Servier"), to jointly develop and commercialize XOMA 052 in multiple indications. XOMA 052 is designed to inhibit the pro-inflammatory cytokine IL-1 beta that is believed to be a primary trigger of pathologic inflammation in multiple diseases. Under the terms of the agreement, Servier has worldwide rights to diabetes and cardiovascular disease indications and rights outside the U.S. and Japan to Behcet's uveitis and other inflammatory disease and oncology indications. XOMA retains development and commercialization rights for Behcet's uveitis and other inflammatory disease and oncology indications in the U.S. and Japan, and has an option to reacquire rights to diabetes and cardiovascular disease indications from Servier in these territories. Should we exercise our option to reacquire rights to the diabetes and cardiovascular disease indications in the U.S. and Japan, we will be required to pay Servier an option fee and partially reimburse their incurred development expenses.

Our biodefense initiatives currently include a $65 million multiple-year contract funded by the National Institute of Allergy and Infectious Diseases ("NIAID"), a part of the National Institutes of Health ("NIH"), to support our ongoing development of XOMA 3AB toward clinical trials in the treatment of botulism poisoning. XOMA also develops products with premier pharmaceutical companies including Novartis AG ("Novartis") and Takeda Pharmaceutical Company Limited ("Takeda").

We have a premier antibody discovery and development platform that incorporates a collection of antibody phage display libraries and proprietary Human Engineering™ ("HE™"), affinity maturation, Bacterial Cell Expression ("BCE") and manufacturing technologies that enhance our ability and that of our collaboration partners to discover and develop new therapeutic antibodies. BCE is a key biotechnology for the discovery and manufacturing of antibodies and other proteins. To date, more than 50 pharmaceutical and biotechnology companies have signed BCE licenses, and a number of licensed product candidates are in clinical development. We continue to develop and commercialize additional antibody-related technologies including proprietary display technologies to enable antibody discovery and optimization. Our technologies have contributed to the success of the marketed antibody products LUCENTIS® (ranibizumab injection), for wet age-related macular degeneration and macular edema following retinal vein occlusion, and CIMZIA® (certolizumab pegol), for rheumatoid arthritis and Crohn's disease.

Strategy

We are advancing a pipeline of biologic products using our proven expertise, technologies and capabilities from antibody discovery through product development. We seek to expand our pipeline by developing proprietary products and technologies, providing contract services to government agencies responsible for biodefense and entering into licensing and collaborative arrangements with pharmaceutical and biotechnology companies. The principal elements of our strategy are to:

- ***Focus on advancing XOMA 052, our lead product candidate.*** Using our proprietary antibody technologies, capabilities and expertise, we discovered XOMA 052, an antibody that inhibits IL-1 beta. XOMA 052 has the potential to address the underlying inflammatory causes of a wide range of unmet medical needs by targeting IL-1 beta, a cytokine that triggers inflammatory pathways in the body. In 2010, we completed a successful Phase 2 proof-of-concept trial of XOMA 052 in Behcet's uveitis and initiated two Phase 2 clinical trials in Type 2 diabetes patients and one Phase 2 trial in Type 1 diabetes patients.

  In January of 2011, we announced interim results from three months' treatment with XOMA 052 or placebo in the 74 patient Phase 2a Type 2 diabetes trial, showing that XOMA 052 was well-tolerated and demonstrated evidence of biological activity. We expect to report top line, six month results from the Phase 2b Type 2 diabetes trial, in which 420 patients were enrolled, in the first quarter of 2011, and results from the full six months' treatment in the Phase 2a trial in the second quarter of 2011.

In 2010, we also completed and announced positive results from an open-label pilot study of XOMA 052 in patients with uveitis of Behcet's disease who were suffering from vision-threatening exacerbations despite maximal doses of immunosuppressive medicines. XOMA 052 has been designated as an orphan drug for the treatment of Behcet's disease by the U.S. Food and Drug Administration ("FDA") and the European Medicines Agency ("EMA").

In December of 2010, we entered into an agreement with Servier to jointly develop and commercialize XOMA 052. This collaboration agreement substantially increases our cash resources while reducing future cash requirements, provides the funding to move XOMA 052 into Phase 3 development in 2011 in Behcet's uveitis, and supports further development in diabetes and cardiovascular diseases.

- ***Continue building our biodefense business.*** To date, we have been awarded three contracts, totaling nearly $100 million, from NIAID, to support our ongoing development of XOMA 3AB and additional product candidates toward clinical trials in the treatment of botulism poisoning. In addition, our biodefense programs include two subcontracts with SRI International totaling $4.3 million, funded through NIAID, for the development of antibodies to neutralize H1N1 and H5N1 influenza viruses and the virus that causes severe acute respiratory syndrome ("SARS"). We will continue to seek further opportunities to work with government and other institutions.

- ***Advancing our proprietary preclinical pipeline candidates.*** We will continue to develop our proprietary preclinical pipeline, which includes candidates in development for autoimmune, cardio-metabolic, inflammatory, and oncological diseases.

- ***Generate collaboration and licensing revenue.*** We have generated significant revenue from collaborations and licensing related to our proprietary technologies, including our phage display libraries, BCE, HE™, and Targeted Affinity Enhancement ("TAE™") technologies. Historically, we have established technology collaborations with several companies to provide access to multiple proprietary antibody discovery and optimization technologies. In addition, we have licensed our BCE technology to more than 50 companies in exchange for license, milestone and other fees, royalties and complementary technologies, and a number of licensed product candidates are in clinical development. We believe we can continue to generate significant revenue from our proprietary technologies in the future.

Proprietary Products

As part of our strategy, we are focusing our technology and resources on advancing our emerging proprietary pipeline. Below is a summary of our proprietary products:

- **XOMA 052** is a potent monoclonal antibody with the potential to improve the treatment of patients with a wide variety of inflammatory diseases. XOMA 052 binds strongly to IL-1 beta, a pro-inflammatory cytokine involved in the development of Behcet's uveitis, Type 2 diabetes, cardiovascular disease, rheumatoid arthritis, gout and other diseases. By binding to IL-1 beta, XOMA 052 inhibits the activation of the IL-1 receptor, thereby preventing the cellular signaling events that produce inflammation. XOMA 052 is a humanized IgG2 antibody. Based on its binding properties, specificity for IL-1 beta and half-life in the body, XOMA 052 may provide convenient dosing of once per month or less frequently.

  During 2010, we completed patient enrollment in the Phase 2a and Phase 2b clinical trials of XOMA 052 in Type 2 diabetes patients. The primary goal of the 74 patient Phase 2a trial was to gain additional XOMA 052 safety information in Type 2 diabetes patients on a background of stable metformin monotherapy. The patients were randomized at approximately a 3:1 ratio to receive three months of treatment with either XOMA 052 at a single dose level or placebo, respectively, after which patients in the XOMA 052 group received an additional three months of treatment at the same, a higher or a lower dose of XOMA 052. In January of 2011, we announced an interim review of 3-month data from the Phase 2a trial where XOMA 052 was shown to be well-tolerated with no significant differences in adverse events, lab abnormalities or vital signs between the XOMA 052 and placebo groups and no drug-related serious adverse events. At the time of this 3-month review, evidence of biological activity was observed including a reduction in C-reactive protein levels and a modest reduction in hemoglobin A1c ("HbA1c") levels. C-reactive protein is a biomarker of cardiovascular risk, and HbA1c is a measure indirectly reflecting blood glucose levels as averaged over a period estimated to be 90 to 120 days. Separately, we anticipate reporting top line, six month results from the Phase 2b trial by the end of the first quarter of 2011. The primary goal of the 420 patient Phase 2b trial was to further evaluate the use of multiple dose regimens on the safety, pharmacodynamics and efficacy of XOMA 052 in cardiometabolic and other diseases, and based on positive results to select doses for pivotal Phase 3 studies.

Also during 2010, XOMA announced positive results from a Phase 2 proof-of-concept clinical trial evaluating XOMA 052 in Behcet's uveitis, a vision-threatening complication of Behcet's disease, demonstrating rapid improvement in vision-threatening disease exacerbations in all seven treated patients despite discontinuation of immunosuppressive drugs such as cyclosporine and/or azathioprine. Follow-up results demonstrated that each of the five patients re-treated with XOMA 052 after they experienced a new uveitis exacerbation responded again to XOMA 052 treatment and maintained their response for several months. The drug was well-tolerated in this trial, and no drug-related adverse events were reported.

In August of 2010, we obtained FDA orphan drug status for XOMA 052 for the treatment of Behcet's disease. The designation offers a number of potential incentives, which may include, among others, a seven-year period of U.S. marketing exclusivity from the date of marketing authorization, written guidance on the non-clinical and clinical studies needed to obtain marketing approval, and tax credits for certain clinical research. In October of 2010, XOMA 052 was granted orphan drug status for the treatment of Behcet's disease by the EMA. The designation generally provides EU market exclusivity for up to ten years following approval for the given indication. Other potential benefits include protocol assistance, direct access to centralized marketing authorization procedures and financial incentives.

- **XOMA 3AB** is a multi-antibody product designed to neutralize the most potent of the botulinum toxins, Type A, which causes paralysis and is a bioterrorism threat. Our anti-botulism program was recently expanded to include additional product candidates and is the first of its kind to combine multiple human antibodies to target a broad spectrum of the most toxic botulinum toxins, including the three most toxic serotypes of botulism, Types A, B and E. The antibodies are designed to bind to each toxin and enhance the clearance of the toxin from the body. The use of multiple antibodies increases the likelihood of clearing the harmful toxins by providing specific protection against each toxin type. In contrast to existing agents that treat botulism, XOMA uses advanced human monoclonal antibody technologies in an effort to achieve superior safety, potency and efficacy, and avoid life-threatening immune reactions associated with animal-derived products.

  XOMA 3AB is currently in preclinical studies to assess safety through funding provided by NIAID. We have a history of successfully providing contract services to the U.S. government for the development of anti-botulinum neurotoxin antibodies.

- **Preclinical Product Pipeline:** We are pursuing additional opportunities to further broaden our preclinical product pipeline. These include internal discovery programs, product development collaborations with other pharmaceutical and biotechnology companies and evaluation of product in-licensing, in-kind product trades and acquisition opportunities.

Partnership Products

Historically, XOMA has provided contract research and development services for world-class organizations, such as Novartis, Takeda, and Schering Plough Research Institute, a division of Schering Corporation, now a subsidiary of Merck & Co. (referred to herein as "Merck/Schering-Plough"), in pursuit of new antibody products. In more recent years, we have been evolving our business focus from a service provider model to a proprietary product development model. However, we will continue to capitalize on collaborative partnership arrangements as opportunities arise. Below is a list of activities in 2010 through such collaborations:

- **Therapeutic Antibodies with Takeda:** Since 2006, Takeda has been a collaboration partner for therapeutic monoclonal antibody discovery and development against multiple targets selected by them. In February of 2009, we expanded our existing collaboration to provide Takeda with access to multiple antibody technologies, including a suite of research and development technologies and integrated information and data management systems. In the first quarter of 2010, we received a $1.0 million payment from Takeda for achieving a pre-established, pre-clinical milestone under our collaboration agreement and may receive potential milestones and royalties on sales of antibody products in the future.

- **Therapeutic Antibodies with Novartis:** In November of 2008, we restructured our product development collaboration with Novartis. Under the restructured agreement, Novartis received control over the two ongoing programs under the original product development collaboration entered into in 2004 with Novartis (then Chiron Corporation). In exchange, we recognized $13.7 million in revenue in 2008 and may, in the future, receive milestones and double-digit royalty rates for the programs and options to develop or receive royalties from four additional programs.

- **Therapeutic Antibodies with Merck/Schering-Plough**: Merck/Schering-Plough has been a collaboration partner since 2006 for therapeutic monoclonal antibody discovery and development against multiple targets selected by them. In January of 2011, we successfully completed the services to Merck/Schering-Plough and the collaboration agreement in now complete.

Technology Licenses and Royalties

Technology Licenses

Below is a summary of certain proprietary technologies owned by us and available for licensing to other companies:

- **Antibody discovery technologies:** XOMA uses human antibody phage display libraries in its discovery of therapeutic candidates, and we offer access to multiple libraries, including novel libraries developed internally, as part of our collaboration business. We believe that access to multiple libraries offers a number of benefits to XOMA and its collaboration partners, because it enables use of libraries best suited to the needs of a particular discovery project to increase the probability of technical and business success in finding rare and unique functional antibodies directed to targets of interest.

- **Bacterial Cell Expression:** The production or expression of antibodies using bacteria is an enabling technology for the discovery and selection, as well as the development and manufacture, of recombinant protein pharmaceuticals, including diagnostic and therapeutic antibodies for commercial purposes. Genetically engineered bacteria are used in the recombinant expression of target proteins for biopharmaceutical research and development. Reasons include the relative simplicity of gene expression in bacteria as well as many years of experience culturing such species as *E. coli* in laboratories and manufacturing facilities. XOMA scientists have developed bacterial expression technologies for producing antibodies and other recombinant protein products.

  We have granted more than 50 licenses to biotechnology and pharmaceutical companies to use our patented and proprietary technologies relating to bacterial expression of recombinant pharmaceutical products. Bacterial antibody expression is also a key technology used in multiple systems for high-throughput screening of antibody domains. Expression of antibodies by phage display technology, for example, depends upon the expression and secretion of antibody domains from bacteria as properly folded, functional proteins.

  Many licensees of our bacterial cell expression technology have developed, or are in the process of developing, antibodies for which we may be entitled to future milestone payments and royalties on product sales. Under the terms of our license agreement with Pfizer, Inc. (“Pfizer”), signed in 2007, we received an up-front cash payment of $30 million and from 2008 through 2010 we received milestone payments relating to five undisclosed product candidates, including a payment of $0.5 million for the initiation of a Phase 3 clinical trial. We may also be eligible for additional milestone payments aggregating up to $6.4 million relating to these five product candidates and low single-digit royalties on future sales of all products subject to this license. In addition, we may receive potential milestone payments aggregating up to $1.7 million for each additional qualifying product candidate. Our right to milestone payments expires on the later of the expiration of the last-to-expire licensed patent or the tenth anniversary of the effective date. Our right to royalties expires upon the expiration of the last-to-expire licensed patent.

  Current licensees include but are not limited to the following companies:

Active Biotech AB	Centocor Ortho Biotech (now a member of Johnson & Johnson)	MorphoSys AG
Affimed Therapeutics AG	Crucell Holland B.V. (now a member of Johnson & Johnson)	Novartis AG
Affitech AS	Dompe, s.p.a.	Pfizer Inc.
Alexion Pharmaceuticals, Inc.	Dyax Corp.	Takeda Pharmaceutical Company Ltd.
Applied Molecular Evolution, Inc. (now a subsidiary of Eli Lilly and Company)	Eli Lilly and Company	The Medical Research Council
Avecia Limited	Genentech, Inc. (now a member of the Roche Group)	UCB S.A.
Aventis Pharma Deutschland GmbH (Hoechst) (now Sanofi-Aventis)	Invitrogen Corporation	Verenium Corporation
Bayer Healthcare AG	Merck & Co., Inc.	Wyeth Pharmaceuticals Division (now a member of Pfizer Inc.)
BioInvent International AB	Mitsubishi Tanabe Pharma Corporation	ZymoGenetics, Inc. (now a member of Bristol-Myers Squibb Company)

These licenses are sometimes associated with broader agreements which may include expanded license rights, cell line development and process development.

- **Human Engineering™:** HE™ is a proprietary technology that allows modification of non-human monoclonal antibodies to reduce or eliminate detectable immunogenicity and make them suitable for medical purposes in humans. The technology uses a unique method developed by us, based on analysis of the conserved structure-function relationships among antibodies. The method defines which residues in a non-human variable region are candidates to be modified. The result is a HE™ antibody with preserved antigen binding, structure and function, and with eliminated or greatly reduced immunogenicity. Human Engineering™ technology is used in development of XOMA 052 and certain other antibody products.

- **Targeted Affinity Enhancement™:** TAE™ is a proprietary technology involving the assessment and guided substitution of amino acids in antibody variable regions, enabling efficient optimization of antibody binding affinity and selectivity modulation. TAE™ generates a comprehensive map of the effects of amino acid mutations likely to impact binding. The technology is utilized by XOMA scientists and has been licensed to a number of our collaborators.

We also have access to certain intellectual property rights and services that augment our existing integrated antibody technology platform and development capabilities and further compress product development timelines. This broad antibody technology platform and expertise is available for building our antibody product pipeline as well as those of our collaborators.

Royalties

In August of 2010, XOMA sold its royalty interest in CIMZIA® (certolizumab pegol) to an undisclosed buyer for gross proceeds of $4.0 million. Prior to the sale, XOMA earned low single digit royalties on sales of CIMZIA® in the U.S. and Canada from UCB Celltech, a branch of UCB S.A. ("UCB"). Royalties earned from these sales were $0.5 million in 2010, $0.5 million in 2009 and $0.1 million in 2008. CIMZIA®, an anti-tumor necrosis factor product, was approved by the FDA in April of 2008 for the treatment of moderate-to-severe Crohn's disease in adults who have not responded to conventional therapies. In addition, CIMZIA® was approved for the treatment of moderate-to-severe rheumatoid arthritis in adults by the FDA in May of 2009 and in Canada in September of 2009. UCB is responsible for the marketing and sales effort in support of this product. We will no longer receive royalties on sales of CIMZIA®.

Proprietary Product Summary:

The following table describes important information related to the proprietary products we are currently developing:

Program	Description	Indication	Status	Developer
XOMA 052	HE™ antibody to IL-1 beta	Behcet's uveitis, Type 2 diabetes, Type 1 diabetes and cardiovascular disease	Phase 2 for Behcet's uveitis, Type 2 diabetes, Type 1 diabetes and cardiovascular disease	Proprietary (in collaboration with Servier)
XOMA 3AB	Therapeutic antibodies to multiple botulinum neurotoxins	Botulism poisoning	Preclinical	Proprietary (NIAID-funded)
Multiple preclinical programs	Fully human monoclonal antibodies to undisclosed disease targets	Inflammatory, autoimmune, infectious and oncological diseases	Preclinical	Proprietary

Partnership Product Summary:

The following table describes important information related to certain products that we are currently developing or have developed in the past, for which we may earn royalties on product sales in the future:

Program	Description	Indication	Status	Developer
HCD 122 and LFA 102	Fully human antibody to CD40 and other monoclonal antibodies to undisclosed disease targets	Hematologic tumors and other undisclosed diseases	Phase 1 and 2 and Phase 1	Novartis
Therapeutic antibodies	Fully human monoclonal antibodies to undisclosed disease targets	Undisclosed	Preclinical	Takeda (fully-funded)
Therapeutic antibodies	Fully human monoclonal antibodies to undisclosed disease targets	Non-small cell lung cancer	Phase 2	AVEO (fully-funded)

Licensed Product Summary:

The following table describes important information related to certain products developed under licenses with us, for which we earn or may earn royalties on product sales in the future:

Program	Description	Indication	Status	Developer
Various products in development by Pfizer	Various monoclonal antibodies to undisclosed disease targets	Undisclosed diseases	Various phases of clinical and preclinical development	Pfizer
Various products in development by other licensees	Various monoclonal antibodies to undisclosed disease targets	Undisclosed diseases	Various phases of clinical and preclinical development	Various licensees

Financial and Legal Arrangements of Product Collaborations, Licensing and Other Arrangements

Collaboration and Licensing Agreements

Servier

We have entered into a license and collaboration agreement with Servier, to jointly develop and commercialize XOMA 052 in multiple indications, which provides for a non-refundable upfront payment of $15 million that was received by us in January of 2011. Under the terms of the agreement, Servier has worldwide rights to diabetes and cardiovascular disease indications and rights outside the U.S. and Japan to Behcet's uveitis and other inflammatory and oncology indications. XOMA retains development and commercialization rights for Behcet's uveitis and other inflammatory disease and oncology indications in the U.S. and Japan, and has an option to reacquire rights to diabetes and cardiovascular disease indications from Servier in these territories (the "Cardiometabolic Indications Option"). Should we exercise the Cardiometabolic Indications Option, we will be required to pay Servier an option fee and partially reimburse their incurred development expenses.

Under this agreement, Servier will fully fund activities to advance the global clinical development and future commercialization of XOMA 052 in diabetes and cardiovascular related diseases. Also, Servier will fund $50 million of future XOMA 052 global clinical development and chemistry and manufacturing controls ("CMC") expenses and 50% of further expenses for the Behcet's uveitis indication. We will also be responsible for manufacturing XOMA 052 throughout clinical development and launch.

In addition, under the agreement, we are eligible to receive a combination of Euro- and US Dollar ("USD")-denominated, development and sales milestones for multiple indications aggregating to a potential maximum of approximately $470 million when converted using the December 31, 2010 Euro to USD exchange rate (the "12/31/10 Exchange Rate"), if XOMA reacquires diabetes and cardiovascular rights in the U.S. and Japan. If XOMA does not reacquire these rights, then the milestone payments aggregate to a potential maximum of approximately $770 million converted using the 12/31/10 Exchange Rate. Milestone payments for which XOMA will be eligible under the agreement include $20 million upon initiation of the first Phase 3 clinical trial for XOMA 052 by Servier in its licensed territory in Type 2 diabetes. Servier's obligation to pay development and commercialization milestones will continue for so long as Servier is developing or selling products under the agreement.

We are also eligible to receive royalties on XOMA 052 sales, which are tiered based on sales levels and range from a mid-single digit to up to a mid-teens percentage rate. Our right to royalties with respect to a particular product and country will continue for so long as such product is sold in such country.

The collaboration will be carried out and managed by committees mutually established by the parties. In general, in the event of any disputes, each party will have decision-making authority over matters relating to its areas of responsibility and territory, but neither party will have unilateral decision-making rights if the decision would have a material adverse impact on the other party's rights in its territory. The agreement contains customary termination rights relating to matters such as material breach by either party, safety issues and patents. Servier also has a unilateral right to terminate the agreement on a country-by-country basis or in its entirety on 6 months' notice.

We have also entered into a loan agreement with Servier, which provides for an advance of up to €15 million, which converts to approximately $20 million using the 12/31/10 Exchange Rate. The loan was fully funded in January of 2011. This loan is secured by an interest in our intellectual property rights to all XOMA 052 indications worldwide, excluding the U.S. and Japan territories. The loan has a final maturity date in 2016; however, after a specified period prior to final maturity, the loan is required to be repaid (i) at Servier's option, by applying up to a significant percentage of any milestone or royalty payments owed by Servier under our collaboration agreement and (ii) using a significant percentage of any upfront, milestone or royalty payments we receive from any third party collaboration or development partner for rights to XOMA 052 in the U.S. and/or Japan. In addition, the loan becomes immediately due and payable upon certain customary events of default. Refer to *Item 7: Management's Discussion and Analysis of Financial Condition and Results of Operations: Subsequent Events* for further information regarding our loan agreement with Servier.

NIAID

In March of 2005, we were awarded a $15 million competitive bid contract from NIAID to develop three anti-botulinum neurotoxin monoclonal antibodies. Under this contract, we created production cell lines using our proprietary antibody expression systems, built Master and Manufacturer's Working Cell Banks, developed production processes and produced initial quantities of the three antibodies. The contract was performed over an 18-month period and was fully funded with federal funds from NIAID under Contract No. HHSN266200500004C ("NIAID 1"). Final acceptance of the project was received in October of 2006.

In July of 2006, we were awarded a $16.3 million NIAID contract under Contract No. HHSN266200600008C/N01-Al-60008 ("NIAID 2") to produce monoclonal antibodies for the treatment of botulism to protect United States citizens against the harmful effects of botulinum neurotoxins used in bioterrorism. Under this contract, we created and produced XOMA 3A, an innovative injectable product comprised of three anti-type A botulinum neurotoxin monoclonal antibodies. This work was complete in the third quarter of 2010.

In September of 2008, we were awarded a third NIAID contract for $65 million under Contract No. HHSN272200800028C ("NIAID 3") to continue development of our anti-botulinum antibody product candidates, including XOMA 3AB and additional product candidates. As part of the contract, we are developing, evaluating and producing the clinical supplies to support an IND filing with the FDA and conduct preclinical studies required to support human clinical trials.

SRI International

In the third quarter of 2009, we began work on two biodefense subcontract awards from SRI International, including a $2.1 million award to develop novel antibody drugs against the virus that causes SARS and a $2.2 million award to develop a novel antibody, known as F10, that has been shown to neutralize group 1 influenza A viruses, including the H1N1 and H5N1 strains. The subcontract awards are funded through NIAID.

Takeda

In November of 2006, we entered into a fully funded collaboration agreement with Takeda for therapeutic monoclonal antibody discovery and development under which we agreed to discover and optimize therapeutic antibodies against multiple targets selected by Takeda. Takeda agreed to make up-front, annual maintenance and milestone payments to us, fund our research and development and manufacturing activities for preclinical and early clinical studies and pay royalties on sales of products resulting from the collaboration. Takeda is responsible for clinical trials and commercialization of drugs after an IND submission and is granted the right to manufacture once a product enters into Phase 2 clinical trials. In the first quarter of 2010, a discovery and development program with Takeda under this collaboration was discontinued following the analysis of research data. The termination resulted in the recognition of the remaining unamortized balance in deferred revenue of $1.1 million in the first quarter of 2010, as no continuing performance obligations exist. Separately, we received a $1.0 million payment from Takeda for achieving a pre-established, preclinical milestone under the only currently active discovery and development program with Takeda. We recognized this milestone payment in revenue in the first quarter of 2010. We have completed a technology transfer and do not expect to perform any further contract research and development services under this program.

Under the terms of this agreement, we may receive milestone payments aggregating up to $20.75 million relating to one undisclosed product candidate and low single-digit royalties on future sales of all products subject to this license. In addition, in the event Takeda were to develop additional future qualifying product candidates under the terms of our agreement, we would be eligible for milestone payments aggregating up to $20.75 million for each such qualifying product candidate. Our right to milestone payments expires on the later of the receipt of payment from Takeda of the last amount to be paid under the agreement or the cessation of all research and development activities with respect to all program antibodies, collaboration targets and/or collaboration products. Our right to royalties expires on the later of 13.5 years from the first commercial sale of each royalty-bearing discovery product or the expiration of the last-to-expire licensed patent.

In February of 2009 we expanded our existing collaboration to provide Takeda with access to multiple antibody technologies, including a suite of research and development technologies and integrated information and data management systems. We may receive milestones of up to $3.25 million per discovery product candidate and low single-digit royalties on future sales of all antibody products subject to this license. Our right to milestone payments expires on the later of the receipt of payment from Takeda of the last amount to be paid under the agreement or the cessation of all research and development activities with respect to all program antibodies, collaboration targets and/or collaboration products. Our right to royalties expires on the later of 10 years from the first commercial sale of such royalty-bearing discovery product, or the expiration of the last-to-expire licensed patent.

Novartis

In November of 2008, we restructured our product development collaboration with Novartis, which involves six development programs including the HCD122 program. HCD122, which is a fully human anti-CD40 antagonist antibody, intended as a treatment for B-cell mediated diseases, including malignancies and autoimmune diseases, is currently recruiting patients for a Phase 1/2 lymphoma trial. The antibody has a dual mechanism of action that involves inhibition of CD40-ligand mediated growth and survival while recruiting immune effector cells to kill CD40-expressing tumor cells through a process known as antibody-dependent cellular cytotoxicity (ADCC). CD40, a member of the tumor necrosis factor, or TNF, family of antigens, is a cell surface antigen expressed in B-cell malignancies and involved in a broad variety of immune and inflammatory responses.

Under the restructured agreement, Novartis made a payment to us of $6.2 million in cash; reduced our existing debt by $7.5 million; will fully fund all future research and development expenses; may pay potential milestones of up to $14 million and royalty rates ranging from 10% to 20% for two ongoing product programs, HCD122 and LFA 102; and has provided us with options to develop or receive royalties on four additional programs. In exchange, Novartis has control over the HCD122 and LFA 102 programs, as well as the right to expand the development of these programs into additional indications outside of oncology. As part of the agreement, Novartis paid us for all project costs incurred after July 1, 2008. Our right to milestone payments expires at such time as no collaboration product or former collaboration product is being developed or commercialized anywhere in the world and no royalty-style payments on these products are due. Our right to royalty-style payments expires on the later of the expiration of any licensed patent covering each product or 20 years from the launch of each product that is produced from a cell line provided to Novartis by XOMA.

The collaboration between XOMA and Novartis (then Chiron Corporation) began in 2004 with the signing of an exclusive, worldwide, multi-product agreement to develop and commercialize multiple antibody products for the treatment of cancer. We shared expenses and revenue, generally on a 70-30 basis, with our share being 30 percent. Financial terms included initial payments to us in 2004 totaling $10 million and a note agreement, secured by our interest in the collaboration, to fund up to 75 percent of our share of expenses beginning in 2005. The secured note agreement with Novartis, which was executed in May of 2005, is due and payable in full in June of 2015. At December 31, 2010, the outstanding principal balance under this note agreement totaled $13.7 million and, pursuant to the terms of the arrangement as restructured in November of 2008, we will not make any additional borrowings on the Novartis note. In the first quarter of 2007, the mutual obligations of XOMA and Novartis to work together on an exclusive basis in oncology expired, except with respect to existing collaborative product development projects.

In December of 2008, we entered into a Manufacturing and Technology Transfer Agreement with Novartis, effective July 1, 2008. Under this agreement, XOMA was engaged by Novartis to perform research and development, process development, manufacturing and technology transfer activities with respect to the ongoing product programs now controlled by Novartis under the restructured product development collaboration. The work performed by XOMA under this agreement, which was fully funded by Novartis, was completed in the third quarter of 2009.

Arana

In September of 2009, we entered into an antibody discovery collaboration with Arana Therapeutics Limited ("Arana"), a wholly-owned subsidiary of Cephalon, Inc., involving multiple proprietary XOMA antibody research and development technologies, including a new antibody phage display library and a suite of integrated information and data management systems. Arana agreed to pay us a fee of $6.0 million, of which we received $4.0 million in the third quarter of 2009 and $2.0 million in the third quarter of 2010. Also, we may be entitled to future milestone payments, aggregating up to $3.0 million per product, and low single-digit royalties on product sales. Our right to milestone payments expires on the later of the receipt of payment from Arana of the last amount to be paid under the agreement, the cessation by Arana of the use of all research and development technologies or the cessation by Arana of the exercise of the patent rights granted to them. Our right to royalties expires five years from the first commercial sale of each royalty-bearing product.

Kaketsuken

In October of 2009, we entered into an antibody discovery collaboration with The Chemo-Sero-Therapeutic Research Institute, a Japanese research foundation known as Kaketsuken, involving multiple proprietary XOMA antibody research and development technologies, including a new antibody phage display library and a suite of integrated information and data management systems. Kaketsuken agreed to pay us a fee of $8.0 million, of which we received $6.0 million in the fourth quarter of 2009 and $2.0 million in the fourth quarter of 2010. Also, we may be entitled to future milestone payments, aggregating up to $0.2 million per product, and low single-digit royalties on product sales. Our right to milestone payments expires upon the receipt of payment from Kaketsuken of the last amount to be paid pursuant to the agreement. Our right to royalties expires 15 years from the first commercial sale of each royalty-bearing product.

Merck/Schering-Plough/AVEO Pharmaceuticals, Inc. ("AVEO")

In April of 2006, we entered into an agreement with AVEO to utilize our HE[M] technology to humanize AV-299, AVEO's novel anti-HGF antibody, under which AVEO paid us an up-front license fee and development milestones. In addition, we will receive royalties on sales of products resulting from the agreement. Under this agreement we created four Human Engineering™ versions of the original AV-299, all of which met design goals and from which AVEO selected one as its lead development candidate. In September of 2006, as a result of the successful humanization of AV-299, we entered into a second agreement with AVEO to manufacture and supply AV-299 in support of early clinical trials. Under the agreement, we created AV-299 production cell lines, conducted process and assay development, and performed Good Manufacturing Practices ("cGMP") manufacturing activities. AVEO retains all development and commercialization rights to AV-299 and may be required to pay XOMA annual maintenance fees, additional development milestone payments aggregating up to $6.3 million and low single-digit royalties on product sales in the future. Our right to milestone payments expires upon full satisfaction of all financial obligations of AVEO pursuant to the agreement. Our right to royalties expires on the later of 15 years from the first commercial sale of each royalty-bearing product or the expiration of the last-to-expire licensed patent. In the third quarter of 2010, the Company received a $0.8 million milestone payment related to AVEO's initiation of a Phase 2 clinical trial to evaluate AV-299 for the treatment of non-small cell lung cancer. The Company recognized this milestone payment as revenue in the third quarter of 2010.

In April of 2007, Merck/Schering-Plough entered into a research, development and license agreement with AVEO concerning AV-299 and other anti-HGF molecules. In connection with the aforementioned license agreement, AVEO assigned its entire right, title and interest in, to and under its manufacturing agreement with XOMA to Merck/Schering-Plough. In the third quarter of 2010, AVEO regained its worldwide rights from Merck/Schering-Plough to develop and commercialize AV-299 and other anti-HGF molecules.

Merck/Schering-Plough

In May of 2006, we entered into a fully funded collaboration agreement with Merck/Schering-Plough for therapeutic monoclonal antibody discovery and development. Under the agreement, Merck/Schering-Plough made up-front, annual maintenance and milestone payments to us, funded our research and development activities related to the agreement and would have paid royalties on sales of products resulting from the collaboration. During the collaboration, we discovered therapeutic antibodies against multiple targets selected by Merck/Schering-Plough using multiple human antibody phage display libraries, optimized antibodies through affinity maturation or other protein engineering, used our proprietary HE™ technology to humanize antibody candidates generated by hybridoma techniques, performed preclinical studies to support regulatory filings, developed cell lines and production processes and produced antibodies for initial clinical trials. Merck/Schering-Plough selected the first target at the inception of the agreement and, in December of 2006, exercised its right to initiate the additional discovery and development programs. In January of 2011, we successfully completed the services to Merck/Schering-Plough and the collaboration agreement in now complete.

UCB

Celltech Therapeutics Ltd., now UCB Celltech, a branch of UCB, utilized our bacterial cell expression technology under license in the development of CIMZIA® for the treatment of moderate-to-severe Crohn's disease in adults who have not responded to conventional therapies and for the treatment of moderate-to-severe rheumatoid arthritis in adults. The license provides for a low-single digit royalty on sales of CIMZIA® in countries where our bacterial cell expression technology is patented, which includes the U.S. and Canada, until the expiration of the last-to-expire licensed patent. In August of 2010, we sold our royalty interest in CIMZIA® to an undisclosed buyer for gross proceeds of $4.0 million. We will no longer receive royalties on sales of CIMZIA®.

Genentech

In April of 1996, we entered into a collaboration agreement with Genentech, Inc., a wholly-owned member of the Roche Group (referred to herein as "Genentech") for the development of RAPTIVA®. In March of 2003, we entered into amended agreements which called for us to share in the development costs and called for Genentech to finance our share of development costs via a convertible subordinated loan. Under the loan agreement, upon FDA approval of the product, which occurred in October of 2003, we elected to pay $29.6 million of the development loan in convertible preference shares, which are convertible into approximately 0.3 million common shares at a price of $116.25 per common share.

In January of 2005, we restructured our arrangement with Genentech on RAPTIVA® under which we were entitled to receive mid-single digit royalties on worldwide sales of RAPTIVA® in all indications. The previous cost and profit sharing arrangement for RAPTIVA® in the U.S. was discontinued and Genentech was responsible for all operating and development costs associated with the product. In the first half of 2009, RAPTIVA® was withdrawn from the commercial drug markets and royalties ceased.

Genentech utilized our bacterial cell expression technology under license in the development of LUCENTIS® for the treatment of neovascular wet age-related macular degeneration. LUCENTIS® was approved by the FDA in June of 2006 and in the European Union in January of 2007. We were entitled to receive a low-single digit royalty on worldwide sales of LUCENTIS®. In the third quarter of 2009, we sold our LUCENTIS® royalty interest to Genentech for $25 million, including royalty revenue from the second quarter of 2009. We will not receive any further royalties from sales of LUCENTIS®.

Financing Agreements

Underwritten Offering

In February of 2010, we completed an underwritten offering of 2.8 million units, with each unit consisting of one of our common shares and a warrant to purchase 0.45 of a common share, for gross proceeds of approximately $21 million. As of December 31, 2010 all of these warrants were outstanding.

Registered Direct Offerings

In May of 2009, we entered into a definitive agreement with an institutional investor to sell 784,313 units, with each unit consisting of one of our common shares and a warrant to purchase 0.50 of a common share, for gross proceeds of approximately $10 million, before deducting placement agent fees and estimated offering expenses of $0.8 million, in a registered direct offering. The investor purchased the units at a price of $12.75 per unit. The warrants, which represent the right to acquire an aggregate of up to 392,157 common shares, were exercisable at any time on or after May 15, 2009 and prior to May 20, 2014 at an exercise price of $15.30 per share. In February of 2010, the holders of these warrants agreed to amend the terms of their warrants to remove the provisions that would have required a reduction of the warrant exercise price and an increase in the number of shares issuable on exercise of the warrants each time we sold common shares at a price less than the exercise price of such warrants (the "Eliminated Adjustment Provisions") and the exercise price of these warrants was reduced from $15.30 per share to $0.015 per share. In the first quarter of 2010, the holders of these warrants exercised all warrants, acquiring 392,157 common shares for an aggregate exercise price of $5,882.

In June of 2009, we entered into a definitive agreement with certain institutional investors to sell 695,652 units, with each unit consisting of one of our common shares and a warrant to purchase 0.50 of a common share, for gross proceeds of approximately $12 million, before deducting placement agent fees and estimated offering expenses of $0.8 million, in a second registered direct offering. The investor purchased the units at a price of $17.25 per unit. The warrants, which represent the right to acquire an aggregate of up to 347,826 common shares, are exercisable at any time on or prior to December 10, 2014 at an exercise price of $19.50 per share. In February of 2010, the holders of these warrants agreed to amend the terms of their warrants to remove the Eliminated Adjustment Provisions and we made a cash payment of $4.5 million to these warrant holders, which was recorded in other income (expense). The exercise price of these warrants remained unchanged at $19.50 per share. As of December 31, 2010 all of these warrants were outstanding.

ATM Agreements

In the third quarter of 2009, we entered into an At Market Issuance Sales Agreement (the "2009 ATM Agreement"), under which we could sell up to 1.7 million of our common shares from time to time through Wm Smith & Co. ("Wm Smith"), as our agent for the offer and sale of the common shares. Wm Smith could sell these common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act of 1933, including but not limited to sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. Wm Smith could also sell the common shares in privately negotiated transactions, subject to our approval. We paid Wm Smith a commission equal to 3% of the gross proceeds of all common shares sold through it as sales agent under the 2009 ATM Agreement but in no event less than $0.02 per share. Shares sold under the 2009 ATM Agreement were sold pursuant to a prospectus which formed a part of our registration statement on Form S-3 (File No. 333-148342) (the "Existing Registration Statement") filed with the U.S. Securities and Exchange Commission (the "SEC") on December 26, 2007 and declared effective by the SEC on May 29, 2008. From the inception of the 2009 ATM Agreement through October of 2010, the Company sold a total of 1.7 million common shares through Wm Smith, constituting all of the shares available for sale under the agreement, for aggregate gross proceeds of $12.2 million, including 1.4 million common shares sold in 2010 for aggregate gross proceeds of $9.3 million. Total offering expenses related to these sales were $0.4 million.

In the third quarter of 2010, we entered into an At Market Issuance Sales Agreement (the "2010 ATM Agreement"), with Wm Smith and McNicoll, Lewis & Vlak LLC (the "Agents"), under which we may sell common shares from time to time through the Agents, as our agents for the offer and sale of the common shares, in an aggregate amount not to exceed the amount that can be sold under the Existing Registration Statement. The Agents may sell the common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. The Agents may also sell the common shares in privately negotiated transactions, subject to our prior approval. We will pay the Agents, collectively, a commission equal to 3% of the gross proceeds of the sales price of all common shares sold through them as sales agents under the 2010 ATM Agreement. From the inception of the 2010 ATM Agreement through December 31, 2010, we sold a total of 6.7 million common shares under this agreement for aggregate gross proceeds of $29.7 million. Total offering expenses related to these sales were $0.9 million. Subsequent to December 31, 2010 through March 8, 2011, we have sold an additional 796,898 common shares through the Agents pursuant to the 2010 ATM Agreement for aggregate gross proceeds of $4.3 million. Total offering expenses related to these sales were $0.1 million.

Equity Line of Credit

In July of 2010, we entered into a common share purchase agreement (the "Purchase Agreement") with Azimuth Opportunity Ltd. ("Azimuth"), pursuant to which we obtained a committed equity line of credit facility (the "Facility") under which we could sell up to $30 million of our registered common shares to Azimuth over a 12-month period, subject to certain conditions and limitations. The Purchase Agreement provided that we could determine, in our sole discretion, the timing, dollar amount and floor price per share of each draw down under the Facility, subject to certain conditions and limitations and that the number and price of shares sold in each draw down were generally to be determined by a contractual formula designed to approximate fair market value, less a discount. The Purchase Agreement also provided that from time to time and in our sole discretion, we could grant Azimuth the right to exercise one or more options to purchase additional common shares during each draw down pricing period for the amount of shares based upon the maximum option dollar amount and the option threshold price specified by us. We also agreed to issue 111,111 common shares to Azimuth upon execution of the agreement relating to the Facility, in consideration of Azimuth's execution and delivery of that agreement. Shares under the Facility and the shares we agreed to issue to Azimuth upon execution of the agreement relating to the Facility were sold pursuant to a prospectus which forms a part of a registration statement declared effective by the SEC on May 29, 2008. In August of 2010, we sold a total of 3,421,407 common shares under the Facility for aggregate gross proceeds of $14.2 million, representing the maximum number of shares that could be sold under the Facility. As a result, the Facility is no longer in effect, and no additional shares can be issued thereunder.

Research and Development

Our research and development expenses currently include costs of personnel, supplies, facilities and equipment, consultants, third party costs and other expenses related to preclinical and clinical testing. In 2010, our research and development expenses were $77.4 million compared with $58.1 million in 2009 and $82.6 million in 2008.

Our research and development activities can be divided into those related to our internal projects and those related to collaborative and contract arrangements, which are reimbursed by our customers. In 2010, research and development expenses related to internal projects were $58.1 million compared with $42.2 million in 2009 and $58.5 million in 2008. In 2010, research and development expenses related to collaborative and contract arrangements were $19.3 million compared with $15.9 million in 2009 and $24.1 million in 2008. Refer to *Item 7: Management's Discussion and Analysis of Financial Condition and Results of Operations- Research and Development Expenses* for further information regarding our research and development expenses.

Competition

The biotechnology and pharmaceutical industries are subject to continuous and substantial technological change. Competition in the areas of recombinant DNA-based and antibody-based technologies is intense and expected to increase as new technologies emerge and established biotechnology firms and large chemical and pharmaceutical companies continue to advance in the field. A number of these large pharmaceutical and chemical companies have enhanced their capabilities by entering into arrangements with or acquiring biotechnology companies or entering into business combinations with other large pharmaceutical companies. Many of these companies have significantly greater financial resources, larger research and development and marketing staffs and larger production facilities than ours. Moreover, certain of these companies have extensive experience in undertaking preclinical testing and human clinical trials. These factors may enable other companies to develop products and processes competitive with or superior to ours. In addition, a significant amount of research in biotechnology is being carried out in universities and other non-profit research organizations. These entities are becoming increasingly interested in the commercial value of their work and may become more aggressive in seeking patent protection and licensing arrangements. Furthermore, many companies and universities tend not to announce or disclose important discoveries or development programs until their patent position is secure or, for other reasons, later. As a result, we may not be able to track development of competitive products, particularly at the early stages. There can be no assurance that developments by others will not render our products or technologies obsolete or uncompetitive.

Without limiting the foregoing, we are aware of the following competitors for the products and candidates shown in the table below. This table is not intended to be representative of all existing competitors in the market:

Product/Candidate	Competitors
XOMA 052	Biovitrum AB
	Eli Lilly and Company
	MedImmune
	Novartis AG
	Regeneron Pharmaceuticals, Inc.
XOMA 3AB	Cangene Corporation
	Emergent BioSolutions, Inc.

Regulatory

Our products are subject to comprehensive preclinical and clinical testing requirements and to approval processes by the FDA and by similar authorities in other countries. Our products are primarily regulated on a product-by-product basis under the United States Food, Drug and Cosmetic Act and Section 351(a) of the Public Health Service Act. Most of our human therapeutic products are or will be classified as biologic products. Approval of a biologic for commercialization requires licensure of the product and the manufacturing facilities. The review of therapeutic biologic products is carried out by the FDA's Center for Drug Evaluation and Research, the body that also reviews drug products.

The FDA regulatory process is carried out in several phases. Prior to beginning human clinical testing of a proposed new biologic product, an IND is filed with the FDA. This document contains scientific information on the proposed product, including results of testing of the product in animal and laboratory models. Also included is information on manufacturing the product and studies on toxicity in animals and a clinical protocol outlining the initial investigation in humans.

The initial stage of clinical testing, Phase 1, ordinarily encompasses safety, pharmacokinetic and pharmacodynamic evaluations. Phase 2 testing encompasses investigation in specific disease states designed to provide preliminary efficacy data and additional information on safety. Phase 3 studies are designed to further establish clinical safety and efficacy and to provide information allowing proper labeling of the product following approval. Phase 3 studies are most commonly multi-center, randomized, placebo-controlled trials in which rigorous statistical methodology is applied to clinical results. Other designs may also be appropriate in specific circumstances.

Following completion of clinical trials, a BLA is submitted to the FDA to request marketing approval. Internal FDA committees are formed that evaluate the application, including scientific background information, animal and laboratory efficacy studies, toxicology, manufacturing facility and clinical data. During the review process, a dialogue between the FDA and the applicant is established in which FDA questions are raised and additional information is submitted. During the final stages of the approval process, the FDA generally requests presentation of clinical or other data before an FDA advisory committee, at which point, some or all of such data may become available. Also, during the later stages of review, the FDA conducts an inspection of the manufacturing facility to establish that the product is made in conformity with good manufacturing practice. If all outstanding issues are satisfactorily resolved and labeling established, the FDA issues a license for the product and for the manufacturing facility, thereby authorizing commercial distribution.

The FDA has substantial discretion in both the product approval process and the manufacturing approval process. It is not possible to predict at what point, or whether, the FDA will be satisfied with our submissions or whether the FDA will raise questions which may delay or preclude product approval or manufacturing facility approval. As additional clinical data is accumulated, it will be submitted to the FDA and may have a material impact on the FDA product approval process. Given that regulatory review is an interactive and continuous process, we have adopted a policy of limiting announcements and comments upon the specific details of the ongoing regulatory review of our products, subject to our obligations under the securities laws, until definitive action is taken. There can be no assurance any of the products we have under development will be developed successfully, obtain the requisite regulatory approval or be successfully manufactured or marketed.

In Europe, most of our human therapeutic products are or will be classified as biological medicinal products which are assessed through a centralized procedure by the EMA. The EMA coordinates the evaluation and supervision of medicinal products throughout the European Union and the European Economic Area. The assessment of the Marketing Authorization Application ("MA") is carried out by a Rapporteur and a Co-Rapporteur appointed by the Committee for Medicinal Products for Human Use ("CHMP"), which is the expert scientific committee of the EMEA.

The Rapporteur and Co-Rapporteur are drawn from the CHMP membership representing member states of the European Union. In addition to their responsibility for undertaking scientific assessments of an application for a MA, the Rapporteur and the Co-Rapporteur liaise with the applicant on behalf of the CHMP in an effort to provide answers to queries raised by the CHMP. Their assessment report(s) is circulated to and considered by the full CHMP membership, leading to the production ultimately of a CHMP opinion which is transmitted to the applicant and the European Commission. The final decision on the grant of a MA is made by the European Commission as the licensing authority of the European Community ("Community"). Under Community law, a positive decision issued by the European Commission represents the grant of a MA. Such an authorization allows a medicinal product to be placed on the European market. Upon the grant of an MA in the European Union, certain member states require pricing approval before the product can be placed into commercial distribution.

Under Community law, the applicant may request grant of a MA under exceptional circumstances if comprehensive data on the efficacy and safety of the drug, under normal conditions of use cannot be provided because its intended indications are encountered so rarely (such as in the case of a medicinal product intended for treating an orphan disease) that comprehensive evidence cannot reasonably be collected, the present state of scientific knowledge will not allow comprehensive information to be collected, or it would be against generally accepted medical ethics to collect comprehensive information. The Rapporteur, Co-Rapporteur and the other CHMP members will assess the justification/data submitted for exceptional circumstances as part of the overall assessment of the benefit/risk of the application. It is up to the CHMP, during the review, to ultimately decide on whether grant of a MA under exceptional circumstances is justified on the evidence before them. Approval under exceptional circumstances is subject to a requirement for specific procedures related to safety and results of its use and is reviewed annually to reassess the risk-benefit balance of the product. Once approval is granted, the product can be marketed under the single European MA in all member states of the European Union and the European Economic Area. Consistent with the single MA, the labeling for Europe is identical throughout all member states except that all labeling must be translated into the local language of the country of intended importation and in relation to the content of the so called *"*blue box*"* on the outer packaging in which locally required information may be inserted.

Orphan drugs are those intended for use in rare diseases or conditions. As a result of the high cost of development and the low return on investment for rare diseases, governments provide regulatory and commercial incentives for the development of drugs for small disease populations. In the United States, the term ''rare disease or condition'' means any disease or condition which affects less than 200,000 persons in the United States. Applications for United States orphan drug status are evaluated and granted by the Office of Orphan Products Development ("OOPD") of the FDA. In the United States, orphan drugs are subject to the standard regulatory process for marketing approval but are exempt from the payment of user fees for licensure, receive market exclusivity for a period of seven years and some tax benefits, and are eligible for OOPD grants. In Europe, orphan medicinal products are those intended for the diagnosis, prevention or treatment of a life-threatening or chronically debilitating condition affecting not more than five in 10,000 persons in the Community. The EMA's Committee for Orphan Medicinal Products ("COMP") reviews applications seeking orphan designation. If the European Commission agrees with a positive assessment made by COMP, then the product will receive a positive designation through adoption of a decision by the European Commission. Orphan medicinal products are exempt from fees for protocol assistance and scientific advice from the Scientific Advice Working Party during development, reduction or exemption of MA and other fees, and ten-year market exclusivity upon granting of a MA in respect of the approved clinical indication. Moreover, manufacturers may be eligible for grants or other financial incentives from the Community and Member States programs.

Patents and Trade Secrets

Patent and trade secret protection is important to our business and our future will depend in part on our ability to obtain patents, maintain trade secret protection and operate without infringing on the proprietary rights of others. As a result of our ongoing activities, we hold and have filed applications for a number of patents in the United States and internationally to protect our products and important processes. We also have obtained or have the right to obtain exclusive licenses to certain patents and applications filed by others. However, the patent position of biotechnology companies generally is highly uncertain and no consistent policy regarding the breadth of allowed claims has emerged from the actions of the U.S. Patent and Trademark Office ("Patent Office") with respect to biotechnology patents. Accordingly, no assurance can be given that our patents will afford protection against competitors with similar technologies, or others will not obtain patents claiming aspects similar to those covered by our patent applications.

We have issued patents in the U.S. and Europe for XOMA 052. U.S. Patent Nos. 7,531,166 and 7,582,742 cover XOMA 052 and other antibodies and antibody fragments with similar binding properties for IL-1 beta, as well as nucleic acids, expression vectors and production cell lines for the manufacture of such antibodies and antibody fragments. The patents provide exclusivity in the U.S. into 2027 and 2026, respectively. In addition, in April of 2010, the U.S. Patent and Trademark Office issued U.S. Patent No. 7,695,718 covering methods of treating Type 2 diabetes with high affinity antibodies and antibody fragments that bind to IL-1 beta, including XOMA 052, and Patent No. 7,695,717 covering methods of treating IL-1 related inflammatory diseases, including rheumatoid arthritis and osteoarthritis, with XOMA 052 and other antibodies and antibody fragments with similar binding properties for human interleukin-1 beta (IL-1 beta). These patents provide coverage into 2027 and 2026, respectively. Further, in November of 2010, the U.S. Patent and Trademark Office issued U.S. Patent No. 7,829,093 relating to methods of treating diabetes mellitus Type 1 with XOMA 052 or other IL-1 beta antibodies having similar binding properties, and U.S. Patent No. 7,829,094 relating to methods of treating a cancer with XOMA 052 or other IL-1beta antibodies having similar binding properties, with the cancer being selected from multiple myeloma, acute myelogenous leukemia and chronic myelogenous leukemia. These patents provide coverage to 2026. Additionally, U.S. Patents Nos. 7,744,865 and 7,744,866 were issued June 29, 2010, covering additional IL-1 beta antibodies and antibody fragments into 2026. Also, the European Patent Office granted a patent for XOMA 052, as well as nucleic acids, expression vectors and production cell lines for the manufacture of XOMA 052. The patent provides exclusivity in Europe into 2026.

We have established a portfolio of patents related to our bacterial expression technology, including claims to novel promoter sequences, secretion signal sequences, compositions, methods for expression and secretion of recombinant proteins from bacteria, including immunoglobulin gene products, and improved methods and cells for expression of recombinant protein products. U.S. Patent Nos. 5,576,195 and 5,846,818 are related to DNA encoding a pectate lyase signal sequence, recombinant vectors, host cells and methods for production and externalization of recombinant proteins. U.S. Patent Nos. 5,595,898, 5,698,435 and 5,618,920 address secretable immunoglobulin chains, DNA encoding the chains and methods for their recombinant production. U.S. Patent Nos. 5,693,493, 5,698,417 and 6,204,023 relate to methods for recombinant production/secretion of functional immunoglobulin molecules. U.S. Patent Nos. 7,094,579 and 7,396,661 relate to eukaryotic signal sequences and their use in methods for prokaryotic expression of recombinant proteins. U.S. Patent No. 6,803,210 relates to improved bacterial host cells that are deficient in one or more of the active transport systems for an inducer of an inducible promoter, such as arabinose for an araB promoter, and methods for the use of such cells for the production of recombinant proteins. Most of the more important European patents in this portfolio expired in July of 2008 or earlier.

We have also established a portfolio of patent applications related to our mammalian expression technology, including U.S. Patent No. 7,192,737, related to methods for increasing the expression of recombinant polypeptides using expression vectors containing multiple copies of a transcription unit encoding a polypeptide of interest.

We have established a portfolio of patents and applications related to our Human Engineering™ technology, including U.S. Patent No. 5,766,886, directed to methods of modifying antibody variable domains to reduce immunogenicity. Related patents and applications are directed to antibodies engineered according to our patented methods. We believe that our patented Human Engineering™ technology provides an attractive alternative to other humanization technologies.

If certain patents issued to others are upheld or if certain patent applications filed by others issue and are upheld, we may require certain licenses from others in order to develop and commercialize certain potential products incorporating our technology. There can be no assurance that such licenses, if required, will be available on acceptable terms.

Where appropriate, we also rely on trade secrets to protect aspects of our technology. However, trade secrets are difficult to protect. We protect our proprietary technology and processes, in part, by confidentiality agreements with our employees, consultants and collaborators. These parties may breach these agreements, and we may not have adequate remedies for any breach. Our trade secrets may otherwise become known or be independently discovered by competitors. To the extent that we or our consultants or collaborators use intellectual property owned by others, we may have disputes with our collaborators or consultants or other third parties as to the rights in related or resulting know-how and inventions.

International Operations

We believe that, because the pharmaceutical industry is global in nature, international activities will be a significant part of our future business activities and that, when and if we are able to generate income, a substantial portion of that income will be derived from product sales and other activities outside the United States.

A number of risks are inherent in international operations. Foreign regulatory agencies often establish standards different from those in the United States. An inability to obtain foreign regulatory approvals on a timely basis could have an adverse effect on our international business, financial condition and results of operations. International operations may be limited or disrupted by the imposition of government controls, export license requirements, political or economic instability, trade restrictions, changes in tariffs, restrictions on repatriating profits, taxation or difficulties in staffing and managing international operations. In addition, our business, financial condition and results of operations may be adversely affected by fluctuations in currency exchange rates. There can be no assurance that we will be able to successfully operate in any foreign market.

Financial information regarding the geographic areas in which we operate is included in*Note 13 to the Financial Statements: Concentration of Risk, Segment and Geographic Information.*

Concentration of Risk

In 2010, NIAID, UCB, and Takeda each accounted for more than 10% of our total revenue, none of which represents a related party to XOMA. These key customers accounted for 87% of our total revenue in 2010 and NIAID was responsible for 23% of the accounts receivable balance at December 31, 2010. Servier accounted for an additional 72% of the accounts receivable balance at December 31, 2010. The loss of one or more of these customers could have a material adverse effect on our business and financial condition.

In 2009, Takeda and Genentech each accounted for more than 10% of our total revenue, none of which represents a related party to XOMA. These key customers accounted for 65% of our total revenue in 2009, but were not responsible for any of the accounts receivable balance at December 31, 2009. NIAID, Arana, and Kaketsuken accounted for 90% of the accounts receivable balance at December 31, 2009. In 2008, Genentech, Novartis, and Merck/Schering-Plough each provided more than 10% of our total revenue, none of which represent a related party to XOMA.

Organization

We were incorporated in Delaware in 1981 and became a Bermuda company effective December 31, 1998, when we completed a shareholder-approved corporate reorganization, changing our legal domicile from Delaware to Bermuda and our name to XOMA Ltd. When referring to a time or period before December 31, 1998, or when the context so requires, the terms *"*Company*"* and *"*XOMA*"* refer to XOMA Corporation, a Delaware corporation and the predecessor of XOMA Ltd.

Employees

As of March 8, 2011, we employed approximately230 full-time employees, none of which are unionized, at our facilities, principally in Berkeley, California. Our employees are primarily engaged in clinical, process development, research and product development, and in executive, business development, finance and administrative positions. We consider our employee relations to be excellent.

Available Information

For information on XOMA's investment prospects and risks, please contact Investor Relations and Corporate Communications at (510) 204-7200 or by sending an e-mail message to investorrelations@xoma.com. Our principal executive offices are located at 2910 Seventh Street, Berkeley, California 94710, U.S.A. Our telephone number is (510) 204-7200.

The following information can be found on our website at http://www.xoma.com or can be obtained free of charge by contacting our Investor Relations Department:

- Our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and any amendments to those reports will be available as soon as reasonably practicable after such material is electronically filed with the United States Securities and Exchange Commission ("SEC"). All reports we file with the SEC can also be obtained free of charge via EDGAR through the SEC's website at http://www.sec.gov.

- Our policies related to corporate governance, including our Code of Ethics applying to our directors, officers and employees (including our principal executive officer and principal financial and accounting officer) that we have adopted to meet the requirements set forth in the rules and regulations of the SEC and its corporate governance principles are available.

- The charters of the Audit, Compensation and Nominating & Governance Committees of our Board of Directors are available.

We intend to satisfy the applicable disclosure requirements regarding amendments to, or waivers from, provisions of our Code of Ethics by posting such information on our website.

Item 1A. Risk Factors

The following risk factors and other information included in this annual report should be carefully considered. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us also may impair our business operations. If any of the following risks occur, our business, financial condition, operating results and cash flows could be materially adversely affected.

Because our product candidates are still being developed, we will require substantial funds to continue; we cannot be certain that funds will be available and, if they are not available, we may have to take actions that could adversely affect your investment and may not be able to continue operations.

We will need to commit substantial funds to continue development of our product candidates and we may not be able to obtain sufficient funds on acceptable terms, or at all. If adequate funds are not available, we may have to raise additional funds in a manner that may dilute or otherwise adversely affect the rights of existing shareholders, curtail or cease operations, or file for bankruptcy protection in extreme circumstances. We have spent, and we expect to continue to spend, substantial funds in connection with:

- research and development relating to our product candidates and production technologies,
- various human clinical trials, and
- protection of our intellectual property.

We finance our operations primarily through our multiple revenue streams resulting from the licensing of our antibody technologies, discovery and development collaborations, product royalties and biodefense contracts, and sales of our common shares. In September of 2009, we sold our royalty interest in LUCENTIS® to Genentech, Inc., a wholly-owned member of the Roche Group (referred to herein as "Genentech") for gross proceeds of $25 million, including royalty revenue from the second quarter of 2009. These proceeds, along with other funds, were used to fully repay our loan from Goldman Sachs Specialty Lending Holdings, Inc. ("Goldman Sachs"). As a result, we no longer have a royalty interest in LUCENTIS®. In 2008, we received $8.8 million of revenue from this royalty interest. In August of 2010, we sold our royalty interest in CIMZIA® to an undisclosed buyer for gross proceeds of $4.0 million, including royalty revenue from the second quarter of 2010. As a result, we no longer have a royalty interest in CIMZIA®. We received revenue from this royalty interest of $0.5 million in 2010, $0.5 million in 2009 and $0.1 million in 2008.

Based on our cash reserves and anticipated spending levels, revenue from collaborations including our XOMA 052 collaboration agreement with Les Laboratoires Servier ("Servier"), biodefense contracts and licensing transactions and other sources of funding we believe to be available, we believe that we have sufficient cash resources to meet our anticipated net cash needs through the next twelve months. Any significant revenue shortfalls, increases in planned spending on development programs or more rapid progress of development programs than anticipated, as well as the unavailability of anticipated sources of funding, could shorten this period. If adequate funds are not available, we will be required to delay, reduce the scope of, or eliminate one or more of our product development programs and further reduce personnel-related costs. Progress or setbacks by potentially competing products may also affect our ability to raise new funding on acceptable terms. As a result, we do not know when or whether:

- operations will generate meaningful funds,
- additional agreements for product development funding can be reached,
- strategic alliances can be negotiated, or
- adequate additional financing will be available for us to finance our own development on acceptable terms, or at all.

Cash balances and operating cash flow are influenced primarily by the timing and level of payments by our licensees and development partners, as well as by our operating costs.

Global credit and financial market conditions may reduce our ability to access capital and cash and could negatively impact the value of our current portfolio of cash equivalents and our ability to meet our financing objectives.

Traditionally, we have funded a large portion of our research and development expenditures through raising capital in the equity markets. Recent events, including failures and bankruptcies among large commercial and investment banks, have led to considerable declines and uncertainties in these and other capital markets and may lead to new regulatory and other restrictions that may broadly affect the nature of these markets. These circumstances could severely restrict the raising of new capital by companies such as us in the future.

Volatility in the financial markets has also created liquidity problems in investments previously thought to bear a minimal risk. For example, money market fund investors, including us, have in the past been unable to retrieve the full amount of funds, even in highly-rated liquid money market accounts, upon maturity. Although as of December 31, 2010, we have received the full amount of proceeds from money market fund investments, an inability to retrieve funds from money market fund investments as they mature in the future could have a material and adverse impact on our business, results of operations and cash flows.

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

Because all of our product candidates are still being developed, we have sustained losses in the past and we expect to sustain losses in the future.

We have experienced significant losses and, as of December 31, 2010, we had an accumulated deficit of $853.3 million.

For the year ended December 31, 2010, we had a net loss of approximately $68.8 million or $3.69 per common share (basic and diluted). For the year ended December 31, 2009, we had net income of approximately $0.6 million or $0.05 per common share (basic and diluted).

Our ability to achieve profitability is dependent in large part on the success of our development programs, obtaining regulatory approval for our product candidates and entering into new agreements for product development, manufacturing and commercialization, all of which are uncertain. Our ability to fund our ongoing operations is dependent on the foregoing factors and on our ability to secure additional funds. Because our product candidates are still being developed, we do not know whether we will ever achieve sustained profitability or whether cash flow from future operations will be sufficient to meet our needs.

We may issue additional equity securities and thereby materially and adversely affect the price of our common shares.

We are authorized to issue, without shareholder approval, 1,000,000 preference shares, of which 2,959 were issued and outstanding as of March 8, 2011, which may give other shareholders dividend, conversion, voting, and liquidation rights, among other rights, which may be superior to the rights of holders of our common shares. In addition, we are authorized to issue, generally without shareholder approval, up to 46,666,666 common shares, of which 28,491,318 were issued and outstanding as of December 31, 2010 and 29,510,963 were issued and outstanding as of March 8, 2011. If we issue additional equity securities, the price of our common shares may be materially and adversely affected.

In the third quarter of 2009, we had entered into an At Market Issuance Sales Agreement (the "2009 ATM Agreement"), with Wm Smith & Co. ("Wm Smith"), under which we could sell up to 1.7 million of our common shares from time to time through Wm Smith, as the agent for the offer and sale of the common shares. Wm Smith could sell these common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act of 1933, including but not limited to sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. Wm Smith could also sell the common shares in privately negotiated transactions, subject to our approval. From the inception of this agreement through October 27, 2010, we sold a total of 1,666,666 common shares through Wm Smith, constituting all of the shares available for sale under the agreement, for aggregate gross proceeds of $12.2 million.

On February 5, 2010, we completed an underwritten offering of 2.8 million units, with each unit consisting of one of our common shares and a warrant to purchase 0.45 of a common share, for gross proceeds of approximately $21 million, before deducting underwriting discounts and commissions and estimated offering expenses of $1.7 million. The investors purchased the units at a price of $7.50 per unit. The warrants, which represent the right to acquire an aggregate of up to 1.26 million common shares, are exercisable beginning six months and one day after issuance and have a five-year term and an exercise price of $10.50 per share.

On July 23, 2010, we entered into a common share purchase agreement with Azimuth Opportunity, Ltd. ("Azimuth"), pursuant to which we obtained a committed equity line of credit facility under which we could sell up to $30 million of our registered common shares to Azimuth over a 12-month period, subject to certain conditions and limitations. In August of 2010, we sold a total of 3,421,407 common shares under this facility for aggregate proceeds of $14.2 million, representing the maximum number of shares that could be sold under this facility.

On October 26, 2010, we entered into an At Market Issuance Sales Agreement (the "2010 ATM Agreement"), with Wm Smith and McNicoll, Lewis & Vlak LLC (the "Agents"), under which we may sell common shares from time to time through the Agents, as our agents for the offer and sale of the common shares, in an aggregate amount not to exceed the amount that can be sold under our registration statement on Form S-3 (File No. 333-148342) filed with the U.S. Securities and Exchange Commission (the "SEC") on December 26, 2007 and declared effective by the SEC on May 29, 2008. The Agents may sell the common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. The Agents may also sell the common shares in privately negotiated transactions, subject to our prior approval. From the inception of the 2010 ATM Agreement through December 31, 2010, we sold a total of 6.7 million common shares under this agreement for aggregate gross proceeds of $29.7 million. Subsequent to December 31, 2010 through March 8, 2011, we have sold an additional 796,898 common shares through Wm Smith for aggregate gross proceeds of $4.3 million.

On February 4, 2011, we entered into an At Market Issuance Sales Agreement (the "2011 ATM Agreement"), with McNicoll, Lewis & Vlak LLC ("MLV"), under which we may sell common shares from time to time through the MLV, as our agent for the offer and sale of the common shares, in an aggregate amount not to exceed the amount that can be sold under our registration statement on Form S-3 (File No. 333-172197) filed with the SEC on February 11, 2011, once such registration statement has been declared effective by the SEC. MLV may sell the common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. MLV may also sell the common shares in privately negotiated transactions, subject to our prior approval.

The financial terms of future collaborative or licensing arrangements could result in dilution of our share value.

Funding from collaboration partners and others has in the past and may in the future involve issuance by us of our shares. Because we do not currently have any such arrangements, we cannot be certain how the purchase price of such shares, the relevant market price or premium, if any, will be determined or when such determinations will be made. Any such issuance could result in dilution in the value of our issued and outstanding shares.

Our share price may be volatile and there may not be an active trading market for our common shares.

There can be no assurance that the market price of our common shares will not decline below its present market price or that there will be an active trading market for our common shares. The market prices of biotechnology companies have been and are likely to continue to be highly volatile. Fluctuations in our operating results and general market conditions for biotechnology stocks could have a significant impact on the volatility of our common share price. We have experienced significant volatility in the price of our common shares. From January 1, 2010 through March 8, 2011, our share price has ranged from a high of $12.60 to a low of $2.24. Factors contributing to such volatility include, but are not limited to:

- sales and estimated or forecasted sales of products for which we receive royalties,
- results of preclinical studies and clinical trials,
- information relating to the safety or efficacy of products or product candidates,
- developments regarding regulatory filings,
- announcements of new collaborations,
- failure to enter into collaborations,
- developments in existing collaborations,
- our funding requirements and the terms of our financing arrangements,
- technological innovations or new indications for our therapeutic products and product candidates,
- introduction of new products or technologies by us or our competitors,
- government regulations,
- developments in patent or other proprietary rights,
- the number of shares issued and outstanding,
- the number of shares trading on an average trading day,

- announcements regarding other participants in the biotechnology and pharmaceutical industries, and
- market speculation regarding any of the foregoing.

If we are unable to continue meet the requirements for continued listing on The NASDAQ Global Market, then we may be de-listed. In March of 2010, we received a Staff Determination letter from The NASDAQ Stock Market LLC ("NASDAQ") indicating that we had not regained compliance with the minimum $1.00 per share requirement for continued inclusion on The NASDAQ Global Market, pursuant to NASDAQ Listing Rule 5450(a)(1). On August 18, 2010, we effected a reverse split of our common shares in order to regain compliance.

We face uncertain results of clinical trials of our potential products.

Our potential products, including XOMA 052 and XOMA 3AB, will require significant additional research and development, extensive preclinical studies and clinical trials and regulatory approval prior to any commercial sales. This process is lengthy and expensive, often taking a number of years. As clinical results are frequently susceptible to varying interpretations that may delay, limit or prevent regulatory approvals, the length of time necessary to complete clinical trials and to submit an application for marketing approval for a final decision by a regulatory authority varies significantly. As a result, it is uncertain whether:

- our future filings will be delayed,
- our preclinical and clinical studies will be successful,
- we will be successful in generating viable product candidates to targets,
- we will be able to provide necessary additional data,
- results of future clinical trials will justify further development, or
- we will ultimately achieve regulatory approval for any of these product candidates.

For example, in 2003, we completed two Phase 1 trials of XOMA 629, a BPI-derived topical peptide compound targeting acne, evaluating the safety, skin irritation and pharmacokinetics. In January of 2004, we announced the initiation of Phase 2 clinical testing in patients with mild-to-moderate acne. In August of 2004, we announced the results of a Phase 2 trial with XOMA 629 gel. The results were inconclusive in terms of clinical benefit of XOMA 629 compared with vehicle gel. In 2007, after completing an internal evaluation of this program, we chose to reformulate and focus development efforts on the use of this reformulated product candidate in superficial skin infections, including impetigo and the eradication of staphylococcus aureus. In the fourth quarter of 2008, we decided to curtail all spending on XOMA 629 in response to current economic conditions and to focus our financial resources on XOMA 052.

The timing of the commencement, continuation and completion of clinical trials may be subject to significant delays relating to various causes, including scheduling conflicts with participating clinicians and clinical institutions, difficulties in identifying and enrolling patients who meet trial eligibility criteria, and shortages of available drug supply. Patient enrollment is a function of many factors, including the size of the patient population, the proximity of patients to clinical sites, the eligibility criteria for the trial, the existence of competing clinical trials and the availability of alternative or new treatments. In addition, we will conduct clinical trials in foreign countries in the future which may subject us to further delays and expenses as a result of increased drug shipment costs, additional regulatory requirements and the engagement of foreign clinical research organizations, as well as expose us to risks associated with foreign currency transactions insofar as we might desire to use U.S. dollars to make contract payments denominated in the foreign currency where the trial is being conducted.

All of our product candidates are prone to the risks of failure inherent in drug development. Preclinical studies may not yield results that would satisfactorily support the filing of an IND (or a foreign equivalent) with respect to our product candidates. Even if these applications would be or have been filed with respect to our product candidates, the results of preclinical studies do not necessarily predict the results of clinical trials. Similarly, early-stage clinical trials in healthy volunteers do not predict the results of later-stage clinical trials, including the safety and efficacy profiles of any particular product candidates. In addition, there can be no assurance that the design of our clinical trials is focused on appropriate indications, patient populations, dosing regimens or other variables which will result in obtaining the desired efficacy data to support regulatory approval to commercialize the drug. Preclinical and clinical data can be interpreted in different ways. Accordingly, Food and Drug Administration ("FDA") officials or officials from foreign regulatory authorities could interpret the data in different ways than we or our development partners do which could delay, limit or prevent regulatory approval.

Administering any of our products or potential products may produce undesirable side effects, also known as adverse effects. Toxicities and adverse effects that we have observed in preclinical studies for some compounds in a particular research and development program may occur in preclinical studies or clinical trials of other compounds from the same program. Such toxicities or adverse effects could delay or prevent the filing of an IND (or a foreign equivalent) with respect to such products or potential products or cause us to cease clinical trials with respect to any drug candidate. In clinical trials, administering any of our products or product candidates to humans may produce adverse effects. These adverse effects could interrupt, delay or halt clinical trials of our products and product candidates and could result in the FDA or other regulatory authorities denying approval of our products or product candidates for any or all targeted indications. The FDA, other regulatory authorities, our development partners or we may suspend or terminate clinical trials at any time. Even if one or more of our product candidates were approved for sale, the occurrence of even a limited number of toxicities or adverse effects when used in large populations may cause the FDA to impose restrictions on, or stop, the further marketing of such drugs. Indications of potential adverse effects or toxicities which may occur in clinical trials and which we believe are not significant during the course of such clinical trials may later turn out to actually constitute serious adverse effects or toxicities when a drug has been used in large populations or for extended periods of time. Any failure or significant delay in completing preclinical studies or clinical trials for our product candidates, or in receiving and maintaining regulatory approval for the sale of any drugs resulting from our product candidates, may severely harm our reputation and business.

Given that regulatory review is an interactive and continuous process, we maintain a policy of limiting announcements and comments upon the specific details of regulatory review of our product candidates, subject to our obligations under the securities laws, until definitive action is taken.

Our therapeutic product candidates have not received regulatory approval. If these product candidates do not receive regulatory approval, neither our third party collaborators nor we will be able to manufacture and market them.

Our product candidates, including XOMA 052 and XOMA 3AB, cannot be manufactured and marketed in the United States and other countries without required regulatory approvals. The United States government and governments of other countries extensively regulate many aspects of our product candidates, including:

- testing,
- manufacturing,
- promotion and marketing, and
- exporting.

In the United States, the FDA regulates pharmaceutical products under the Federal Food, Drug, and Cosmetic Act and other laws, including, in the case of biologics, the Public Health Service Act. At the present time, we believe that most of our product candidates will be regulated by the FDA as biologics. Initiation of clinical trials requires approval by health authorities. Clinical trials involve the administration of the investigational new drug to healthy volunteers or to patients under the supervision of a qualified principal investigator. Clinical trials must be conducted in accordance with FDA and International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use Good Clinical Practices and the European Clinical Trials Directive under protocols that detail the objectives of the study, the parameters to be used to monitor safety and the efficacy criteria to be evaluated. Other national, foreign and local regulations may also apply. The developer of the drug must provide information relating to the characterization and controls of the product before administration to the patients participating in the clinical trials. This requires developing approved assays of the product to test before administration to the patient and during the conduct of the trial. In addition, developers of pharmaceutical products must provide periodic data regarding clinical trials to the FDA and other health authorities, and these health authorities may issue a clinical hold upon a trial if they do not believe, or cannot confirm, that the trial can be conducted without unreasonable risk to the trial participants. We cannot assure you that U.S. and foreign health authorities will not issue a clinical hold with respect to any of our clinical trials in the future.

The results of the preclinical studies and clinical testing, together with chemistry, manufacturing and controls information, are submitted to the FDA and other health authorities in the form of a new drug application for a pharmaceutical product, and in the form of a BLA for a biological product, requesting approval to commence commercial sales. In responding to a new drug application or an antibody license application, the FDA or foreign health authorities may grant marketing approvals, request additional information or further research, or deny the application if it determines that the application does not satisfy its regulatory approval criteria. Regulatory approval of a new drug application, BLA, or supplement is never guaranteed, and the approval process can take several years and is extremely expensive. The FDA and foreign health authorities have substantial discretion in the drug and biologics approval processes. Despite the time and expense incurred, failure can occur at any stage, and we could encounter problems that cause us to abandon clinical trials or to repeat or perform additional preclinical, clinical or manufacturing-related studies.

Changes in the regulatory approval policy during the development period, changes in, or the enactment of additional regulations or statutes, or changes in regulatory review for each submitted product application may cause delays in the approval or rejection of an application. State regulations may also affect our proposed products. The FDA has substantial discretion in both the product approval process and manufacturing facility approval process and, as a result of this discretion and uncertainties about outcomes of testing, we cannot predict at what point, or whether, the FDA will be satisfied with our or our collaborators' submissions or whether the FDA will raise questions which may be material and delay or preclude product approval or manufacturing facility approval. As we accumulate additional clinical data, we will submit it to the FDA, and such data may have a material impact on the FDA product approval process.

Even once approved, a product may be subject to additional testing or significant marketing restrictions, its approval may be withdrawn or it may be voluntarily taken off the market.

Even if the FDA, the European Commission or another regulatory agency approves a product candidate for marketing, the approval may impose ongoing requirements for post-approval studies, including additional research and development and clinical trials, and the FDA, European Commission or other regulatory agency may subsequently withdraw approval based on these additional trials.

Even for approved products, the FDA, European Commission or other regulatory agency may impose significant restrictions on the indicated uses, conditions for use, labeling, advertising, promotion, marketing and/or production of such product.

Furthermore, a marketing approval of a product may be withdrawn by the FDA, the European Commission or another regulatory agency or such a product may be voluntarily withdrawn by the company marketing it based, for example, on subsequently-arising safety concerns. In February of 2009, the European Medicines Agency ("EMA") announced that it had recommended suspension of the marketing authorization of RAPTIVA® in the European Union and that its Committee for Medicinal Products for Human Use ("CHMP") had concluded that the benefits of RAPTIVA® no longer outweigh its risks because of safety concerns, including the occurrence of progressive multifocal leukoencephalopathy ("PML") in patients taking the medicine. In the second quarter of 2009, Genentech announced and carried out a phased voluntary withdrawal of RAPTIVA® from the U.S. market, based on the association of RAPTIVA® with an increased risk of PML.

The FDA, European Commission and other agencies also may impose various civil or criminal sanctions for failure to comply with regulatory requirements, including withdrawal of product approval.

Certain of our technologies are relatively new and are in-licensed from third parties, so our capabilities using them are unproven and subject to additional risks.

We license technologies from third parties. These technologies include but are not limited to phage display technologies licensed to us in connection with our bacterial cell expression technology licensing program. However, our experience with some of these technologies remains relatively limited and, to varying degrees, we are still dependent on the licensing parties for training and technical support for these technologies. In addition, our use of these technologies is limited by certain contractual provisions in the licenses relating to them and, although we have obtained numerous licenses, intellectual property rights in the area of phage display are particularly complex. If the owners of the patent rights underlying the technologies we license do not properly maintain or enforce those patents, our competitive position and business prospects could be harmed. Our success will depend in part on the ability of our licensors to obtain, maintain and enforce our licensed intellectual property. Our licensors may not successfully prosecute the patent applications to which we have licenses, or our licensors may fail to maintain existing patents. They may determine not to pursue litigation against other companies that are infringing these patents, or they may pursue such litigation less aggressively than we would. Our licensors may also seek to terminate our license, which could cause us to lose the right to use the licensed intellectual property and adversely affect our ability to commercialize our technologies, products or services.

We do not know whether there will be, or will continue to be, a viable market for the products in which we have an ownership or royalty interest.

Even if other products in which we have an interest receive approval in the future, they may not be accepted in the marketplace. In addition, we or our collaborators or licensees may experience difficulties in launching new products, many of which are novel and based on technologies that are unfamiliar to the healthcare community. We have no assurance that healthcare providers and patients will accept such products, if developed. For example, physicians and/or patients may not accept a product for a particular indication because it has been biologically derived (and not discovered and developed by more traditional means) or if no biologically derived products are currently in widespread use in that indication. Similarly, physicians may not accept a product if they believe other products to be more effective or are more comfortable prescribing other products.

Safety concerns may also arise in the course of on-going clinical trials or patient treatment as a result of adverse events or reactions. For example, in February of 2009, the EMA announced that it had recommended suspension of the marketing authorization of RAPTIVA® in the European Union and EMD Serono Inc., the company that marketed RAPTIVA® in Canada ("EMD Serono") announced that, in consultation with Health Canada, the Canadian health authority ("Health Canada"), it would suspend marketing of RAPTIVA® in Canada. In March of 2009, Merck Serono Australia Pty Ltd, the company that marketed RAPTIVA® in Australia ("Merck Serono Australia"), following a recommendation from the Therapeutic Goods Administration, the Australian health authority ("TGA"), announced that it was withdrawing RAPTIVA® from the Australian market. In the second quarter of 2009, Genentech announced and carried out a phased voluntary withdrawal of RAPTIVA® from the U.S. market, based on the association of RAPTIVA® with an increased risk of PML. As a result, sales of RAPTIVA® ceased in the second quarter of 2009.

Furthermore, government agencies, as well as private organizations involved in healthcare, from time to time publish guidelines or recommendations to healthcare providers and patients. Such guidelines or recommendations can be very influential and may adversely affect the usage of any products we may develop directly (for example, by recommending a decreased dosage of a product in conjunction with a concomitant therapy or a government entity withdrawing its recommendation to screen blood donations for certain viruses) or indirectly (for example, by recommending a competitive product over our product). Consequently, we do not know if physicians or patients will adopt or use our products for their approved indications.

We or our third party collaborators or licensees may not have adequate manufacturing capacity sufficient to meet market demand.

If any of our product candidates are approved, because we have never commercially introduced any pharmaceutical products, we do not know whether the capacity of our existing manufacturing facilities can be increased to produce sufficient quantities of our products to meet market demand. Also, if we or our third party collaborators or licensees need additional manufacturing facilities to meet market demand, we cannot predict that we will successfully obtain those facilities because we do not know whether they will be available on acceptable terms. In addition, any manufacturing facilities acquired or used to meet market demand must meet the FDA's quality assurance guidelines.

Our agreements with third parties, many of which are significant to our business, expose us to numerous risks.

Our financial resources and our marketing experience and expertise are limited. Consequently, our ability to successfully develop products depends, to a large extent, upon securing the financial resources and/or marketing capabilities of third parties.

- In April of 1996, we entered into an agreement with Genentech whereby we agreed to co-develop Genentech's humanized monoclonal antibody product RAPTIVA®. In April of 1999, March of 2003, and January of 2005, the companies amended the agreement. In October of 2003, RAPTIVA® was approved by the FDA for the treatment of adults with chronic moderate-to-severe plaque psoriasis who are candidates for systemic therapy or phototherapy and, in September of 2004, Merck Serono announced the product's approval in the European Union. In January of 2005, we entered into a restructuring of our collaboration agreement with Genentech which ended our existing cost and profit sharing arrangement related to RAPTIVA® in the United States and entitled us to a royalty interest on worldwide net sales. In February of 2009, the EMEA announced that it had recommended suspension of the marketing authorization of RAPTIVA® in the European Union and EMD Serono announced that, in consultation with Health Canada, it would suspend marketing of RAPTIVA® in Canada. In March of 2009, Merck Serono Australia, following a recommendation from the TGA, announced that it was withdrawing RAPTIVA® from the Australian market. In the second quarter of 2009, Genentech announced and carried out a phased voluntary withdrawal of RAPTIVA® from the U.S. market, based on the association of RAPTIVA® with an increased risk of PML. As a result, sales of RAPTIVA® ceased in the second quarter of 2009.

- In March of 2004, we announced we had agreed to collaborate with Chiron Corporation (now Novartis) for the development and commercialization of antibody products for the treatment of cancer. In April of 2005, we announced the initiation of clinical testing of the first product candidate out of the collaboration, HCD122, an anti-CD40 antibody, in patients with advanced chronic lymphocytic leukemia. In October of 2005, we announced the initiation of the second clinical trial of HCD122 in patients with multiple myeloma. In November of 2008, we announced the restructuring of this product development collaboration, which involves six development programs including the ongoing HCD122 and LFA 102 programs. In exchange for cash and debt reduction on our existing loan facility with Novartis, Novartis has control over the HCD122 and LFA 102 programs, as well as the right to expand the development of these programs into additional indications outside of oncology.

- In March of 2005, we entered into a contract with the National Institute of Allergy and Infectious Diseases ("NIAID") to produce three monoclonal antibodies designed to protect United States citizens against the harmful effects of botulinum neurotoxin used in bioterrorism. In July of 2006, we entered into an additional contract with NIAID for the development of an appropriate formulation for human administration of these three antibodies in a single injection. In September of 2008, we announced that we were awarded an additional contract with NIAID to support our on-going development of drug candidates toward clinical trials in the treatment of botulism poisoning.

- In December of 2010, we entered into a license and collaboration agreement with Servier, to jointly develop and commercialize XOMA 052 in multiple indications. Under the terms of the agreement, Servier has worldwide rights to diabetes and cardiovascular disease indications and rights outside the U.S. and Japan to Behcet's uveitis and other inflammatory and oncology indications. XOMA retains development and commercialization rights for Behcet's uveitis and other inflammatory disease and oncology indications in the U.S. and Japan, and has an option to reacquire rights to diabetes and cardiovascular disease indications from Servier in these territories. Should we exercise this option, we will be required to pay Servier an option fee and partially reimburse their incurred development expenses. The agreement contains customary termination rights relating to matters such as material breach by either party, safety issues and patents. Servier also has a unilateral right to terminate the agreement on a country-by-country basis or in its entirety on 6 months' notice.

- In December of 2010, we also entered into a loan agreement with Servier, which provides for an advance of up to €15 million and was fully funded in January of 2011. This loan is secured by an interest in our intellectual property rights to all XOMA 052 indications worldwide, excluding the U.S. and Japan territories. The loan has a final maturity date in 2016; however, after a specified period prior to final maturity, the loan is required to be repaid (i) at Servier's option, by applying up to a significant percentage of any milestone or royalty payments owed by Servier under our collaboration agreement and (ii) using a significant percentage of any upfront, milestone or royalty payments we receive from any third party collaboration or development partner for rights to XOMA 052 in the U.S. and/or Japan. In addition, the loan becomes immediately due and payable upon certain customary events of default.

- We have licensed our bacterial cell expression technology, an enabling technology used to discover and screen, as well as develop and manufacture, recombinant antibodies and other proteins for commercial purposes, to over 50 companies. As of December 31, 2010, we were aware of two antibody products manufactured using this technology that have received FDA approval, Genentech's LUCENTIS® (ranibizumab injection) for treatment of neovascular wet age-related macular degeneration and UCB's CIMZIA® (certolizumab pegol) for treatment of Crohn's disease and rheumatoid arthritis. In the third quarter of 2009, we sold our LUCENTIS® royalty interest to Genentech. In the third quarter of 2010, we sold our CIMZIA® royalty interest to an undisclosed buyer.

Because our collaborators and licensees are independent third parties, they may be subject to different risks than we are and have significant discretion in, and different criteria for, determining the efforts and resources they will apply related to their agreements with us. If these collaborators and licensees do not successfully develop and market these products, we may not have the capabilities, resources or rights to do so on our own. We do not know whether we, our collaborators or licensees will successfully develop and market any of the products that are or may become the subject of any of our collaboration or licensing arrangements. In some cases these arrangements provide for funding solely by our collaborators or licensees, and in other cases, such as our arrangement with Servier, all of the funding for certain projects and a significant portion of the funding for other projects is to be provided by our collaborator or licensee. In addition, third party arrangements such as ours also increase uncertainties in the related decision-making processes and resulting progress under the arrangements, as we and our collaborators or licensees may reach different conclusions, or support different paths forward, based on the same information, particularly when large amounts of technical data are involved. Furthermore, our contracts with NIAID contain numerous standard terms and conditions provided for in the applicable federal acquisition regulations and customary in many government contracts. Uncertainty exists as to whether we will be able to comply with these terms and conditions in a timely manner, if at all. In addition, we are uncertain as to the extent of NIAID's demands and the flexibility that will be granted to us in meeting those demands.

Even when we have a collaborative relationship, other circumstances may prevent it from resulting in successful development of marketable products.

- In September of 2004, we entered into a collaboration arrangement with Aphton Corporation ("Aphton") for the treatment of gastrointestinal and other gastrin-sensitive cancers using anti-gastrin monoclonal antibodies. In January of 2006, Aphton announced that its common stock had been delisted from NASDAQ. In May of 2006, Aphton filed for bankruptcy protection under Chapter 11, Title 11 of the United States Bankruptcy Code.

- In September of 2006, we entered into an agreement with Taligen Therapeutics, Inc. ("Taligen") which formalized an earlier letter agreement, which was signed in May of 2006, for the development and cGMP manufacture of a novel antibody fragment for the potential treatment of inflammatory diseases. In May of 2007, we and Taligen entered into a letter agreement which provided that we would not produce a cGMP batch at clinical scale pursuant to the terms of the agreement entered into in September of 2006. In addition, the letter agreement provided that we would conduct and complete the technical transfer of the process to Avecia Biologics Limited or its designated affiliate ("Avecia"). The letter agreement also provided that, subject to payment by Taligen of approximately $1.7 million, we would grant to Avecia a non-exclusive, worldwide, paid-up, non-transferable, non-sublicensable, perpetual license under our owned project innovations. We received $0.6 million as the first installment under the payment terms of the letter agreement but not the two additional payments totaling approximately $1.1 million to which we were entitled upon fulfillment of certain obligations. In May of 2009, the matter was resolved by agreement of the parties in a manner that had no further impact on our financial position.

Although we continue to evaluate additional strategic alliances and potential partnerships, we do not know whether or when any such alliances or partnerships will be entered into.

Products and technologies of other companies may render some or all of our products and product candidates noncompetitive or obsolete.

Developments by others may render our products, product candidates, or technologies obsolete or uncompetitive. Technologies developed and utilized by the biotechnology and pharmaceutical industries are continuously and substantially changing. Competition in the areas of genetically engineered DNA-based and antibody-based technologies is intense and expected to increase in the future as a number of established biotechnology firms and large chemical and pharmaceutical companies advance in these fields. Many of these competitors may be able to develop products and processes competitive with or superior to our own for many reasons, including that they may have:

- significantly greater financial resources,

- larger research and development and marketing staffs,

- larger production facilities,
- entered into arrangements with, or acquired, biotechnology companies to enhance their capabilities, or
- extensive experience in preclinical testing and human clinical trials.

These factors may enable others to develop products and processes competitive with or superior to our own or those of our collaborators. In addition, a significant amount of research in biotechnology is being carried out in universities and other non-profit research organizations. These entities are becoming increasingly interested in the commercial value of their work and may become more aggressive in seeking patent protection and licensing arrangements. Furthermore, many companies and universities tend not to announce or disclose important discoveries or development programs until their patent position is secure or, for other reasons, later; as a result, we may not be able to track development of competitive products, particularly at the early stages. Positive or negative developments in connection with a potentially competing product may have an adverse impact on our ability to raise additional funding on acceptable terms. For example, if another product is perceived to have a competitive advantage, or another product's failure is perceived to increase the likelihood that our product will fail, then investors may choose not to invest in us on terms we would accept or at all.

The examples below pertain to competitive events in the market which we review quarterly and are not intended to be representative of all existing competitive events.

XOMA 052

We, in collaboration with Servier, are conducting clinical testing of XOMA 052, a potent anti-inflammatory monoclonal antibody targeting IL-1 beta, in Behcet's uveitis patients, Type 2 diabetes patients and cardiovascular disease patients. Other companies are developing other products based on the same or similar therapeutic targets as XOMA 052 and these products may prove more effective than XOMA 052. We are aware that:

- In June of 2009, Novartis announced it had received U.S. marketing approval for Ilaris® (canakinumab), a fully-human monoclonal antibody targeting IL-1 beta, to treat children and adults with Cryopyrin-Associated Periodic Syndromes ("CAPS"). In October of 2009, Novartis announced that Ilaris® had been approved in the European Union for CAPS. Canakinumab is also in clinical trials in Type 2 diabetes, chronic obstructive pulmonary disorder, certain forms of gout and systemic juvenile rheumatoid arthritis. In January of 2011, Novartis announced that it had filed for EMA approval of Ilaris® for the treatment and prevention of gout.
- Eli Lilly and Company ("Lilly") is developing LY2189102, an investigational IL-1 beta antibody, for bi-weekly subcutaneous injection for the treatment of Type 2 diabetes. Lilly announced the initiation of a Phase 2 study in the third quarter of 2009 and has estimated completion of this study in November of 2010.
- In 2008, Biovitrum AB (now called Swedish Orphan Biovitrum, "Biovitrum") obtained a worldwide exclusive license to Amgen Inc. ("Amgen")'s Kineret® (anakinra) for its current approved indication. Kineret® is an IL-1 receptor antagonist (IL-1ra) currently marketed to treat rheumatoid arthritis and has been evaluated over the years in multiple IL-1 mediated diseases, including Type 2 diabetes and other indications we are considering for XOMA 052. In addition to other on-going studies, a proof-of-concept clinical trial in the United Kingdom investigating Kineret® in patients with a certain type of myocardial infarction, or heart attack, has been completed. In August of 2010, Biovitrum announced that the FDA had granted orphan drug designation to Kineret® for the treatment of CAPS.
- In February of 2008, Regeneron Pharmaceuticals, Inc. ("Regeneron") announced it had received marketing approval from the FDA for ARCALYST® (rilonacept) Injection for Subcutaneous Use, an interleukin-1 blocker or IL-1 Trap, for the treatment of CAPS, including Familial Cold Auto-inflammatory Syndrome and Muckle-Wells Syndrome in adults and children 12 and older. In September of 2009, Regeneron announced that rilonacept was approved in the European Union for CAPS. In June of 2010, Regeneron announced positive results of a Phase 3 clinical trial of rilonacept in gout. In March 2011, Regeneron disclosed that it intends to file a supplemental BLA for ARCALYST® for the prevention and treatment of gout.
- Amgen has been developing AMG 108, a fully-human monoclonal antibody that targets inhibition of the action of IL-1. On April 28, 2008, Amgen discussed results from its recently completed Phase 2 study in rheumatoid arthritis. AMG 108 showed statistically significant improvement in the signs and symptoms of rheumatoid arthritis and was well tolerated. In January of 2011, MedImmune, the worldwide biologics unit for AstraZeneca PLC, announced that Amgen granted it rights to develop AMG 108 worldwide except Japan.

- In June of 2009, Cytos Biotechnology AG announced the initiation of an ascending dose Phase 1 study of CYT013-IL1bQb, a therapeutic vaccine targeting IL-1 beta, in Type 2 diabetes and that this study is expected to be completed in the first quarter of 2011.

XOMA 3AB

We are also developing XOMA 3AB, a combination, or cocktail, of antibodies designed to neutralize the most potent of botulinum toxins. Other companies are developing other products targeting botulism poisoning and these products may prove more effective than XOMA 3AB. We are aware that:

- In May of 2006, the U.S. Department of Health & Human Services awarded Cangene Corporation ("Cangene") a five-year, $362 million contract under Project Bioshield. The contract requires Cangene to manufacture and supply 200,000 doses of an equine heptavalent botulism anti-toxin to treat individuals who have been exposed to the toxins that cause botulism. In May of 2008, Cangene announced significant product delivery under this contract. In March of 2010, this contract was extended for an additional two years, until May of 2013.

- Emergent BioSolutions, Inc. ("Emergent") is currently in development of a botulism immunoglobulin candidate that may compete with our anti-botulinum neurotoxin monoclonal antibodies.

- We are aware of additional companies that are pursuing biodefense-related antibody products. PharmAthene, Inc. and Human Genome Sciences, Inc. are developing anti-anthrax antibodies. Cangene and Emergent are developing anti-anthrax immune globulin products. These products may compete with our efforts in the areas of other monoclonal antibody-based biodefense products, and the manufacture of antibodies to supply strategic national stockpiles.

Manufacturing risks and inefficiencies may adversely affect our ability to manufacture products for ourselves or others.

To the extent we continue to provide manufacturing services for our own benefit or to third parties, we are subject to manufacturing risks. Additionally, unanticipated fluctuations in customer requirements have led and may continue to lead to manufacturing inefficiencies, which if significant could lead to an impairment on our long-lived assets or restructuring activities. We must utilize our manufacturing operations in compliance with regulatory requirements, in sufficient quantities and on a timely basis, while maintaining acceptable product quality and manufacturing costs. Additional resources and changes in our manufacturing processes may be required for each new product, product modification or customer or to meet changing regulatory or third party requirements, and this work may not be successfully or efficiently completed. In addition, to the extent we continue to provide manufacturing services, our fixed costs, such as facility costs, would be expected to increase, as would necessary capital investment in equipment and facilities.

Manufacturing and quality problems may arise in the future to the extent we continue to perform these services for our own benefit or for third parties. Consequently, our development goals or milestones may not be achieved in a timely manner or at a commercially reasonable cost, or at all. In addition, to the extent we continue to make investments to improve our manufacturing operations, our efforts may not yield the improvements that we expect.

Because many of the companies we do business with are also in the biotechnology sector, the volatility of that sector can affect us indirectly as well as directly.

As a biotechnology company that collaborates with other biotech companies, the same factors that affect us directly can also adversely impact us indirectly by affecting the ability of our collaborators, partners and others we do business with to meet their obligations to us and reduce our ability to realize the value of the consideration provided to us by these other companies.

For example, in connection with our licensing transactions relating to our bacterial cell expression technology, we have in the past and may in the future agree to accept equity securities of the licensee in payment of license fees. The future value of these or any other shares we receive is subject both to market risks affecting our ability to realize the value of these shares and more generally to the business and other risks to which the issuer of these shares may be subject.

As we do more business internationally, we will be subject to additional political, economic and regulatory uncertainties.

We may not be able to successfully operate in any foreign market. We believe that, because the pharmaceutical industry is global in nature, international activities will be a significant part of our future business activities and that, when and if we are able to generate income, a substantial portion of that income will be derived from product sales and other activities outside the United States. Foreign regulatory agencies often establish standards different from those in the United States, and an inability to obtain foreign regulatory approvals on a timely basis could put us at a competitive disadvantage or make it uneconomical to proceed with a product or product candidate's development. International operations and sales may be limited or disrupted by:

- imposition of government controls,
- export license requirements,
- political or economic instability,
- trade restrictions,
- changes in tariffs,
- restrictions on repatriating profits,
- exchange rate fluctuations,
- withholding and other taxation, and
- difficulties in staffing and managing international operations.

If we and our partners are unable to protect our intellectual property, in particular our patent protection for our principal products, product candidates and processes, and prevent its use by third parties, our ability to compete in the market will be harmed, and we may not realize our profit potential.

We rely on patent protection, as well as a combination of copyright, trade secret, and trademark laws to protect our proprietary technology and prevent others from duplicating our products or product candidates. However, these means may afford only limited protection and may not:

- prevent our competitors from duplicating our products;
- prevent our competitors from gaining access to our proprietary information and technology, or
- permit us to gain or maintain a competitive advantage.

Because of the length of time and the expense associated with bringing new products to the marketplace, we and our collaboration and development partners hold and are in the process of applying for a number of patents in the United States and abroad to protect our product candidates and important processes and also have obtained or have the right to obtain exclusive licenses to certain patents and applications filed by others. However, the mere issuance of a patent is not conclusive as to its validity or its enforceability. The United States Federal Courts or equivalent national courts or patent offices elsewhere may invalidate our patents or find them unenforceable. In addition, the laws of foreign countries may not protect our intellectual property rights effectively or to the same extent as the laws of the United States. If our intellectual property rights are not adequately protected, we may not be able to commercialize our technologies, products, or services, and our competitors could commercialize our technologies, which could result in a decrease in our sales and market share that would harm our business and operating results. Specifically, the patent position of biotechnology companies generally is highly uncertain and involves complex legal and factual questions. The legal standards governing the validity of biotechnology patents are in transition, and current defenses as to issued biotechnology patents may not be adequate in the future. Accordingly, there is uncertainty as to:

- whether any pending or future patent applications held by us will result in an issued patent, or that if patents are issued to us, that such patents will provide meaningful protection against competitors or competitive technologies,
- whether competitors will be able to design around our patents or develop and obtain patent protection for technologies, designs or methods that are more effective than those covered by our patents and patent applications, or
- the extent to which our product candidates could infringe on the intellectual property rights of others, which may lead to costly litigation, result in the payment of substantial damages or royalties, and/or prevent us from using technology that is essential to our business.

We have established an extensive portfolio of patents and applications, both United States and foreign, related to our BPI-related product candidates, including novel compositions, their manufacture, formulation, assay and use. We have also established a portfolio of patents, both United States and foreign, related to our bacterial cell expression technology, including claims to novel promoter sequences, secretion signal sequences, compositions and methods for expression and secretion of recombinant proteins from bacteria, including immunoglobulin gene products. Most of the more important European patents in our bacterial cell expression patent portfolio expired in July of 2008.

If certain patents issued to others are upheld or if certain patent applications filed by others issue and are upheld, we may require licenses from others in order to develop and commercialize certain potential products incorporating our technology or we may become involved in litigation to determine the proprietary rights of others. These licenses, if required, may not be available on acceptable terms, and any such litigation may be costly and may have other adverse effects on our business, such as inhibiting our ability to compete in the marketplace and absorbing significant management time.

Due to the uncertainties regarding biotechnology patents, we also have relied and will continue to rely upon trade secrets, know-how and continuing technological advancement to develop and maintain our competitive position. All of our employees have signed confidentiality agreements under which they have agreed not to use or disclose any of our proprietary information. Research and development contracts and relationships between us and our scientific consultants and potential customers provide access to aspects of our know-how that are protected generally under confidentiality agreements. These confidentiality agreements may be breached or may not be enforced by a court. To the extent proprietary information is divulged to competitors or to the public generally, such disclosure may adversely affect our ability to develop or commercialize our products by giving others a competitive advantage or by undermining our patent position.

Litigation regarding intellectual property can be costly and expose us to risks of counterclaims against us.

We may be required to engage in litigation or other proceedings to protect our intellectual property. The cost to us of this litigation, even if resolved in our favor, could be substantial. Such litigation could also divert management's attention and resources. In addition, if this litigation is resolved against us, our patents may be declared invalid, and we could be held liable for significant damages. In addition, we may be subject to a claim that we are infringing another party's patent. If such claim is resolved against us, we or our collaborators may be enjoined from developing, manufacturing, selling or importing products, processes or services unless we obtain a license from the other party. Such license may not be available on reasonable terms, thus preventing us from using these products, processes or services and adversely affecting our revenue.

Even if we or our third party collaborators or licensees bring products to market, we may be unable to effectively price our products or obtain adequate reimbursement for sales of our products, which would prevent our products from becoming profitable.

If we or our third party collaborators or licensees succeed in bringing our product candidates to the market, they may not be considered cost-effective, and reimbursement to the patient may not be available or may not be sufficient to allow us to sell our products on a competitive basis. In both the United States and elsewhere, sales of medical products and treatments are dependent, in part, on the availability of reimbursement to the patient from third-party payors, such as government and private insurance plans. Third-party payors are increasingly challenging the prices charged for pharmaceutical products and services. Our business is affected by the efforts of government and third-party payors to contain or reduce the cost of healthcare through various means. In the United States, there have been and will continue to be a number of federal and state proposals to implement government controls on pricing. In addition, the emphasis on managed care in the United States has increased and will continue to increase the pressure on the pricing of pharmaceutical products. We cannot predict whether any legislative or regulatory proposals will be adopted or the effect these proposals or managed care efforts may have on our business.

Healthcare reform measures and other statutory or regulatory changes could adversely affect our business.

In both the United States and certain foreign jurisdictions, there have been a number of legislative and regulatory proposals to change the healthcare system in ways that could impact our business. In March of 2010, the U.S. Congress enacted and President Obama signed into law the Patient Protection and Affordable Care Act, which includes a number of healthcare reform provisions. Assuming the new law survives recent calls for its repeal, the reforms imposed by the new law would significantly impact the pharmaceutical industry, most likely in the area of pharmaceutical product pricing; however, the full effects of new law cannot be known until these provisions are implemented and the relevant federal and state agencies issue applicable regulations or guidance.

The pharmaceutical and biotechnology industries are subject to extensive regulation, and from time to time legislative bodies and governmental agencies consider changes to such regulations that could have significant impact on industry participants. For example, in light of certain highly-publicized safety issues regarding certain drugs that had received marketing approval, the U.S. Congress has considered various proposals regarding drug safety, including some which would require additional safety studies and monitoring and could make drug development more costly. We are unable to predict what additional legislation or regulation, if any, relating to safety or other aspects of drug development may be enacted in the future or what effect such legislation or regulation would have on our business.

The business and financial condition of pharmaceutical and biotechnology companies are also affected by the efforts of governments, third-party payors and others to contain or reduce the costs of healthcare to consumers. In the United States and various foreign jurisdictions there have been, and we expect that there will continue to be, a number of legislative and regulatory proposals aimed at changing the healthcare system, such as proposals relating to the reimportation of drugs into the U.S. from other countries (where they are then sold at a lower price) and government control of prescription drug pricing. The pendency or approval of such proposals could result in a decrease in our share price or limit our ability to raise capital or to obtain strategic collaborations or licenses.

We are exposed to an increased risk of product liability claims, and a series of related cases is currently pending against us.

The testing, marketing and sales of medical products entails an inherent risk of allegations of product liability. In the event of one or more large, unforeseen awards of damages against us, our product liability insurance may not provide adequate coverage. A significant product liability claim for which we were not covered by insurance would have to be paid from cash or other assets. To the extent we have sufficient insurance coverage, such a claim would result in higher subsequent insurance rates. In addition, product liability claims can have various other ramifications including loss of future sales opportunities, increased costs associated with replacing products, and a negative impact on our goodwill and reputation, which could also adversely affect our business and operating results.

On April 9, 2009, a complaint was filed in the Superior Court of Alameda County, California, in a lawsuit captioned Hedrick et al. v. Genentech, Inc. et al, Case No. 09-446158. The complaint asserts claims against Genentech, us and others for alleged strict liability for failure to warn, strict product liability, negligence, breach of warranty, fraudulent concealment, wrongful death and other claims based on injuries alleged to have occurred as a result of three individuals' treatment with RAPTIVA ®. The complaint seeks unspecified compensatory and punitive damages. Since then, additional complaints have been filed in the same court, bringing the total number of pending cases to fifty-eight. All of the complaints allege the same claims and seek the same types of damages based on injuries alleged to have occurred as a result of the plaintiffs' treatment with RAPTIVA®. Even though Genentech has agreed to indemnify us in connection with these matters, there can be no assurance that this or other products liability lawsuits will not result in liability to us or that our insurance or contractual arrangements will provide us with adequate protection against such liabilities.

On August 4, 2010, a petition was filed in the District Court of Dallas County, Texas in a case captioned McCall v. Genentech, Inc., et al., No. 10-09544. The defendants filed a notice of removal to the United States District Court for the Northern District of Texas on September 3, 2010. The removed case is captioned McCall v. Genentech, Inc., et al., No. 3:10-cv-01747-B. The parties have fully briefed the Plaintiff's Motion to Remand and are awaiting a final ruling from the Court. The petition asserts personal injury claims against Genentech, us, and others arising out of the plaintiff's treatment with RAPTIVA®. The petition alleges claims based on negligence, strict liability, misrepresentation and suppression, conspiracy, and actual and constructive fraud. The petition seeks compensatory damages and punitive damages in an unspecified amount. Even though Genentech has agreed to indemnify us in connection with this matter, there can be no assurance that this or other products liability lawsuits will not result in liability to us or that our insurance or contractual arrangements will provide us with adequate protection against such liabilities.

On January 7, 2011, a complaint was filed in the United States District Court for the Northern District of Texas in a case captionedMassa v. Genentech, Inc., et al., No. 4:11CV70. The Complaint alleges the same claims against Genentech, us and others and seeks the same types of damages as the complaints filed in the Superior Court of Alameda County, California referenced above. Even though Genentech has agreed to indemnify us in connection with this matter, there can be no assurance that this or other products liability lawsuits will not result in liability to us or that our insurance or contractual arrangements will provide us with adequate protection against such liabilities.

The loss of key personnel, including our Chief Executive Officer, could delay or prevent achieving our objectives.

Our research, product development and business efforts could be adversely affected by the loss of one or more key members of our scientific or management staff, particularly our executive officers: Steven B. Engle, our Chairman, Chief Executive Officer and President; Fred Kurland, our Vice President, Finance and Chief Financial Officer; Patrick J. Scannon, M.D., Ph.D., our Executive Vice President and Chief Medical Officer; and Christopher J. Margolin, our Vice President, General Counsel and Secretary. We currently have no key person insurance on any of our employees.

A U.S. holder of our common shares or warrants could be subject to material adverse U.S. federal income tax consequences if we were considered to be a PFIC at any time during the U.S. holder's holding period.

A non-U.S. corporation generally will be a "passive foreign investment company," or PFIC, for U.S. federal income tax purposes in any taxable year in which, after applying the relevant look-through rules with respect to the income and assets of its subsidiaries, either 75% or more of its gross income is "passive income" (generally including (without limitation) dividends, interest, annuities and certain royalties and rents not derived in the active conduct of a business) or the average value of its assets that produce passive income or are held for the production of passive income is at least 50% of the total value of its assets. In determining whether we meet the 50% test, cash is considered a passive asset and the total value of our assets generally will be treated as equal to the sum of the aggregate fair market value of our outstanding common shares plus our liabilities. If we own at least 25% (by value) of the stock of another corporation, we will be treated, for purposes of the PFIC tests, as owning our proportionate share of the other corporation's assets and receiving our proportionate share of the other corporation's income.

We believe that we were not a PFIC for the 2010 taxable year. However, because PFIC status is determined annually and depends on the composition of a company's income and assets and the fair market value of its assets (including goodwill), which may be volatile in our industry, there can be no assurance that we will not be considered a PFIC for 2011 or any subsequent year. For example, taking into account our existing cash balances, if the value of our common shares were to decline materially, it is possible that we could become a PFIC in 2011 or a subsequent year. Additionally, due to the complexity of the PFIC provisions and the limited authority available to interpret such provisions, there can be no assurance that our determination regarding our PFIC status could not be successfully challenged by the Internal Revenue Service ("IRS").

If we were found to be a PFIC for any taxable year in which a U.S. holder (as defined below) held common shares or warrants, certain adverse U.S. federal income tax consequences could apply to such U.S. holder, including a recharacterization of any capital gain recognized on a sale or other disposition of common shares or warrants as ordinary income, ineligibility for any preferential tax rate otherwise applicable to any "qualified dividend income," a material increase in the amount of tax that such U.S. holder would owe and the possible imposition of interest charges, an imposition of tax earlier than would otherwise be imposed and additional tax form filing requirements.

For purposes of this discussion, the term "U.S. holder" means a beneficial owner of common shares or warrants that is, for U.S. federal income tax purposes, (i) an individual who is a U.S. citizen or resident, (ii) a corporation (or other entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (iii) an estate the income of which is includable in gross income for U.S. income tax purposes regardless of its source, or (iv) a trust, if a U.S. court is able to exercise primary supervision over the administration of the trust and one or more U.S. fiduciaries have the authority to control all substantial decisions of the trust, or if the trust has a valid election in effect under applicable U.S. Treasury Regulations to be treated as a U.S. person. Special rules apply to a U.S. investor who owns our common shares or warrants through an entity treated as a partnership for U.S. federal income tax purposes.

A U.S. holder owning shares in a PFIC (or a corporation that might become a PFIC) might be able to mitigate the adverse tax consequences of PFIC status by making certain elections, including "qualified electing fund" (a "QEF") or "mark-to-market" elections, if deemed appropriate based on guidance provided by the U.S. holder's tax advisor. However, it should be noted that (1) the beneficial effect of a QEF election or a mark-to-market election may be substantially diminished if such election is not made from the inception of a U.S. holder's holding period (a "Year One Election"), (2) neither a QEF election nor a mark-to-market election can be made with respect to warrants, (3) a Year One Election generally cannot be made for any common shares received upon exercise of warrants ("Warrant Shares") because the holding period of Warrant Shares is deemed, for QEF election and mark-to-market election purposes, to include the holding period of the underlying warrants but the QEF election or mark-to-market election will not be effective until the underlying warrants are exercised, and (4) a QEF election or a mark-to-market election is made on a shareholder-by-shareholder basis and, once made, can only be revoked with the consent of the IRS.

The PFIC rules are very complex, as are the requirements and effects of the various elections designed to mitigate the adverse consequences of the PFIC rules. A U.S. holder should consult its own tax advisor regarding the PFIC rules, including the foregoing limitations on the ability to make a QEF election or a mark-to-market election (or to qualify either such election as a Year One Election), the timing requirements with respect to the various elections and the irrevocability of certain elections (absent the consent of the IRS).

As a result of a recent legislative change, a U.S. holder generally will be required to file IRS Form 8621 if the U.S. holder holds our common shares or warrants in any taxable year in which we are classified as a PFIC (whether or not a QEF or mark-to-market election is made).

Our ability to use our net operating loss carry-forwards and other tax attributes will be substantially limited by Section 382 of the Internal Revenue Code.

Section 382 of the Internal Revenue Code of 1986, as amended, generally limits the ability of a corporation that undergoes an "ownership change" to utilize its net operating loss carry-forwards ("NOLs") and certain other tax attributes against any taxable income in taxable periods after the ownership change. The amount of taxable income in each taxable year after the ownership change that may be offset by pre-change NOLs and certain other pre-change tax attributes is generally equal to the product of (a) the fair market value of the corporation's outstanding shares immediately prior to the ownership change and (b) the long-term tax exempt rate (i.e., a rate of interest established by the IRS that fluctuates from month to month). In general, an "ownership change" occurs whenever the percentage of the shares of a corporation owned, directly or indirectly, by "5-percent shareholders" (within the meaning of Section 382 of the Internal Revenue Code) increases by more than 50 percentage points over the lowest percentage of the share of such corporation owned, directly or indirectly, by such "5-percent shareholders" at any time over the preceding three years.

In 2009, we experienced an ownership change under Section 382, which subjects the amount of pre-change NOLs and tax credit carry-forwards that can be utilized to an annual limitation, which will substantially limit the future use of our pre-change NOLs and certain other pre-change tax attributes per year.

Recently proposed legislation, if enacted, could subject us to U.S. federal income taxation as if we were a U.S. corporation.

A bill recently introduced in the House of Representatives provides in certain instances that a corporation that changed its corporate domicile from the United States to a non-U.S. jurisdiction prior to the effective date of the "inversion" rules of Section 7874 of the Code would, for any taxable year beginning on or after the second anniversary of the bill's enactment, be treated as a U.S. corporation for U.S. federal income taxes purposes if such corporation were managed and controlled primarily in the United States. If this bill were enacted in 2011 in its present form and we were to make no changes to our current management structure, we would likely be treated, beginning in 2014, as a U.S. corporation subject to U.S. federal income taxation on our worldwide income. There can be no assurance that the foregoing bill or another similar legislative proposal will not become law.

Because we are a relatively small biopharmaceutical company with limited resources, we may not be able to attract and retain qualified personnel.

Our success in developing marketable products and achieving a competitive position will depend, in part, on our ability to attract and retain qualified scientific and management personnel, particularly in areas requiring specific technical, scientific or medical expertise. We had approximately 230 employees as of March 8, 2011. We anticipate that we will require additional experienced executive, accounting, research and development, legal, administrative and other personnel in the future. There is intense competition for the services of these personnel, especially in California. Moreover, we expect that the high cost of living in the San Francisco Bay Area, where our headquarters and manufacturing facilities are located, may impair our ability to attract and retain employees in the future. If we do not succeed in attracting new personnel and retaining and motivating existing personnel, our operations may suffer and we may be unable to implement our current initiatives or grow effectively.

Calamities, power shortages or power interruptions at our Berkeley headquarters and manufacturing facility could disrupt our business and adversely affect our operations, and could disrupt the businesses of our customers.

Our principal operations are located in Northern California, including our corporate headquarters and manufacturing facility in Berkeley, California. In addition, many of our collaborators and licensees are located in California. All of these locations are in areas of seismic activity near active earthquake faults. Any earthquake, terrorist attack, fire, power shortage or other calamity affecting our facilities or our customers' facilities may disrupt our business and could have material adverse effect on our business and results of operations.

We may be subject to increased risks because we are a Bermuda company.

Alleged abuses by certain companies that have changed their legal domicile from jurisdictions within the United States to Bermuda have created an environment where, notwithstanding that we changed our legal domicile in a transaction that was approved by our shareholders and fully taxable to our company under United States law, we may be exposed to various prejudicial actions, including:

- "blacklisting" of our common shares by certain pension funds,
- legislation restricting certain types of transactions, and
- punitive tax legislation.

We do not know whether any of these things will happen, but if implemented one or more of them may have an adverse impact on our future operations or our share price.

It may be difficult to enforce a judgment obtained against us because we are a foreign entity.

We are a Bermuda company. All or a substantial portion of our assets, including substantially all of our intellectual property, may be located outside the United States. As a result, it may be difficult for shareholders and others to enforce in United States courts judgments obtained against us. We have irrevocably agreed that we may be served with process with respect to actions based on offers and sales of securities made hereby in the United States by serving Christopher J. Margolin, c/o XOMA Ltd., 2910 Seventh Street, Berkeley, California 94710, our United States agent appointed for that purpose. Uncertainty exists as to whether Bermuda courts would enforce judgments of United States courts obtained in actions against us or our directors and officers that are predicated upon the civil liability provisions of the United States securities laws or entertain original actions brought in Bermuda against us or such persons predicated upon the United States securities laws. There is no treaty in effect between the United States and Bermuda providing for such enforcement, and there are grounds upon which Bermuda courts may not enforce judgments of United States courts. Certain remedies available under the United States federal securities laws may not be allowed in Bermuda courts as contrary to that nation's policy.

Our shareholder rights agreement or bye-laws may prevent transactions that could be beneficial to our shareholders and may insulate our management from removal.

In February of 2003, we adopted a new shareholder rights agreement (to replace the shareholder rights agreement that had expired), which could make it considerably more difficult or costly for a person or group to acquire control of us in a transaction that our Board of Directors opposes.

Our bye-laws:

- require certain procedures to be followed and time periods to be met for any shareholder to propose matters to be considered at annual meetings of shareholders, including nominating directors for election at those meetings;
- authorize our Board of Directors to issue up to 1,000,000 preference shares without shareholder approval and to set the rights, preferences and other designations, including voting rights, of those shares as the Board of Directors may determine; and
- contain provisions, similar to those contained in the Delaware General Corporation Law that may make business combinations with interested shareholders more difficult.

These provisions of our shareholders rights agreement and our bye-laws, alone or in combination with each other, may discourage transactions involving actual or potential changes of control, including transactions that otherwise could involve payment of a premium over prevailing market prices to holders of common shares, could limit the ability of shareholders to approve transactions that they may deem to be in their best interests, and could make it considerably more difficult for a potential acquirer to replace management.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

Our corporate headquarters and development and manufacturing facilities are located in Berkeley and Emeryville, California. We currently lease five buildings, and space in a sixth building, for which we have a sublease tenant under contract through May of 2014. These buildings house our research and development laboratories, manufacturing facilities and office space. A separate pilot scale manufacturing facility is owned by us. Our building leases expire in the period from 2011 to 2014 and total minimum lease payments due from January of 2011 until expiration of the leases are $13.8 million. We have the option to renew our lease agreements for periods ranging from three to ten years.

On January 15, 2009, we announced a workforce reduction of approximately 42%. As a result, in the second quarter of 2009, we vacated one of our leased buildings and recorded a restructuring charge of $0.5 million primarily related to the net present value of the net future minimum lease payments at the cease-use date, less the estimated future sublease income. Effective December of 2010, we entered into a sublease agreement for this building. The remaining liability related to this lease was $0.2 million and $0.4 million at December 31, 2010 and December 31, 2009, respectively.

Additionally, as a result of the 2009 workforce reduction, we temporarily vacated a building in order to optimize our facility usage. The net book value of fixed assets in the vacant building potentially subject to write-down is approximately $3.5 million as of December 31, 2010. We have determined that there was no impairment of the assets as of December 31, 2010. In 2011, we plan to increase manufacturing and regulatory activities relating to the Behcet's uveitis indication as part of our license and collaboration agreement with Servier to develop and commercialize XOMA 052. Due to the increased capacity requirements resulting from these activities, we expect to move our pilot scale manufacturing team into this facility in the first half of 2011, at which time we will no longer have any vacant buildings and do not believe impairment assessment will be necessary.

Item 3. Legal Proceedings

On April 9, 2009, a complaint was filed in the Superior Court of Alameda County, California, in a lawsuit captioned Hedrick et al. v. Genentech, Inc. et al, Case No. 09-446158. The complaint asserts claims against Genentech, the Company and others for alleged strict liability for failure to warn, strict product liability, negligence, breach of warranty, fraudulent concealment, wrongful death and other claims based on injuries alleged to have occurred as a result of three individuals' treatment with RAPTIVA ®. The complaint seeks unspecified compensatory and punitive damages. Since then, additional complaints have been filed in the same court, bringing the total number of pending cases to fifty eight. All of the complaints allege the same claims and seek the same types of damages based on injuries alleged to have occurred as a result of the plaintiffs' treatment with RAPTIVA®. The Company's agreement with Genentech provides for an indemnity of XOMA and payment of legal fees by Genentech which the Company believes is applicable to these matters. The Company believes the claims against it to be without merit and intends to defend against them vigorously.

On August 4, 2010, a petition was filed in the District Court of Dallas County, Texas in a case captioned McCall v. Genentech, Inc., et al., No. 10-09544. The defendants filed a Notice of Removal to the United States District Court for the Northern District of Texas on September 3, 2010. The removed case is captioned McCall v. Genentech, Inc., et al., No. 3:10-cv-01747-B. The parties have fully briefed the Plaintiff's Motion to Remand and are awaiting a final ruling from the Court. The petition asserts personal injury claims against Genentech, the Company, and others arising out of the plaintiff's treatment with RAPTIVA ®. The petition alleges claims based on negligence, strict liability, misrepresentation and suppression, conspiracy, and actual and constructive fraud. The petition seeks compensatory damages and punitive damages in an unspecified amount. The Company's agreement with Genentech provides for an indemnity of XOMA and payment of legal fees by Genentech which the Company believes is applicable to this matter. The Company believes the claims against it to be without merit and intends to defend against them vigorously.

On January 7, 2011, a complaint was filed in the United States District Court for the Northern District of Texas in a case captioned Massa v. Genentech, Inc., et al., No. 4:11CV70. The complaint alleges the same claims against Genentech, the Company and others and seeks the same types of damages as the complaints filed in the Superior Court of Alameda County, California referenced above. The Company's agreement with Genentech provides for an indemnity of XOMA and payment of legal fees by Genentech which the Company believes is applicable to this matter. The Company believes the claims against it to be without merit and intends to defend against them vigorously.

Item 4. Reserved

Supplementary Item: Executive Officers of the Registrant

Our executive officers and their respective ages, as of December 31, 2010, and positions are as follows:

Name	Age	Title
Steven B. Engle	56	Chairman, Chief Executive Officer and President
Patrick J. Scannon, M.D., Ph.D.	63	Executive Vice President and Chief Medical Officer
Fred Kurland	60	Vice President, Finance and Chief Financial Officer
Christopher J. Margolin, Esq.	64	Vice President, General Counsel and Secretary

The Board of Directors elects all officers annually. There is no family relationship between or among any of the officers or directors.

Business Experience

Mr. Engle is XOMA's Chairman, Chief Executive Officer and President. He has more than 25 years of executive leadership and biotechnology and pharmaceutical industry experience and, in February of 2010, was elected to the board of directors of the Biotechnology Industry Organization, or BIO. Prior to joining XOMA in 2007, he served as Chairman of the Board and Chief Executive Officer of La Jolla Pharmaceutical Company, a publicly-held biopharmaceutical company focused on the research and development of therapeutic products for autoimmune and antibody-mediated diseases. He joined La Jolla Pharmaceutical Company in 1993, became President and a Director in 1994, Chief Executive Officer in 1995, and Chairman of the Board in 1997. Prior to joining La Jolla, he held executive-level positions at Cygnus Therapeutic Systems, a developer of drug delivery systems, and Micro Power Systems, Inc., a manufacturer of high technology products, including medical devices. He began his professional career with the Strategic Decisions Group and the Stanford Research Institute. Mr. Engle holds an M.S.E.E. and a B.S.E.E. with a focus in biomedical engineering from the University of Texas.

Dr. Scannon is one of our founders and has served as a Director since our formation. Dr. Scannon became Executive Vice President and Chief Scientific Officer in February of 2011. Previously he was our Executive Vice President and Chief Medical Officer beginning in March of 2009 and served as Executive Vice President and Chief Biotechnology Officer from May of 2006 until March of 2009, Chief Scientific and Medical Officer from March of 1993 until May of 2006, Vice Chairman, Scientific and Medical Affairs from April of 1992 to March of 1993 and our President from our formation until April of 1992. In 2007, Dr. Scannon was invited to join the newly formed National Biodefense Science Board, reporting to the Secretary for the Department of Health and Human Services. In 2007, he also became a member of the Board of Directors for Pain Therapeutics, Inc, a biopharmaceutical company. He serves on the Defense Sciences Research Council for the Defense Advanced Research Projects Agency (DARPA) and on the Threat Reduction Advisory Committee for the Department of Defense. From 1979 until 1981, Dr. Scannon was a clinical research scientist at the Letterman Army Institute of Research in San Francisco. A Board-certified internist, Dr. Scannon holds a Ph.D. in organic chemistry from the University of California, Berkeley and an M.D. from the Medical College of Georgia.

Mr. Kurland is our Vice President, Finance and Chief Financial Officer. He joined XOMA on December 29, 2008. Mr. Kurland is responsible for directing the Company's financial strategy, accounting, financial planning and investor relations functions. He has more than 30 years of experience in biotechnology and pharmaceutical companies including Aviron/MedImmune, Protein Design Labs and Syntex/Roche. Prior to joining XOMA, Mr. Kurland served as Chief Financial Officer of Bayhill Therapeutics, Inc., Corcept Therapeutics Incorporated and Genitope Corporation. From 1998 to 2002, Mr. Kurland served as Senior Vice President and Chief Financial Officer of Aviron, acquired by MedImmune in 2001 and developer of FluMist. From 1996 to 1998, he was Vice President and Chief Financial Officer of Protein Design Labs, Inc., an antibody design company, and from 1995 to 1996, he served as Vice President and Chief Financial Officer of Applied Immune Sciences, Inc. Mr. Kurland also held a number of financial management positions at Syntex Corporation, a pharmaceutical company acquired by Roche, including Vice President and Controller between 1991 and 1995. He received his J.D. and M.B.A. degrees from the University of Chicago and his B.S. degree from Lehigh University.

Mr. Margolin is our Vice President, General Counsel and Secretary. During his time with the Company, Mr. Margolin has been responsible for the legal and intellectual property function and, at various times, the business development, human resources and licensing functions. Prior to joining us in 1991, Mr. Margolin was a corporate attorney holding several different executive legal positions for Raychem Corporation, an international high technology company, for 11 years. From 1975 to 1980, he was a division counsel for TRW Inc. and from 1972 to 1975, he was an associate at the law firm of McCutchen, Black, Verleger and Shea in Los Angeles. Mr. Margolin holds a B.A. from Princeton University, a J.D. from the University of Pennsylvania and an M.B.A. from the University of California, Los Angeles.

PART II

Item 5. Market for Registrant's Common Equity, Related Shareholder Matters and Issuer Purchases of Equity Securities

Market for Registrant's Common Equity

Our common shares trade on The NASDAQ Global Market under the symbol "XOMA." All references to numbers of common shares and per-share information in this Annual Report have been adjusted retroactively to reflect the Company's reverse stock split effective August of 2010. The following table sets forth the quarterly range of high and low reported sale prices of our common shares on The NASDAQ Global Market for the periods indicated:

	Price Range	
	High	Low
2010		
First Quarter	$ 11.70	$ 6.00
Second Quarter	12.60	6.15
Third Quarter	6.45	2.45
Fourth Quarter	7.48	2.24
2009		
First Quarter	$ 14.10	$ 5.55
Second Quarter	20.10	6.00
Third Quarter	16.20	10.65
Fourth Quarter	12.60	9.45

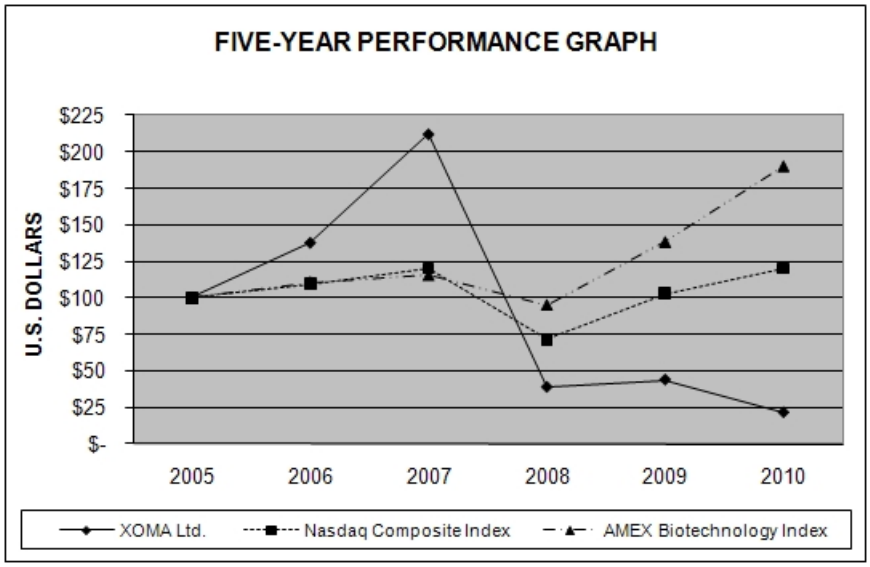
On March 8, 2011, there were 2,400 shareholders of record of our common shares, one of which was Cede & Co., a nominee for Depository Trust Company ("DTC"). All of the common shares held by brokerage firms, banks and other financial institutions as nominees for beneficial owners are deposited into participant accounts at DTC and are therefore considered to be held of record by Cede & Co. as one shareholder.

Dividend Policy

We have not paid dividends on our common shares. We currently intend to retain any earnings for use in the development and expansion of our business. We, therefore, do not anticipate paying cash dividends on our common shares in the foreseeable future.

Performance Graph

The following graph compares the five-year cumulative total shareholder return for XOMA common stock with the comparable cumulative return of certain indices. The graph assumes $100 invested on the same date in each of the indices. Returns of the company are not indicative of future performance.



As of December 31,	XOMA Ltd.	Nasdaq Composite Index	AMEX Biotechnology Index
2005	$ 100.00	$ 100.00	$ 100.00
2006	137.50	109.52	110.77
2007	211.88	120.27	115.51
2008	38.75	71.51	95.04
2009	43.75	102.89	138.36
2010	21.38	120.29	190.57

Item 6. Selected Financial Data

The following table contains our selected financial information including consolidated statement of operations and consolidated balance sheet data for the years 2006 through 2010. The selected financial information has been derived from our audited consolidated financial statements. The selected financial information should be read in conjunction with *Item 8: Financial Statements and Supplementary Data* and *Item 7: Management's Discussion and Analysis of Financial Condition and Results of Operations* included in this Annual Report. The data set forth below is not necessarily indicative of the results of future operations.

	Year Ended December 31,				
	2010	2009	2008	2007	2006
	(In thousands, except per share amounts)				
Consolidated Statement of Operations Data					
Total revenues [1]	$ 33,641	$ 98,430	$ 67,987	$ 84,252	$ 29,498
Total operating costs and expenses	100,663	81,867	106,721	86,796	70,182
Restructuring costs	82	3,603	-	-	-
(Loss) income from operations	(67,104)	12,960	(38,734)	(2,544)	(40,684)
Other income (expense), net [2]	(1,625)	(6,683)	(6,894)	(9,782)	(11,157)
Net (loss) income before taxes	(68,729)	6,277	(45,628)	(12,326)	(51,841)
Income tax expense (benefit), net [3]	27	5,727	(383)	-	-
Net (loss) income	$ (68,756)	$ 550	$ (45,245)	$ (12,326)	$ (51,841)
Basic and diluted net (loss) income per common share	$ (3.69)	$ 0.05	$ (5.11)	$ (1.45)	$ (8.10)

	December 31,				
	2010	2009	2008	2007	2006
			(In thousands)		
Balance Sheet Data					
Cash and cash equivalents	$ 37,304	$ 23,909	$ 9,513	$ 22,500	$ 28,002
Short-term investments	-	-	1,299	16,067	18,381
Restricted cash	-	-	9,545	6,019	4,330
Current assets	58,880	32,152	38,704	58,088	65,888
Working capital	23,352	13,474	11,712	34,488	43,221
Total assets	74,252	52,824	67,173	84,815	91,478
Current liabilities	35,528	18,678	26,992	23,600	22,667
Long-term liabilities [4]	15,133	16,620	71,582	60,897	106,984
Redeemable convertible preferences shares, at par value	1	1	1	1	1
Accumulated deficit	(853,310)	(784,554)	(785,104)	(739,859)	(727,533)
Total shareholders' equity (net capital deficiency)	23,591	17,526	(31,401)	318	(38,173)

We have paid no dividends in the past five years.

(1) 2010 includes a non-recurring fee of $4.0 million related to the sale of our CIMZIA® royalty interest to an undisclosed buyer. 2009 includes a non-recurring fee of $28.1 million related to the expansion of our collaboration agreement with Takeda Pharmaceutical Company Limited ("Takeda") and a non-recurring fee of $25 million related to the sale of our LUCENTIS® royalty interest to Genentech, Inc., a member of the Roche Group ("Genentech"). 2008 includes a non-recurring fee from Novartis AG ("Novartis") of $13.7 million relating to a restructuring of the existing collaboration agreement. 2007 includes a non-recurring license fee from Pfizer Inc. of $30 million.

(2) 2010 includes a loss associated with the $4.5 million paid in the first quarter of 2010 to the holders of warrants issued in June of 2009, upon modification of the terms.

(3) 2009 includes foreign income tax expense of $5.8 million recognized in connection with the expansion of our existing collaboration with Takeda.

(4) The balance as of December 31, 2008 includes $50.4 million from our term loan with Goldman Sachs, which we repaid in 2009. In May of 2008, the Company entered into a $55 million amended term loan facility with Goldman Sachs, paying off the remaining balance on the term loan completed in November of 2006. In addition, the outstanding principal on our Novartis note was reduced by $7.5 million due to the restructure of our collaboration with Novartis. In 2007, we eliminated the remaining $44.5 million in convertible debt issued in 2006. In 2006, we exchanged convertible senior notes (issued in 2005) for $60 million of 6.5% Convertible SNAPs$_{SM}$ due 2012 and issued an additional $12 million of 6.5% SNAPs$_{SM}$ to the public for cash.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

Overview

We are a leader in the discovery, development and manufacture of therapeutic antibodies designed to treat autoimmune, infectious, inflammatory and oncological diseases. Our proprietary development pipeline includes XOMA 052, an antibody that inhibits interleukin-1 beta ("IL-1 beta") which is expected to advance into entering Phase 3 development for the treatment of Behcet's uveitis and is in Phase 2 clinical development for Type 2 diabetes with cardiovascular biomarkers; XOMA 3AB, a biodefense anti-botulism product candidate comprised of a combination, or cocktail, of antibodies; and preclinical antibody discovery programs in several indications, including autoimmune, cardio-metabolic, inflammatory, and oncological diseases. We have a fully integrated product development platform, extending from preclinical science, clinical development to scale-up development, and manufacturing.

In December of 2010, we entered into a license and collaboration agreement with Les Laboratoires Servier ("Servier"), to jointly develop and commercialize XOMA 052 in multiple indications. XOMA 052 is designed to inhibit the pro-inflammatory cytokine IL-1 beta that is believed to be a primary trigger of pathologic inflammation in multiple diseases.

Our biodefense initiatives currently include a $65 million multiple-year contract funded by the National Institute of Allergy and Infectious Diseases ("NIAID"), a part of the National Institutes of Health ("NIH"), to support our ongoing development of anti-botulism antibody product candidates toward clinical trials in the treatment of botulism poisoning. This contract is the third that NIAID has awarded us for the development of botulinum antitoxins and brings the program's total awards to nearly $100 million. We also develop products with premier pharmaceutical companies including Novartis AG ("Novartis") and Takeda Pharmaceutical Company Limited ("Takeda").

We have a premier antibody discovery and development platform that incorporates a collection of antibody phage display libraries and proprietary Human Engineering™, affinity maturation, Bacterial Cell Expression ("BCE") and manufacturing technologies that enhance our ability and that of our collaboration partners to discover and develop new therapeutic antibodies. BCE is a key biotechnology for the discovery and manufacturing of antibodies and other proteins. To date, more than 50 pharmaceutical and biotechnology companies have signed BCE licenses, and a number of licensed product candidates are in clinical development. We continue to develop and commercialize additional antibody-related technologies including proprietary display technologies to enable antibody discovery and optimization. Our technologies have contributed to the success of marketed antibody products, including LUCENTIS® (ranibizumab injection) for wet age-related macular degeneration and CIMZIA® (certolizumab pegol) for rheumatoid arthritis and Crohn's disease.

Significant Developments in 2010

XOMA 052 Collaboration Agreement

- In December of 2010, we entered into an agreement with Servier, to jointly develop and commercialize XOMA 052 in multiple indications, which provides for a non-refundable upfront payment of $15 million that was received by us in January of 2011 and a loan of up to €15 million, which converts to approximately $20 million using the December 31, 2010 Euro to US Dollar ("USD") exchange rate (the "12/31/10 Exchange Rate"). Also, we are eligible to receive a combination of Euro and USD-denominated, development and sales milestones for multiple indications aggregating to a potential maximum of approximately $470 million converted using the 12/31/10 Exchange Rate if we reacquire rights to diabetes and cardiovascular disease indications from Servier in the U.S. and Japan territories, or approximately $770 million converted using the 12/31/10 Exchange Rate if we do not reacquire these rights. In addition, we are eligible to receive tiered royalties up to a mid-teens percentage rate. Further, we retain development and commercialization rights for Behcet's uveitis and other inflammatory and oncology indications in the U.S. and Japan territories, and an option to reacquire rights to diabetes and cardiovascular disease indications from Servier in these territories. Servier will fully fund activities to advance the global clinical development and future commercialization of XOMA 052 in diabetes and cardiovascular related diseases, as well as the first $50 million of future XOMA 052 global clinical development and chemistry and manufacturing controls expenses and 50% of further expenses for the Behcet's uveitis indication, which is expected to advance into Phase 3 development in 2011.

XOMA 052 Behcet's Uveitis

- During 2010, XOMA announced positive results from a Phase 2 proof-of-concept clinical trial evaluating XOMA 052 in Behcet's uveitis, demonstrating rapid improvement in vision-threatening disease exacerbations in all seven treated patients despite discontinuation of immunosuppressive drugs such as cyclosporine and/or azathioprine. Follow-up results demonstrated that each of the five patients re-treated with XOMA 052 after they experienced a new uveitis exacerbation responded again to XOMA 052 treatment and maintained their response for several months. The drug appeared to be safe, and no drug-related serious adverse events were reported.

- In August of 2010, we obtained Food and Drug Administration ("FDA") orphan drug status for XOMA 052 for the treatment of Behcet's disease. The designation offers a number of potential incentives, which may include, among others, a seven-year period of U.S. marketing exclusivity from the date of marketing authorization, written guidance on the non-clinical and clinical studies needed to obtain marketing approval, and tax credits for certain clinical research. In October of 2010, XOMA 052 was granted orphan drug status by the European Medicines Agency ("EMA") for the treatment of Behcet's disease. The designation generally provides EU market exclusivity for up to ten years following approval for the given indication. Other potential benefits include protocol assistance, direct access to centralized marketing authorization procedures and financial incentives.

XOMA 052 Type 2 Diabetes

- During 2010, we completed the patient enrollment in the Phase 2a clinical trial of XOMA 052 in patients with Type 2 diabetes. The primary goal of the 74 patient Phase 2a trial was to gain additional XOMA 052 safety information in Type 2 diabetes patients on a background of stable metformin monotherapy. In January of 2011, we announced that we had conducted an interim review of 3-month data from the Phase 2a trial where XOMA 052 was shown to be well-tolerated with no significant differences in adverse events, lab abnormalities and vital signs between XOMA 052 and placebo and no drug-related adverse events. At the time of this 3-month review, evidence of biological activity was observed including a reduction in high sensitivity C-reactive protein ("HsCRP") levels and a modest reduction in hemoglobin A1c ("HbA1c") levels. HsCRP is a biomarker of cardiovascular risk, and HbA1c is a measure indirectly reflecting blood glucose levels as averaged over a period estimated to be 90 to 120 days.

- Also during 2010, we completed the patient enrollment in the Phase 2b clinical trial of XOMA 052 in patients with Type 2 diabetes. The primary goal of the 420 patient Phase 2b trial was to further evaluate the use of multiple dose regimens on the safety, pharmacodynamics and efficacy of XOMA 052 in cardiometabolic and other diseases, and based on positive results in measurements of HbA1c, fasting blood glucose, and HsCRP, to select doses for pivotal Phase 3 studies. We anticipate reporting top line, six month results from the Phase 2b trial by the end of the first quarter of 2011.

Biodefense

- We advanced XOMA 3AB into the pre-Investigational New Drug ("IND") stage. XOMA 3AB is a multi-antibody product that targets the most potent of the botulinum toxins, Type A. XOMA 3AB along with other anti-botulism antibody products are currently being developed under a $65 million multiple-year contract, under which we reported revenues of $21.4 million in 2010.

Financings

- In February of 2010, we completed an underwritten offering of 2.8 million units, with each unit consisting of one of our common shares and a warrant to purchase 0.45 of a common share, for gross proceeds of approximately $21 million.

- In the first ten months of 2010, we sold 1,396,625 common shares through Wm Smith & Co. ("Wm Smith"), under our At Market Issuance Sales Agreement dated July 14, 2009 (the "2009 ATM Agreement"), for aggregate gross proceeds of $9.3 million, constituting all of the shares available for sale under this agreement. In October of 2010, we entered into a new At Market Issuance Sales Agreement (the "2010 ATM Agreement") with Wm Smith and McNicoll, Lewis & Vlak LLC (the "Agents"), under which we may sell common shares from time to time through the Agents, as our agents for the offer and sale of the common shares, in an aggregate amount not to exceed the amount that can be sold under our registration statement on Form S-3 (File No. 333-148342) (the "Existing Registration Statement") filed with the U.S. Securities and Exchange Commission (the "SEC") on December 26, 2007 and declared effective by the SEC on May 29, 2008. From the inception of the 2010 ATM Agreement through December 31, 2010, we sold a total of 6,739,476 million common shares under this agreement for aggregate gross proceeds of $29.7 million. See *Liquidity and Capital Resources – ATM Agreements* for a further discussion.

- In July of 2010, we entered into a common share purchase agreement with Azimuth Opportunity, Ltd. ("Azimuth") pursuant to which we obtained a committed equity line of credit under which we could sell up to $30 million of our registered common shares to Azimuth. In August of 2010, we sold a total of 3,421,407 common shares under this facility for aggregate proceeds of $14.2 million, representing the maximum number of shares that could be sold under this facility. See *Liquidity and Capital Resources – Equity Line of Credit* for a further discussion.

Other

- In March of 2010, we received a Staff Determination letter from The NASDAQ Stock Market LLC ("NASDAQ") indicating that we had not regained compliance with the minimum $1.00 per share requirement for continued inclusion on The NASDAQ Global Market, pursuant to NASDAQ Listing Rule 5450(a)(1). On August 18, 2010, the Company effected a reverse split of its common shares in order to regain compliance.

- In August of 2010, we sold our CIMZIA® royalty stream to an undisclosed buyer for gross proceeds of $4.0 million, which included the receipt of royalties of $0.3 million earned in the second quarter of 2010 and an additional one-time, non-refundable payment of $3.7 million. We will no longer receive royalties on sales of CIMZIA®.

- In November of 2010, the Company received approximately $1.0 million resulting from four grants awarded in connection with the Company's submission of four qualifying therapeutic discovery projects under the Patient Protection and Affordable Care Act of 2010.

Critical Accounting Estimates

The accompanying discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements and the related disclosures, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires us to make estimates, assumptions and judgments that affect the reported amounts in our consolidated financial statements and accompanying notes. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

We believe the following policies to be the most critical to an understanding of our financial condition and results of operations because they require us to make estimates, assumptions and judgments about matters that are inherently uncertain.

Revenue Recognition

Effective January 1, 2010, we early adopted the recently revised accounting guidance on revenue recognition for multiple element arrangements on a prospective basis, which requires us to allocate consideration to all deliverables at the inception of the arrangement using the relative selling price method. The relative selling price method establishes the relative selling price of a deliverable using a hierarchy, first through vendor-specific objective evidence ("VSOE"), second through third-party evidence if VSOE is not available and finally, through estimated selling prices if neither VSOE nor third-party evidence is available. Additionally, the revised accounting guidance also refined the criteria for determining when a deliverable should be accounted for as a separate unit of accounting. Based on this guidance, we generally identify separate units of accounting for the multiple element arrangement if the delivered item has value to the customer on a standalone basis. Generally, under the new accounting principle, we will be more likely to separate the units of accounting in multiple element arrangements which may to lead to more accelerated revenue recognition in some cases. Changes in the allocation of the sales price between delivered to undelivered elements might impact the timing of revenue recognition, but would not change the total revenue recognized on any arrangement.

The change in accounting principle for revenue recognition on multiple element arrangements did not have a material impact on our financial results for the year ended December 31, 2010. We anticipate that the effect on the change in accounting principle on subsequent periods will be primarily dependent on the arrangements entered into, the ability to estimate selling prices when VSOE cannot be established and the timing of the delivery of the products and services. Additionally, had the new accounting guidance been applied for the year ended December 31, 2009, there would have been no material impact on the revenue recognized.

License and Collaborative Fees

Revenue from non-refundable license, technology access or other payments under license and collaborative agreements where we have a continuing obligation to perform is recognized as revenue over the expected period of the continuing performance obligation. We estimate the performance period at the inception of the arrangement and reevaluate it each reporting period. This reevaluation may shorten or lengthen the period over which the remaining revenue is recognized. Changes to these estimates are recorded on a prospective basis.

Milestone payments under collaborative and other arrangements are recognized as revenue upon completion of the milestone event, once confirmation is received from the third party and collectability is reasonably assured. This represents the culmination of the earnings process because we have no future performance obligations related to the payment. Milestone payments that require a continuing performance obligation on our part are recognized over the expected period of the continuing performance obligation. Amounts received in advance are recorded as deferred revenue until the related milestone is completed.

Contract Revenue

Contract revenue for research and development involves our providing research and development and manufacturing services to collaborative partners, biodefense contractors or others. Revenue for certain contracts is accounted for by a proportional performance, or output-based, method where performance is based on estimated progress toward elements defined in the contract. The amount of contract revenue and related costs recognized in each accounting period are based on estimates of the proportional performance during the period. Adjustments to estimates based on actual performance are recognized on a prospective basis and do not result in reversal of revenue should the estimate to complete be extended.

In addition, revenue related to certain research and development contracts is billed based on actual costs incurred by XOMA related to the contract, multiplied by full-time equivalent ("FTE") rates plus a mark-up. The FTE rates are developed based on our best estimates of labor, materials and overhead costs. For certain contracts, such as our government contracts, the FTE rates are agreed upon at the beginning of the contract and are subject to review or audit by the contracting party at any time. Under our contracts with NIAID, a part of the NIH, we bill using NIH provisional rates and thus are subject to future audits at the discretion of NIAID's contracting office. These audits can result in an adjustment to revenue previously reported.

Up-front fees are recognized ratably over the expected benefit period under the arrangement. Given the uncertainties of research and development collaborations, significant judgment is required to determine the duration of the arrangement. We have $17.1 million of deferred up-front fees related to two research and collaboration agreements that are being amortized over a range of one to five years.

Share-Based Compensation

The valuation of share-based compensation awards is determined at the date of grant using the Black-Scholes option pricing model. This model requires inputs such as the expected term of the option, expected volatility and risk-free interest rate. Further, the forfeiture rate also impacts the amount of aggregate compensation. These inputs are subjective and generally require significant analysis and judgment to develop. To establish an estimate of expected term, we consider the vesting period and contractual period of the award and our historical experience of share option exercises, post-vesting cancellations and volatility. To establish an estimate of forfeiture rate, we consider our historical experience of option forfeitures and terminations. The risk-free rate is based on the yield available on United States Treasury zero-coupon issues. We review our valuation assumptions quarterly and, as a result, it is likely we will change our valuation assumptions used to value share-based awards granted in future periods.

Share-based compensation expense is recognized ratably over the requisite service period. If options are granted that include a performance condition, we estimate the probability of the performance condition being achieved on a quarterly basis. If it is determined that it is probable the performance criteria will be achieved, we estimate an implicit service period from grant date to the most likely date of achievement of the performance criteria and record share-based compensation expense ratably over this implicit service period. These estimates require significant judgment and may change in future periods.

Income Taxes

The application of income tax law and regulations is inherently complex. Interpretations and guidance surrounding income tax laws and regulations change over time. As such, changes in our subjective assumptions and judgments can materially affect amounts recognized in our financial statements.

We account for uncertain tax positions in accordance with Accounting Standards Codification Topic 740, *Income Taxes* ("ASC 740"). ASC 740 provides for the recognition of deferred tax assets if realization of such assets is more likely than not. Based upon the weight of available evidence, which includes our historical operating performance and carry-back potential, we have determined that total deferred tax assets should be fully offset by a valuation allowance.

Warrant Liabilities

We have issued warrants to purchase our common shares in connection with financing activities. We account for the warrants as a liability at fair value. The fair value of the warrant liability is estimated using the Black-Scholes Model. The Black-Scholes Model requires inputs such as the expected term of the warrants, share price volatility and risk-free interest rate. These inputs are subjective and generally require significant analysis and judgment to develop. For the estimate of the expected term, we use the full remaining contractual term of the warrant. We base our estimate of expected volatility on our historical volatility. These assumptions are reviewed each reporting period and changes in the estimated fair value of the outstanding warrants are recognized in other income (expense).

Results of Operations

Revenue

Total revenue in 2010 was $33.6 million, compared with $98.4 million in 2009 and $68.0 million in 2008 as shown in the table below (in thousands):

	Year ended December 31,		
	2010	**2009**	**2008**
License and collaborative fees	$ 2,182	$ 43,822	$ 16,366
Contract and other revenue	27,174	25,492	30,473
Royalties	4,285	29,116	21,148
Total revenues	$ 33,641	$ 98,430	$ 67,987

License and Collaborative Fees

License and collaborative fee revenue includes fees and milestone payments related to the out-licensing of our products and technologies. License and collaborative fee revenue in 2010 was $2.2 million, compared with $43.8 million in 2009 and $16.4 million in 2008. The primary components of license and collaboration fee revenue in 2010 were four milestone payments recognized for an aggregate amount of $1.2 million, including one milestone from AVEO Pharmaceuticals, Inc. ("AVEO") for $0.8 million resulting from AVEO's initiation of a Phase 2 clinical trial to evaluate its AV-299 antibody. In addition, we recognized $1.0 million in up-front fees and annual maintenance fees relating to various out-licensing arrangements.

The primary components of license and collaborative fee revenue in 2009 were $28.1 million in revenue recognized related to the expansion of our collaboration agreement with Takeda in February of 2009 and $14.1 million in total revenue, including ancillary services provided, related to two antibody discovery collaboration agreements entered into with Arana Therapeutics Limited ("Arana") and The Chemo-Sero-Therapeutic Research Institute, a Japanese research foundation known as Kaketsuken in September and October of 2009. We also recognized $1.6 million of license and collaborative fee revenue in 2009 related to up-front fees, annual maintenance fees and milestone payments from various out-licensing arrangements.

The primary source of license and collaborative fee revenue in 2008 related to the restructuring of our product development collaboration with Novartis, which involved six development programs including the HCD122 program. Under the restructured agreement, we recognized a collaborative fee of $13.7 million in exchange for giving Novartis control over the HCD122 and LFA102 programs, as well as the right to expand the development of these programs into additional indications outside of oncology. We also recognized $1.7 million in up-front fees and annual maintenance fees relating to various out-licensing arrangements. In addition, we recognized four milestone payments totaling $1.0 million, including two milestone payments from Pfizer, Inc. relating to two different products, including the payment of $0.5 million for the initiation of a Phase 3 clinical trial.

The generation of future revenue related to license fees and collaborative arrangements is dependent on our ability to attract new licensees to our antibody and BCE technologies and new collaboration partners. In connection with the license and collaboration agreement with Servier in December of 2010, we expect to experience an increase from 2010 levels.

Contract and Other Revenue

Contract and other revenue includes agreements where we provide contracted research and development and manufacturing services to our collaboration partners, including Takeda and NIAID. The following table shows the activity in contract and other revenue for the years ended December 31, 2010, 2009, and 2008 (in thousands):

	Year ended December 31,			2009-2010 Increase (Decrease)	2008-2009 Increase (Decrease)
	2010	2009	2008		
NIAID 3	$ 21,211	$ 5,051	$ 4,162	$ 16,160	$ 889
Takeda	3,568	7,549	4,369	(3,981)	3,180
SRI International	1,594	331	-	1,263	331
Merck/Schering-Plough	468	7,586	10,780	(7,118)	(3,194)
NIAID 2	203	1,581	1,325	(1,378)	256
AVEO	79	675	3,161	(596)	(2,486)
Novartis	-	2,459	6,602	(2,459)	(4,143)
Other	51	260	74	(209)	186
Total revenues	$ 27,174	$ 25,492	$ 30,473	$ 1,682	$ (4,981)

The 2010 increases in revenue from our NIAID Contract No. HHSN272200800028C ("NIAID 3") and SRI International contracts is due to increased activity under these contracts. Partially offsetting these increases are decreases in revenue from our Schering-Plough Research Institute, a division of Schering Corporation, now a subsidiary of Merck & Co., Inc. (referred to herein as "Merck/Schering-Plough") and Takeda contracts in 2010 as a result of the cessation of certain Merck/Schering-Plough programs in 2009 and certain Takeda programs in both 2009 and 2010. Also, the decrease in revenue from our Manufacturing and Technology Transfer Agreement with Novartis in 2010 was due to the completion of the work under this agreement in the third quarter of 2009. In addition, revenue related to our NIAID Contract No. HHSN266200600008C/N01-Al-60008 ("NIAID 2") decreased in 2010 due to its completion.

The 2009 decrease in revenue under our Merck/Schering-Plough contract was due to the cessation of certain discovery and development programs under our collaboration agreement in 2009. Also, revenue from our Manufacturing and Technology Transfer Agreement with Novartis decreased in 2009 due to the completion of the work under this agreement in the third quarter of 2009. In addition, revenue from our AVEO contract decreased in 2009 as a result of our nearing the end of the contracted service arrangement.

These decreases in contract and other revenue in 2009 were partially offset by the recognition of $2.8 million of previously deferred revenue in the fourth quarter of 2009 related to the cessation of certain discovery and development programs under our collaboration with Takeda, resulting in an increase in contract revenue recognized related to our collaboration with Takeda.

Based on expected levels of revenue generating activity related to our Servier and NIAID 3 contracts, as well as our subcontract awards from SRI International, we expect contract and other revenue to increase in 2011 compared to 2010 levels.

We defer revenue until all requirements under our revenue recognition policy are met. In 2010, we deferred $15.9 million of revenue from contracts including Servier, NIH, Takeda, Merck/Schering-Plough and AVEO, and we recognized $2.8 million in revenue. In 2009, we deferred $16.2 million of revenue from contracts including Takeda, Merck/Schering-Plough and Novartis and recognized $28.4 million in revenue. In 2008, we deferred $17.5 million of revenue from contracts including Merck/Schering-Plough, Takeda and Novartis and recognized $18.4 million in revenue.

The following table shows the activity in deferred revenue for the years ended December 31, 2010, 2009 and 2008 (in thousands):

	Year ended December 31,		
	2010	2009	2008
Beginning deferred revenue	$ 5,008	$ 17,213	$ 18,064
Revenue deferred	15,949	16,220	17,515
Revenue recognized	(2,827)	(28,425)	(18,366)
Ending deferred revenue	$ 18,130	$ 5,008	$ 17,213

In 2011, we expect a significant portion of the $18.1 million in deferred revenue will be recognized with the remainder to be earned during 2012 through 2015. Future amounts may be affected by additional consideration received, if any, under existing or any future licensing or other collaborative arrangements as well as changes in the estimated period of obligation or services to be provided under the arrangements.

Royalties

Revenue from royalties was $4.3 million in 2010 compared with $29.1 million in 2009 and $21.1 million in 2008. The decrease in royalties in 2010 was primarily due to the sale, during 2009, of our LUCENTIS® royalty interest to Genentech for a total of $25 million, which included the receipt of royalties of $2.7 million recognized in the second quarter of 2009 and an additional one-time, non-refundable payment of $22.3 million in September of 2009. Additionally, the cessation of royalties earned from sales of RAPTIVA® in the second quarter of 2009 further contributed to the decrease in our revenue from royalties. Royalties earned from sales of LUCENTIS® and RAPTIVA® during 2009 were $5.1 million and $1.2 million, respectively, compared to $4.4 million and $6.5 million, respectively, in 2008. We will not receive any further royalties on sales of LUCENTIS® or RAPTIVA®.

Partially offsetting the decreases in revenue from royalties was the sale of our CIMZIA® royalty interest for gross proceeds of $4.0 million in the third quarter of 2010, which included the payment of $0.3 million in royalties received and recognized in the second quarter of 2010. Royalties earned from sales of CIMZIA® were $0.5 million in 2010, compared with $0.5 million in 2009 and $0.1 million in 2008. We will not receive any further royalties on sales of CIMZIA®.

Research and Development Expenses

Biopharmaceutical development includes a series of steps, including *in vitro* and *in vivo* preclinical testing, and Phase 1, 2 and 3 clinical studies in humans. Each of these steps is typically more expensive than the previous step, but actual timing and the cost to us depends on the product being tested, the nature of the potential disease indication and the terms of any collaborative arrangements with other companies. After successful conclusion of all of these steps, regulatory filings for approval to market the products must be completed, including approval of manufacturing processes and facilities for the product. Our research and development expenses currently include costs of personnel, supplies, facilities and equipment, consultants, third party costs and other expenses related to preclinical and clinical testing.

Research and development expenses were $77.4 million in 2010, compared with $58.1 million in 2009 and $82.6 million in 2008. The increase in research and development expenses of $19.3 million in 2010, as compared to 2009, was primarily due to increased spending on XOMA 052 related to the Phase 2 clinical program and spending on NIAID 3 due to increased activity under the contract. Partially offsetting these increases in spending were decreases in spending on Merck/Schering-Plough and Takeda-related contract activities due to the cessation of certain discovery and development programs. In addition, there was decreased spending on Novartis-related contract activities due to the completion of work under agreement in the third quarter of 2009.

The decrease in research and development expense of $24.5 million in 2009, as compared to 2008, was primarily a result of our increased focus on cost control. In addition, spending on Novartis and Merck/Schering-Plough/AVEO-related contract activities decreased in 2009 due to our reaching the end of contracted service arrangements, and spending on Merck/Schering-Plough-related contract activities decreased in 2009 due to the cessation of certain discovery and development programs under the collaboration. Spending on XOMA 052 decreased in 2009, as compared to 2008, due to the completion of Phase 1 clinical trial enrollment in the second quarter of 2009 slightly offset by an increase in spending in the fourth quarter of 2009 related to the initiation of the Phase 2 clinical program. In addition, spending on XOMA 629 decreased in 2009, as compared to 2008, due to the Company's decision to suspend development of this product. These decreases were partially offset by increased spending on preclinical antibody discovery programs in several indications, and on our contracts with NIAID 3, Takeda and SRI International.

Research and development expense in 2008 primarily reflects spending on development of XOMA 052, including Phase 1 clinical trials, and to a lesser extent XOMA 629. In addition, we increased spending on our contracts with Novartis, Merck/Schering-Plough, NIAID 3 and Takeda. Research and development expenses also increased in 2008 related to the preclinical development of several antibodies, XOMA 3AB and upgrades made to our manufacturing plant.

Salaries and related personnel costs are a significant component of research and development expenses. We recorded $29.7 million in research and development salaries and employee-related expenses in 2010, compared with $26.8 million in 2009 and $34.4 million in 2008. Included in these expenses for 2010 were $24.1 million for salaries and benefits, $3.3 million for bonus expense and $2.3 million for share-based compensation, which is a non-cash expense. The increase of $2.9 million in 2010, as compared to 2009, was primarily due to higher salaries and related personnel costs in connection with increased manufacturing activities and work related to NIAID 3.

Included in these expenses for 2009 were $22.2 million for salaries and benefits, $2.4 million for bonus expense and $2.2 million for share-based compensation, which is a non-cash expense, compared with $32.1 million, zero and $2.3 million, respectively, in 2008. The $7.6 million decrease in salaries and employee-related expenses in 2009, as compared to 2008, was due to a decrease in salaries and benefits of $9.9 million due to the workforce reduction announced in January of 2009. In addition, share-based compensation decreased by $0.1 million. Partially offsetting this decrease in research and development personnel expense was an increase in bonus expense in 2009 of $2.4 million. In 2008, the Company did not to pay bonuses in efforts to control spending and manage the Company's cash balance.

Our research and development activities can be divided into earlier stage programs and later stage programs. Earlier stage programs include molecular biology, process development, pilot-scale production and preclinical testing. Also included in earlier stage programs are costs related to excess manufacturing capacity, which we expect will decrease in 2011 due to the execution of the license and collaboration agreement with Servier, resulting in increased manufacturing capacity requirements. Later stage programs include clinical testing, regulatory affairs and manufacturing clinical supplies. The costs associated with these programs approximate the following (in thousands):

	Year ended December 31,		
	2010	2009	2008
Earlier stage programs	$ 52,323	$ 42,961	$ 62,872
Later stage programs	25,090	15,170	19,704
Total	$ 77,413	$ 58,131	$ 82,576

Our research and development activities can also be divided into those related to our internal projects and those projects related to collaborative and contract arrangements. The costs related to internal projects versus collaborative and contract arrangements approximate the following (in thousands):

	Year ended December 31,		
	2010	2009	2008
Internal projects	$ 58,065	$ 42,206	$ 58,468
Collaborative and contract arrangements	19,348	15,925	24,108
Total	$ 77,413	$ 58,131	$ 82,576

In 2010, our largest development program (XOMA 052) accounted for more than 30% but less than 40% of our total research and development expense. In 2010, one development program (NIAID) accounted for more than 20% but less than 30% of our total research and development expense, and in 2009 and 2008, one development program (XOMA 052) accounted for more than 20% but less than 30% of our total research and development expense. In 2009, one development program (NIAID) accounted for more than 10% but less than 20% of our total research and development expense, and in 2008 one development program (Novartis) accounted for more than 10% but less than 20% of our total research and development expense. No development program accounted for more than 30% of our total research and development expense in 2009 or 2008.

We expect our research and development spending in 2011 will increase primarily due to the expected initiation of our Phase 3 clinical program for XOMA 052 for the Behcet's uveitis indication under our license and collaboration agreement with Servier, as well as increased activity under our biodefense contracts.

Future research and development spending may also be impacted by potential new licensing or collaboration arrangements, as well as the termination of existing agreements. Beyond this, the scope and magnitude of future research and development expenses are difficult to predict at this time.

Selling, General and Administrative Expenses

Selling, general and administrative expenses include salaries and related personnel costs, facilities costs and professional fees. In 2010, selling, general and administrative expenses were $23.3 million compared with $23.7 million in 2009 and $24.1 million in 2008. The $0.4 million decrease in selling, general and administrative expenses in 2010 as compared with 2009 was primarily due a net decrease in financing and professional fees of $0.4 million, as well as a decrease in salaries and related personnel costs of $0.4 million. Partially offsetting these decreases was an increase in other expenses of $0.4 million, including an increase in travel-related costs.

The $0.4 million decrease in selling, general and administrative expenses in 2009 as compared with 2008 was primarily related to a decrease in salaries and related personnel costs of $0.6 million, as further discussed below, as well as a decrease in professional fees and other expenses of $1.2 million due to our increased focus on cost control. Partially offsetting these decreases was an increase in fees in 2009 of $1.4 million related to the restructuring negotiations and repayment of the Goldman Sachs term loan.

We recorded salaries and employee-related expenses of $12.3 million in 2010 compared with $12.7 million in 2009 and $13.3 million in 2008. The decrease of $0.4 million in 2010 as compared to 2009 was due to a decrease in salaries and benefits of $1.2 million primarily due to our continued focus on cost controls. Partially offsetting this decrease in selling, general and administrative personnel expense was an increase in bonus expense in 2010 of $0.4 million as compared to 2009, and an increase in share-based compensation of $0.4 million.

The $0.6 million decrease in salaries and employee-related expenses in 2009 as compared to 2008 primarily due to a decrease in salaries and benefits of $1.5 million primarily due to the workforce reduction announced in January of 2009, and an increase in share-based compensation of $0.4 million. Partially offsetting this decrease in selling, general and administrative personnel expense was an increase in bonus expense in 2009 of $1.3 million. In 2008, the Company did not to pay bonuses in efforts to control spending and manage the Company's cash balance.

We expect selling, general and administrative expenses in 2011 will be comparable to 2010 levels.

Restructuring Charges

In January of 2009, we announced a workforce reduction of approximately 42%. As part of this workforce reduction, we recorded charges of $3.1 million during 2009 related to severance, other termination benefits and outplacement services, which were fully paid by the end of 2009. There were no additional employee-related restructuring charges in connection with this workforce reduction.

As a result of the workforce reduction, in the second quarter of 2009, we vacated one of our leased buildings and recorded a restructuring charge of $0.5 million primarily related to the net present value of the net future minimum lease payments at the cease-use date, less the estimated future sublease income. Effective December of 2010, we entered into a sublease agreement for this building. The remaining liability related to this lease was $0.2 million and $0.4 million at December 31, 2010 and 2009, respectively.

Additionally, as a result of the workforce reduction, we temporarily vacated a building in order to optimize our facility usage. As manufacturing demand increases in the future, we plan to resume operations at this facility. As of December 31, 2010, we performed an analysis of the long-lived assets related to the vacant building, with an approximate net book value of $3.5 million. Based on estimated undiscounted future cash inflows, we have determined that there is no current impairment relating to these assets, and will continue to assess these assets for impairment at each future reporting period.

Other Income (Expense)

Investment and interest income was $16,000 in 2010 compared with $49,000 in 2009 and $0.9 million in 2008. Investment and interest income consists primarily of interest earned on our cash and investment balances. The differences between 2010, 2009 and 2008 balances resulted from varying average cash and investment balances and interest rates.

Interest expense and amortization of debt issuance costs for the Goldman Sachs term loan, to the date of repayment, and Novartis note are shown below for 2010, 2009 and 2008 (in thousands):

	Year ended December 31,		
	2010	**2009**	**2008**
Interest expense			
Goldman Sachs term loan	$ -	$ 3,932	$ 5,095
Novartis note	354	455	1,181
Convertible debt		-	-
Other	31	14	-
Total interest expense	$ 385	$ 4,401	$ 6,276
Amortization of debt issuance costs			
Goldman Sachs term loan	$ -	$ 487	$ 726
Total interest expense	$ 385	$ 4,888	$ 7,002

The decrease in interest expense in 2010 of $4.5 million as compared to 2009 was due to the repayment in full of the Goldman Sachs term loan facility in September of 2009. In addition, interest expense related to the Novartis note decreased by $0.1 million in 2010 due to a decrease in the average interest rate of this note.

The decrease in interest expense of $2.1 million in 2009 compared to 2008 was due to a decrease in interest expense and amortization of debt issuance costs on the Goldman Sachs term loan of $1.4 million. This decrease was due to the repayment in full of the term loan facility in September of 2009, at which point the remaining debt issuance costs of $1.1 million were recognized as part of the loss on debt extinguishment in our consolidated statement of operations for 2009. In addition, interest expense related to the Novartis note decreased by $0.7 million in 2009 due to a decrease in the average principal balance and interest rate of this note.

Interest expense for 2011 is expected to increase compared to 2010 due to the December 2010 execution of a loan agreement with Servier, to be funded in January of 2011.

Loss on debt extinguishment was $3.6 million in 2009 relating to the repayment of our Goldman Sachs term loan. This loss included a prepayment premium of $2.5 million and the recognition of unamortized debt issuance costs of $1.1 million. In 2008, we recognized a loss on debt extinguishment of $0.7 million reflecting the recognition of the unamortized debt issuance costs related to the original Goldman Sachs term loan, upon refinancing of the loan in May of 2008.

Other income (expense) was ($1.3) million in 2010 compared with $1.8 million in 2009 and ($0.1) million in 2008. The increase in other expense in 2010 as compared to 2009 was primarily due to the loss associated with the $4.5 million paid in the first quarter of 2010 to the holders of warrants issued in June of 2009, upon modification of the terms, partially offset by the change in net gains recognized relating to the revaluation of our warrant liabilities in 2010. This increase in other expense was partially offset by $1.0 million in grants received for four qualifying therapeutic discovery projects under the Patient Protection and Affordable Care Act of 2010. The increase in other income in 2009 as compared to 2008 was primarily related to gains of $1.8 million recognized from the revaluation of our warrants in 2009.

Warrant Liabilities

In February of 2010, we issued warrants to purchase 1,260,000 of XOMA's common shares in connection with an underwritten offering. We have accounted for the warrants issued in February of 2010 as a liability at fair value as further discussed above in *Critical Accounting Estimates: Warrant Liabilities.* The fair value of the warrant liability at issuance date was estimated using the Black-Scholes Option Pricing Model (the "Black-Scholes Model") and we recorded a warrant liability of $4.4 million. We revalued the warrant liability at December 31, 2010 and recorded a decrease in the fair value of $0.9 million as a gain in the other income (expense) line of our consolidated statement of operations. The fair value of the warrant liability was $3.5 million at December 31, 2010. As of December 31, 2010 all of these warrants were outstanding.

In May of 2009, we issued warrants to an institutional investor as part of a registered direct offering. The warrants represented the right to acquire an aggregate of up to 392,157 common shares over a five year period beginning May 15, 2009 at an exercise price of $15.30 per share. In February of 2010, the holders of these warrants agreed to amend the terms of their warrants to remove the Eliminated Adjustment Provisions and the exercise price of these warrants was reduced from $15.30 per share to $0.015 per share.

Prior to amendment, we recorded the warrants issued in May of 2009 as a liability at fair value due to the Eliminated Adjustment Provisions and certain other provisions. At December 31, 2009, the fair value of the warrant liabilities was $2.4 million, estimated using the Monte Carlo Simulation Model ("Simulation Model"). This warrant liability increased to $2.9 million on February 1, 2010 immediately prior to the amendment. This $0.5 million increase was recorded as a loss in other income (expense). Subsequent to amendment of the warrant terms, on February 2, 2010, the fair value of the warrant liability using the Black-Scholes Model was $2.6 million. The $0.3 million decrease in the fair value of the warrant liability was recorded as a gain in other income (expense). In the first quarter of 2010, the holders of these warrants exercised all warrants, acquiring 392,157 common shares for an aggregate exercise price of $5,882.

In June of 2009, we issued warrants to certain institutional investors as part of a separate registered direct offering. The warrants represent the right to acquire an aggregate of up to 347,826 common shares over a five year period beginning December 11, 2009 at an exercise price of $19.50 per share. In February of 2010, the holders of these warrants agreed to amend the terms of their warrants to remove the Eliminated Adjustment Provisions and we made a cash payment of $4.5 million to these warrant holders, which was recorded in other income (expense). The exercise price of these warrants remained unchanged at $19.50 per share. As of December 31, 2010 all of these warrants were outstanding.

Prior to amendment, we recorded the warrants issued in June of 2009 as a liability at fair value due to the Eliminated Adjustment Provisions and certain other provisions. At December 31, 2009, the fair value of the warrant liabilities was $2.4 million, estimated using the Simulation Model. This warrant liability increased to $3.3 million on February 1, 2010 immediately prior to the amendment. This $0.9 million increase was recorded as a loss in other income (expense). We revalued the warrant liability at December 31, 2010 using the Black-Scholes Model and recorded a decrease in the fair value of $2.5 million as a gain in the other income (expense) line of our consolidated statement of operations. The fair value of the warrant liability was $0.8 million at December 31, 2010.

Income Taxes

There was no material income tax expense for the year ended December 31, 2010. We recognized $5.7 million in income tax expense in 2009 compared with an income tax benefit of $0.4 million in 2008. Income tax expense in 2009 is primarily related to $5.8 million of foreign income tax expense recognized in connection with the expansion of our existing collaboration with Takeda signed in February of 2009. We were paid a $29 million expansion fee, of which $5.8 million was withheld for payment to the Japanese taxing authority. We also recognized $0.1 million of income tax benefit for 2009 relating to research and development refundable credits, in addition to the $0.4 million in research and development refundable credits recognized in 2008.

Accounting Standards Codification Topic 740*, Income Taxes* ("ASC 740") provides for the recognition of deferred tax assets if realization of such assets is more likely than not. Based upon the weight of available evidence, which includes our historical operating performance and carry-back potential, we have determined that total deferred tax assets should be fully offset by a valuation allowance.

We have recorded cumulative gross deferred tax assets of $214.3 million and $189.9 million at December 31, 2010 and 2009, respectively, principally attributable to the timing of the deduction of certain expenses associated with certain research and development expenses, net operating loss and other carry-forwards. We also recorded corresponding valuation allowances of $214.3 million and $189.9 million at December 31, 2010 and 2009, respectively, to offset these deferred tax assets, as management cannot predict with reasonable certainty that the deferred tax assets to which the valuation allowances relate will be realized.

As of December 31, 2010, we had federal net operating loss carry-forwards of approximately $149.4 million to offset future taxable income. We also had federal research and development tax credit carry-forwards of approximately $9.5 million. In 2009, we experienced an "ownership change" under Section 382 of the Internal Revenue Code, which subjects the amount of federal and state tax carry-forwards that can be utilized to an annual limitation, which will substantially limit our future use of these carry-forwards per year. To the extent we do not utilize our carry-forwards within the applicable statutory carry-forward periods, either because of Section 382 limitations or the lack of sufficient taxable income, the carry-forwards will expire unused.

We did not have unrecognized tax benefits as of December 31, 2010 and do not expect this to change significantly over the next twelve months. In accordance with ASC 740, we will recognize interest and penalties accrued on any unrecognized tax benefits as a component of income tax expense. As of December 31, 2010, we have not accrued interest or penalties related to uncertain tax positions.

Liquidity and Capital Resources

Cash and cash equivalents at December 31, 2010 were $37.3 million compared with $23.9 million at December 31, 2009. Net cash used in operating activities was $52.5 million in 2010, compared with net cash provided by operating activities of $7.4 million in 2009 and net cash used in operating activities of $33.0 million in 2008.

The $60.0 million change in cash provided by operations in 2009 to cash used in operations in 2010 was primarily due to a decrease in revenue receipts for license and collaborative fees and royalties, and an increase in spending on XOMA 052 related to the Phase 2 clinical program. During 2010, we received one-time cash receipts of $3.7 million related to the sale of our CIMZIA® royalty stream and $4.0 million as final payment under our two antibody discovery collaboration agreements entered into with Arana and Kaketsuken. Comparatively, during 2009, we received one-time cash receipts of $23.2 million related to the expansion of our existing collaboration with Takeda and $22.3 million related to the sale of our LUCENTIS® royalty stream to Genentech. In addition, we received $10.0 million in the second half of 2009 related to our two antibody discovery collaboration agreements entered into with Arana and Kaketsuken.

In addition, receivables and related party and other receivables increased by $13.6 million in 2010 primarily due to the $15.0 million up-front fee in connection with the license and collaboration agreement entered into with Servier in December of 2010. These decreases in cash provided by operations were partially offset by an increase in deferred revenue of $13.1 million, primarily related to the license and collaboration agreement entered into with Servier and an increase in the accounts payable and accrued liabilities balance of $2.7 million due to increased research and development expenses and timing of payments.

We expect net cash used in operating activities to decrease in 2011 as a result of cash flows from our license and collaboration agreement with Servier and a reduction in XOMA 052 phase 2 development costs.

The $40.4 million change in cash used in operations in 2008 to cash provided by operations in 2009 was primarily due to the receipt of $23.2 million in the first quarter of 2009 related to the expansion of our existing collaboration with Takeda, the receipt of $22.3 million in the third quarter of 2009 related to the sale of our LUCENTIS® royalty interest to Genentech and the receipt of $10 million in the second half of 2009 related to two antibody discovery collaboration agreements entered into with Arana and Kaketsuken.

Cash used in operations for 2008 consisted of a net loss of $45.2 million offset by non-cash adjustments of $16.1 million, primarily related to depreciation and share-based compensation. In addition, receivables increased by $4.6 million in 2008 primarily related to work performed on the NIAID 3, Novartis, Merck/Schering-Plough and Takeda contracts, offset by a decrease in work performed on the Merck/Schering-Plough/AVEO contract and accrued liabilities decreased by $3.3 million primarily related to the reversal of the 2008 bonus accrual in the fourth quarter when the Company decided it would not pay 2008 bonuses. These decreases in cash were partially offset by an increase in the accounts payable balance of $3.0 million due to the Company paying vendors on longer terms and an increase in other liabilities of $2.1 million related to the NIAID 2 billing adjustment for which a credit was provided to the NIH to be applied to future work performed on the NIAID 2 contract.

Net cash used in investing activities was $0.3 million in 2010, compared with net cash provided by investing activities of $10.6 million in 2009 and $3.2 million in 2008. Cash used in investing activities in 2010 primarily consisted of purchases of fixed assets of $0.3 million.

Net cash provided by investing activities of $10.6 million in 2009 primarily consisted of a decrease in the restricted cash balance of $9.5 million due to use of the funds for the repayment of our Goldman Sachs term loan in September of 2009. In addition, we received proceeds from maturities of investments of $1.3 million. Net cash provided by investing activities of $3.2 million in 2008 consisted of net sales and maturities of investments of $14.8 million, partially offset by the transfer to restricted cash of $3.5 million relating to our term loan facility with Goldman Sachs and purchases of fixed assets of $8.1 million, primarily relating to lab and production equipment.

Net cash provided by financing activities was $66.3 million for 2010, compared with net cash used in financing activities of $3.6 million in 2009 and net cash provided by financing activities of $16.8 million in 2008. Cash provided by financing activities in 2010 related to proceeds received from the issuance of common shares of $70.8 million, including gross proceeds of $21 million from an underwritten offering in February of 2010, $9.3 million from our 2009 ATM Agreement, $14.2 million from our common share purchase agreement with Azimuth in August of 2010, and $29.7 million from our 2010 ATM Agreement. This cash provided by financing activities was partially offset by $4.5 million paid to the holders of warrants issued in June of 2009 upon modification of the terms.

Net cash used in financing activities in 2009 of $3.6 million related to the repayment in full of the Goldman Sachs term loan, including a principal payment of $8.4 million in the second quarter of 2009, repayment of the remaining outstanding balance of $42.0 million in September of 2009, accrued interest to the date of payment of $2.4 million, and payment of a prepayment premium of $2.5 million. This cash used in financing activities was partially offset by proceeds of $49.3 million received from the issuance of common shares in 2009, including gross proceeds of $26.4 million from an equity line of credit in September of 2009, $22 million from two registered direct offerings in May of 2009 and June of 2009, and $2.8 million from our 2009 ATM Agreement.

Net cash provided by financing activities in 2008 of $16.8 million related to the refinancing of our original loan facility with Goldman Sachs in May of 2008, which netted proceeds of approximately $30.9 million, partially offset by a principal payment of $8.2 million against the outstanding balance of the original facility with Goldman Sachs in the first quarter of 2008. In addition, principal payments of $4.6 million on the new Goldman Sachs facility and $8.9 million on our Novartis note were made in the fourth quarter of 2008. We also received proceeds of $7.6 million from the issuance of common shares related to draws made on our equity line of credit with Azimuth.

Equity Line of Credit

In October of 2008, we entered into a common share purchase agreement (the "2008 Purchase Agreement") with Azimuth, pursuant to which we obtained a committed equity line of credit facility (the "2008 Facility"). From the inception of the 2008 Facility through 2009, we sold a total of 2,815,228 common shares to Azimuth for aggregate gross proceeds of $33.9 million. This included the sale of 2.3 million shares in two transactions in September of 2009. Offering expenses incurred in 2009 related to sales to Azimuth were $0.4 million. At the end of the third quarter of 2009, the 2008 Facility was no longer in effect, and no additional shares can be issued thereunder.

In July of 2010, we entered into a common share purchase agreement (the "2010 Purchase Agreement") with Azimuth pursuant to which we obtained a committed equity line of credit facility (the "2010 Facility"). In August of 2010, we sold a total of 3,421,407 common shares under the 2010 Facility for aggregate gross proceeds of $14.2 million, representing the maximum number of shares that could be sold under the 2010 Facility. As a result, the 2010 Facility is no longer in effect, and no additional shares can be issued thereunder.

Underwritten Offering

In February of 2010, we completed an underwritten offering of 2.8 million units, with each unit consisting of one of our common shares and a warrant to purchase 0.45 of a common share, for gross proceeds of approximately $21 million, before deducting underwriting discounts and commissions and estimated offering expenses of $1.7 million. The warrants, which represent the right to acquire an aggregate of up to 1.26 million common shares, are exercisable beginning six months and one day after issuance and have a five-year term and an exercise price of $10.50 per share. As of December 31, 2010 all of these warrants were outstanding.

Registered Direct Offerings

In May of 2009, we entered into a definitive agreement with an institutional investor to sell 784,313 units, with each unit consisting of one of our common shares and a warrant to purchase 0.50 of a common share, for gross proceeds of approximately $10 million, before deducting placement agent fees and estimated offering expenses of $0.8 million, in a registered direct offering. In the first quarter of 2010, the holders of these warrants exercised all warrants, acquiring 392,157 common shares for an aggregate exercise price of $5,882.

In June of 2009, we entered into a definitive agreement with certain institutional investors to sell 695,652 units, with each unit consisting of one of our common shares and a warrant to purchase 0.50 of a common share, for gross proceeds of approximately $12 million, before deducting placement agent fees and estimated offering expenses of $0.8 million, in a second registered direct offering. In February of 2010, the holders of these warrants agreed to amend the terms of their warrants to remove the Eliminated Adjustment Provisions and we made a cash payment of $4.5 million to these warrant holders, which was recorded in other income (expense). As of December 31, 2010 all of these warrants were outstanding.

ATM Agreements

In the third quarter of 2009, we entered into the 2009 ATM Agreement, under which we could sell up to 1.7 million of our common shares from time to time through Wm Smith, as our agent for the offer and sale of the common shares. From the inception of the 2009 ATM Agreement through October of 2010, the Company sold a total of 1.7 million common shares through Wm Smith, constituting all of the shares available for sale under the agreement, for aggregate gross proceeds of $12.2 million, including 1.4 million common shares sold in 2010 for aggregate gross proceeds of $9.3 million. Total offering expenses related to these sales were $0.4 million.

In the third quarter of 2010, we entered into the 2010 ATM Agreement, with the Agents, under which we may sell common shares from time to time through the Agents, as our agents for the offer and sale of the common shares, in an aggregate amount not to exceed the amount that can be sold under the Existing Registration Statement. The Agents may sell the common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. The Agents may also sell the common shares in privately negotiated transactions, subject to our prior approval. We will pay the Agents, collectively, a commission equal to 3% of the gross proceeds of the sales price of all common shares sold through them as sales agents under the 2010 ATM Agreement. From the inception of the ATM Agreement through December 31, 2010, we sold a total of 6.7 million common shares under this agreement for aggregate gross proceeds of $29.7 million. Total offering expenses related to these sales were $0.9 million. Subsequent to December 31, 2010 through March 8, 2011, we have sold an additional 796,898 common shares through the Agents pursuant to the 2010 ATM Agreement for aggregate gross proceeds of $4.3 million. Total offering expenses related to these sales were $0.1 million.

Proceeds from the sale of shares under the 2008 Purchase Agreement, the 2010 Purchase Agreement, the 2009 ATM Agreement, the 2010 ATM Agreement, registered direct offerings and other equity offerings are being used to continue development of our XOMA 052 product candidate and for other working capital and general corporate purposes. We also used certain of these proceeds to repay the Goldman Sachs term loan in September of 2009.

* * *

We have incurred significant operating losses and negative cash flows from operations since our inception. At December 31, 2010, we had cash and cash equivalents of $37.3 million. During 2011, we expect to continue using our cash and cash equivalents to fund ongoing operations. Additional licensing, antibody discovery and development collaboration agreements, government funding and financing arrangements may positively impact our cash balances. Based on our cash reserves and anticipated spending levels, revenue from collaborations including the XOMA 052 license and collaboration agreement with Servier, funding from the loan agreement with Servier, biodefense contracts and licensing transactions and other sources of funding the we believe to be available, we estimate that we have sufficient cash resources to meet our anticipated net cash needs through the next twelve months. Any significant revenue shortfalls, increases in planned spending on development programs or more rapid progress of development programs than anticipated, as well as the unavailability of anticipated sources of funding, could shorten this period. If adequate funds are not available, we will be required to delay, reduce the scope of, or eliminate one or more of our product development programs and further reduce personnel-related costs. Progress or setbacks by potentially competing products may also affect our ability to raise new funding on acceptable terms.

Commitments and Contingencies

Schedule of Contractual Obligations

Payments by period due under contractual obligations at December 31, 2010 are as follows (in thousands):

Contractual Obligations	Total	Less than 1 year	1 to 3 years	3 to 5 years	More than 5 years
Operating leases [a]	$ 13,390	$ 5,119	$ 7,533	$ 738	$ -
Debt Obligations[b]					
Principal	13,694	-	-	13,694	-
Interest	1,514	336	673	505	-
Total	$ 28,598	$ 5,455	$ 8,206	$ 14,937	$ -

(a) Operating leases are net of sublease income of $0.4 million.
(b) See *Item 7A: Quantitative and Qualitative Disclosures about Market Risk* and *Note 7: Long-Term Debt and Other Arrangements* to the accompanying consolidated financial statements for further discussion of our debt obligation.

In addition to the above, we have committed to make potential future "milestone" payments to third parties as part of licensing and development programs. Payments under these agreements become due and payable only upon the achievement of certain developmental, regulatory and/or commercial milestones. Because it is uncertain if and when these milestones will be achieved, such contingencies, aggregating up to $97 million (assuming one product per contract meets all milestones) have not been recorded on our consolidated balance sheet. We are also obligated to pay royalties, ranging generally from 1.5% to 14% of the selling price of the licensed component and up to 40% of any sublicense fees to various universities and other research institutions based on future sales or licensing of products that incorporate certain products and technologies developed by those institutions. We are unable to determine precisely when and if our payment obligations under the agreements will become due as these obligations are based on future events, the achievement of which is subject to a significant number of risks and uncertainties.

Although operations are influenced by general economic conditions, we do not believe that inflation had a material impact on financial results for the periods presented. We believe that we are not dependent on materials or other resources that would be significantly impacted by inflation or changing economic conditions in the foreseeable future.

Recent Accounting Pronouncements

Accounting Standards Update No. 2009-13, Revenue Recognition Topic 605: *Multiple Deliverable Revenue Arrangements – A Consensus of the FASB Emerging Issues Task Force* ("ASU 2009-13") provides application guidance on whether multiple deliverables exist, how the deliverables should be separated and how the consideration should be allocated to one or more units of accounting. This update establishes a selling price hierarchy for determining the selling price of a deliverable. The selling price used for each deliverable will be based on vendor-specific objective evidence, if available, third-party evidence if vendor-specific objective evidence is not available, or estimated selling price if neither vendor-specific or third-party evidence is available. The new guidance of ASU 2009-13 was adopted by us on a prospective basis effective January 1, 2010 and did not have a material effect on our consolidated financial statements. We entered into only one revenue arrangement subject to the multiple deliverable guidance during 2010. This revenue arrangement with Servier was entered into on December 30, 2010 and the effect of the early adoption of ASU 2009-13 was not material for 2010. We have recognized a total of $0.1 million in license revenue under this agreement during 2010. Had we adopted the new guidance as of January 1, 2009, it would not have affected the amount of revenue recognized in 2009.

In March of 2010, Accounting Standards Codification Topic 605, *Revenue Recognition* ("ASC 605") was amended to define a milestone and clarify that the milestone method of revenue recognition is a valid application of the proportional performance model when applied to research or development arrangements. Accordingly, a Company can make an accounting policy election to recognize a payment that is contingent upon the achievement of a substantive milestone in its entirety in the period in which the milestone is achieved. We plan to adopt this guidance as of January 1, 2011 on a prospective basis and do not expect the adoption will have a material effect on our consolidated financial statements.

Subsequent Events

Servier – Cash Receipts and Loan Agreement

In January of 2011, we received a non-refundable upfront cash payment of $15 million in connection with the license and collaboration agreement entered into with Servier in December of 2010. In addition, we also received €15 million, or approximately $20 million when converted using the 12/31/10 Exchange Rate, in connection with the loan agreement entered into with Servier in December of 2010.

The loan is secured by an interest in XOMA's intellectual property rights to all XOMA 052 indications worldwide, excluding certain rights in the U.S. and Japan territories. Interest is calculated at a floating rate based on a Euro Inter-Bank Offered Rate ("EURIBOR") and subject to a cap. The interest rate is reset semi-annually in January and July of each year. The interest rate for the initial interest period has been set at 3.22%. Interest is payable semi-annually; however, the loan agreement provides for a deferral of interest payments over a period determined by the parties. During the deferral period, accrued interest will be added to the outstanding principal amount for the purpose of interest calculation for the next six month interest period. After a specified period, all unpaid and accrued interest shall be paid to Servier, and thereafter, all accrued and unpaid interest shall be due and payable at the end of each six-month period. The loan has a final maturity date in 2016; however, after a specified period prior to final maturity, the loan (i) may be repaid at Servier's option, by applying up to a significant percentage of any milestone or royalty payments owed by Servier under our collaboration agreement and (ii) will be repaid by using a significant percentage of any upfront, milestone or royalty payments we receive from any third party collaboration or development partner for rights to XOMA 052 in the U.S. and/or Japan. In addition, the loan becomes immediately due and payable upon certain customary events of default.

2011 ATM Agreement

On February 4, 2011, we entered into an At Market Issuance Sales Agreement (the "2011 ATM Agreement"), with McNicoll, Lewis & Vlak LLC ("MLV"), under which we may sell common shares from time to time through MLV, as our agent for the offer and sale of the common shares, in an aggregate amount not to exceed the amount that can be sold under our registration statement on Form S-3 (File No. 333-172197) filed with the SEC on February 11, 2011, once such registration statement has been declared effective by the SEC. MLV may sell the common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. MLV may also sell the common shares in privately negotiated transactions, subject to our prior approval. We will pay MLV a commission equal to 3% of the gross proceeds of the sales price of all common shares sold through them as sales agent under the 2011 ATM Agreement. As of March 8, 2011, we have not sold any common shares under the 2011 ATM Agreement.

Forward-Looking Information and Cautionary Factors That May Affect Future Results

Certain statements contained herein related to the sufficiency of our cash resources, as well as other statements related to the timing of availability of clinical trial results and the timing of initiation of clinical trials, or that otherwise relate to future periods, are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These statements are based on assumptions that may not prove accurate. Actual results could differ materially from those anticipated due to certain risks inherent in the biotechnology industry and for companies engaged in the development of new products in a regulated market. Among other things, the period for which our cash resources are sufficient could be shortened if expenditures are made earlier or in larger amounts than anticipated or are unanticipated, if anticipated revenue or cost sharing arrangements do not materialize, or if funds are not otherwise available on acceptable terms; the results of clinical trials may be delayed or may never become available as a result of complications in the collection or interpretation of statistical data, unavailability of resources, actions or inactions by our present or future collaboration partners, insufficient enrollment in such trials or unanticipated safety issues; and plans to initiate new clinical trials may change depending on availability of resources, actions or inactions by our present or future collaboration partners or unanticipated safety issues. These and other risks, including those related the generally unstable nature of current economic conditions; the results of discovery research and preclinical testing; the timing or results of pending and future clinical trials (including the design and progress of clinical trials; safety and efficacy of the products being tested; action, inaction or delay by the FDA, European or other regulators or their advisory bodies; and analysis or interpretation by, or submission to, these entities or others of scientific data); changes in the status of existing collaborative relationships; the ability of collaborators and other partners to meet their obligations; our ability to meet the demand of the United States government agency with which we have entered our government contracts; competition; market demands for products; scale-up and marketing capabilities; availability of additional licensing or collaboration opportunities; international operations; share price volatility; our financing needs and opportunities; uncertainties regarding the status of biotechnology patents; uncertainties as to the costs of protecting intellectual property; and risks associated with our status as a Bermuda company, are described in more detail in *Item 1A: Risk Factors*.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk

Interest Rate Risk

Our exposure to market rate risk for changes in interest rates relates primarily to our investment portfolio and our loan facility. By policy, we make our investments in high quality debt securities, limit the amount of credit exposure to any one issuer and limit duration by restricting the term of the instrument. We generally hold investments to maturity, with a weighted average portfolio period of less than twelve months. However, if the need arose to liquidate such securities before maturity, we may experience losses on liquidation. We do not invest in derivative financial instruments.

We hold interest-bearing instruments that are classified as cash, cash equivalents and short-term investments. Fluctuations in interest rates can affect the principal values and yields of fixed income investments. If interest rates in the general economy were to rise rapidly in a short period of time, our fixed income investments could lose value.

The following table presents the amounts and related weighted average interest rates of our cash and investments at December 31, 2010 and 2009 (in thousands, except interest rate):

	Maturity	Carrying Amount (in thousands)	Fair Value (in thousands)	Weighted Average Interest Rate
December 31, 2010				
Cash and cash equivalents	Daily to 90 days	$ 37,304	$ 37,304	0.09%
December 31, 2009				
Cash and cash equivalents	Daily to 90 days	$ 23,909	$ 23,909	0.38%

As of December 31, 2010, we have an outstanding principal balance on our note with Novartis of $13.7 million, which is due in 2015. The interest rate on this note is charged at a rate of USD six-month LIBOR plus 2%, which was 2.46% at December 31, 2010. No further borrowing is available under this facility.

The variable interest rate related to our long-term debt instrument is based on LIBOR. We estimate that a hypothetical 100 basis point change in interest rates could increase or decrease our interest expense by approximately $0.1 million on an annualized basis.

Foreign Currency Risk

We may hold debt or incur expenses denominated in a foreign currency. The amount of debt held or expenses incurred will be impacted by fluctuations in these foreign currencies. When the U.S. dollar weakens against foreign currencies, the U.S. dollar value of the foreign-currency denominated debt and expense increases, and when the U.S. dollar strengthens against these currencies, the U.S. dollar value of the foreign-currency denominated debt and expense decreases. Consequently, changes in exchange rates may affect our results of operations. We currently have not hedged against our foreign currency risks, however, we will assess the need to hedge against future foreign currency risks when appropriate.

Item 8. Financial Statements and Supplementary Data

The following consolidated financial statements of the registrant, related notes and report of independent registered public accounting firm are set forth beginning on page F-1 of this report.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

Not applicable.

Item 9A. Controls and Procedures

Under the supervision and with the participation of our management, including our Chairman, Chief Executive Officer and President and our Vice President, Finance and Chief Financial Officer, we conducted an evaluation of our disclosure controls and procedures, as such term is defined under Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934, as amended, as of the end of the period covered by this report. Our disclosure controls and procedures are intended to ensure that the information we are required to disclose in the reports that we file or submit under the Securities Exchange Act of 1934 is (i) recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms and (ii) accumulated and communicated to our management, including the Chairman, Chief Executive Officer and President and Vice President, Finance and Chief Financial Officer, as the principal executive and financial officers, respectively, to allow timely decisions regarding required disclosures. Based on this evaluation, our Chairman, Chief Executive Officer and President and our Vice President, Finance and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report.

There were no changes in our internal controls over financial reporting during 2010 that have materially affected, or are reasonably likely to materially affect, our internal controls over financial accounting.

Management's Report on Internal Control over Financial Reporting

Management, including our Chairman, Chief Executive Officer and President and our Vice President, Finance and Chief Financial Officer, is responsible for establishing and maintaining adequate internal control over financial reporting (as such term is defined in Exchange Act Rules 13a-159f). The Company's internal control system was designed to provide reasonable assurance to the Company's management and board of directors regarding the preparation and fair presentation of published financial statements in accordance with accounting principles generally accepted in the United States.

Management assessed the effectiveness of our internal control over financial reporting as of December 31, 2010. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control—Integrated Framework*. Based on our assessment we believe that, as of December 31, 2010, our internal control over financial reporting is effective based on those criteria.

The Company's internal control over financial reporting as of December 31, 2010, has been audited by Ernst & Young, LLP, the independent registered public accounting firm who also audited the Company's consolidated financial statements. Ernst & Young's attestation report on the Company's internal control over financial reporting follows.

Changes in Internal Control over Financial Reporting

Our management, including our Chairman, Chief Executive Officer and President and our Vice President, Finance and Chief Financial Officer, has evaluated any changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2010, and has concluded that there was no change during such quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Shareholders of XOMA Ltd.:

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

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

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

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

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

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of XOMA Ltd. as of December 31, 2010 and 2009 and the related consolidated statements of operations, shareholders' equity (net capital deficiency) and cash flows for each of the three years in the period ended December 31, 2010, and our report dated March 10, 2011 expressed an unqualified opinion thereon.

/s/ ERNST & YOUNG LLP
Palo Alto, California
March 10, 2011

Item 9B. Other Information

None.

PART III

Item 10. Directors, Executive Officers, Corporate Governance

Certain information regarding our executive officers required by this Item is set forth as a Supplementary Item at the end of Part I of this Form 10-K (pursuant to Instruction 3 to Item 401(b) of Regulation S-K). The Company's Code of Ethics applies to all employees, officers and directors including the Chairman, Chief Executive Officer and President, and the Vice President, Finance and Chief Financial Officer and Chief Accounting Officer, and is posted on the Company's website at www.xoma.com. Other information required by this Item will be included in the Company's proxy statement for the 2011 Annual General Meeting of Shareholders, under the sections labeled *"Item 1—Election of Directors"* and *"Compliance with Section 16(a) of the Securities Exchange Act of 1934"*, and is incorporated herein by reference.

Item 11. Executive Compensation

Information required by this Item will be included in the sections labeled *"Compensation of Executive Officers", "Summary Compensation Table", "Grants of Plan-Based Awards", "Outstanding Equity Awards as of December 31, 2010", "Option Exercises and Shares Vested", "Pension Benefits", "Non-Qualified Deferred Compensation"* and *"Compensation of Directors"* appearing in our proxy statement for the 2011 Annual General Meeting of Shareholders, and is incorporated herein by reference.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Shareholder Matters

Information required by this Item will be included in the sections labeled *"Share Ownership"* and *"Equity Compensation Plan Information"* appearing in our proxy statement for the 2011 Annual General Meeting of Shareholders, and is incorporated herein by reference.

Item 13. Certain Relationships and Related Transactions, and Director Independence

Information required by this Item will be included in the section labeled *"Transactions with Related Persons"* appearing in our proxy statement for the 2011 Annual General Meeting of Shareholders, and is incorporated herein by reference.

Item 14. Principal Accountant Fees and Services

Information required by this Item will be included in the section labeled *"Item 2—Appointment of Independent Registered Public Accounting Firm"* appearing in our proxy statement for the 2011 Annual General Meeting of Shareholders, and is incorporated herein by reference.

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) The following documents are included as part of this Annual Report on Form 10-K:

(1) Financial Statements:

All financial statements of the registrant referred to in Item 8 of this Report on Form 10-K.

(2) Financial Statement Schedules:

All financial statements schedules have been omitted because the required information is included in the consolidated financial statements or the notes thereto or is not applicable or required.

(3) Exhibits:

See “Index to Exhibits” on page i of this report.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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, on this 10th day of March 2011.

XOMA LTD.

By: /s/ STEVEN B. ENGLE

Steven B. Engle
Chairman of the Board, Chief Executive Officer and President

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Steven B. Engle **(Steven B. Engle)**	Chairman of the Board, Chief Executive Officer and President (Principal Executive Officer)	March 10, 2011
/s/ Fred Kurland **(Fred Kurland)**	Vice President, Finance and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 10, 2011
/s/ Patrick J. Scannon **(Patrick J. Scannon, M.D., Ph.D.)**	Executive Vice President, Chief Scientific Officer	March 10, 2011
/s/ W. Denman Van Ness **(W. Denman Van Ness)**	Lead Independent Director	March 10, 2011
/s/ William K. Bowes, Jr. **(William K. Bowes, Jr.)**	Director	March 10, 2011
/s/ Peter Barton Hutt **(Peter Barton Hutt)**	Director	March 10, 2011
/s/ John Varian **(John Varian)**	Director	March 10, 2011
/s/ Timothy P. Walbert **(Timothy P. Walbert)**	Director	March 10, 2011
/s/ Jack L. Wyszomierski **Jack L. Wyszomierski**	Director	March 10, 2011

Index to Consolidated Financial Statements

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Shareholders of XOMA Ltd.:

We have audited the accompanying consolidated balance sheets of XOMA Ltd. as of December 31, 2010 and 2009, and the related consolidated statements of operations, shareholders' equity (net capital deficiency), and cash flows for each of the three years in the period ended December 31, 2010. These consolidated financial statements are the responsibility of XOMA Ltd.'s management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

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

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of XOMA Ltd. at December 31, 2010 and 2009, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2010, in conformity with U.S. generally accepted accounting principles.

As discussed in Note 1 to the consolidated financial statements, the Company changed its method of accounting for revenue recognition as a result of the adoption of the amendments to the FASB Accounting Standards Codification resulting from Accounting Standards Update No. 2009-13, Multiple-Deliverable Revenue Arrangements, effective January 1, 2010.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), XOMA Ltd.'s internal control over financial reporting as of December 31, 2010, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 10, 2011 expressed an unqualified opinion thereon.

/s/ ERNST & YOUNG LLP
Palo Alto, California
March 10, 2011

CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share amounts)

	December 31, 2010	December 31, 2009
ASSETS		
Current assets:		
Cash and cash equivalents	$ 37,304	$ 23,909
Trade and other receivables, net	20,864	7,231
Prepaid expenses and other current assets	712	1,012
Total current assets	58,880	32,152
Property and equipment, net	14,869	20,270
Other assets	503	402
Total assets	$ 74,252	$ 52,824
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 3,581	$ 2,942
Accrued liabilities	10,650	8,639
Deferred revenue	17,044	2,114
Warrant liability	4,245	4,760
Other current liabilities	8	223
Total current liabilities	35,528	18,678
Deferred revenue – long-term	1,086	2,894
Interest bearing obligation – long-term	13,694	13,341
Other long-term liabilities	353	385
Total liabilities	50,661	35,298
Commitments and contingencies (Note 11)		
Shareholders' equity:		
Preference shares, $0.05 par value, 1,000,000 shares authorized		
Series A, 210,000 designated, no shares issued and outstanding at December 31, 2010 and 2009	-	-
Series B, 8,000 designated, 2,959 shares issued and outstanding at December 31, 2010 and 2009 (aggregate liquidation preference of $29,600)	1	1
Common shares, $0.0075 par value, 46,666,666 shares authorized, 28,491,318 and 13,536,146 shares outstanding at December 31, 2010 and 2009, respectively	214	101
Additional paid-in capital	876,686	801,978
Accumulated deficit	(853,310)	(784,554)
Total shareholders' equity	23,591	17,526
Total liabilities and shareholders' equity	$ 74,252	$ 52,824

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

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

	Year Ended December 31,		
	2010	**2009**	**2008**
Revenues:			
License and collaborative fees	$ 2,182	$ 43,822	$ 16,366
Contract and other revenue	27,174	25,492	30,473
Royalties	4,285	29,116	21,148
Total revenues	33,641	98,430	67,987
Operating expenses:			
Research and development	77,413	58,131	82,576
Selling, general and administrative	23,250	23,736	24,145
Restructuring	82	3,603	-
Total operating expenses	100,745	85,470	106,721
(Loss) income from operations	(67,104)	12,960	(38,734)
Other income (expense):			
Investment and interest income	16	49	859
Interest expense	(385)	(4,888)	(7,002)
Loss on debt extinguishment	-	(3,645)	(652)
Other (expense) income	(1,256)	1,801	(99)
Net (loss) income before taxes	(68,729)	6,277	(45,628)
Income tax (expense) benefit	(27)	(5,727)	383
Net (loss) income	$ (68,756)	$ 550	$ (45,245)
Basic and diluted net (loss) income per common share	$ (3.69)	$ 0.05	$ (5.11)
Shares used in computing basic net (loss) income per common share	18,613	10,993	8,862
Shares used in computing diluted net (loss) income per common share	18,613	11,313	8,862

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

CONSOLIDATED STATEMENT OF SHAREHOLDERS' EQUITY
(NET CAPITAL DEFICIENCY)
(in thousands)

	Preferred Shares		Common Shares		Paid-In	Accumulated Comprehensive	Accumulated	Total Shareholders' Equity (Net Capital
	Shares	Amount	Shares	Amount	Capital	Income (Loss)	Deficit	Deficiency)
Balance, December 31, 2007	3	$ 1	8,797	$ 66	$ 740,119	$ (9)	$ (739,859)	$ 318
Exercise of share options, contributions to 401(k) and incentive plans	—	—	38	—	1,389	—	—	1,389
Share-based compensation expense under SFAS 123R	—	—	—	—	4,934	—	—	4,934
Sale of shares of common stock	—	—	529	4	7,192	—	—	7,196
Comprehensive income (loss):								
Net change in unrealized loss on investments	—	—	—	—	—	7	—	7
Net loss	—	—	—	—	—	—	(45,245)	(45,245)
Comprehensive loss	—	—	—	—	—	—	—	(45,238)
Balance, December 31, 2008	3	1	9,364	70	753,634	(2)	(785,104)	(31,401)
Exercise of share options, contributions to 401(k) and incentive plans	—	—	135	1	1,358	—	—	1,359
Share-based compensation expense under SFAS 123R	—	—	—	—	4,395	—	—	4,395
Sale of shares of common stock	—	—	4,036	30	42,591	—	—	42,621
Comprehensive income:								
Net change in unrealized loss on investments	—	—	—	—	—	2	—	2
Net income	—	—	—	—	—	—	550	550
Comprehensive income	—	—	—	—	—	—	—	552
Balance, December 31, 2009	3	1	13,536	101	801,978	-	(784,554)	17,526
Exercise of share options, contributions to 401(k) and incentive plans	—	—	94	1	945	—	—	946
Share-based compensation expense under SFAS 123R	—	—	—	—	4,913	—	—	4,913
Sale of shares of common stock	—	—	14,469	109	66,232	—	—	66,341
Exercise of warrants	—	—	392	3	2,618	—	—	2,621
Comprehensive loss:								
Net loss	—	—	—	—	—	—	(68,756)	(68,756)
Comprehensive loss	—	—	—	—	—	—	—	(68,756)
Balance, December 31, 2010	3	$ 1	28,491	$ 214	$ 876,686	$ —	$ (853,310)	$ 23,591

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

CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Year Ended December 31,		
	2010	**2009**	**2008**
Cash flows from operating activities:			
Net (loss) income	$ (68,756)	$ 550	$ (45,245)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:			
Depreciation and amortization	5,721	6,831	6,721
Common shares contribution to 401(k) and management incentive plans	905	1,198	1,008
Share-based compensation expense	4,913	4,395	4,934
Accrued interest on convertible notes and interest bearing obligations	353	(1,116)	1,921
Revaluation of warrant liability	(2,283)	(1,781)	-
Amortization of discount, premium and debt issuance costs of debt and convertible debt	-	487	726
Warrant modification expense	4,500	-	-
Loss (gain) on disposal/retirement of property and equipment	9	(15)	99
Loss on debt extinguishment	-	3,645	652
Other non-cash adjustments	10	27	-
Changes in assets and liabilities:			
Receivables	(13,633)	9,455	(4,551)
Prepaid expenses and other assets	199	284	(183)
Accounts payable and accrued liabilities	2,650	(2,844)	(290)
Deferred revenue	13,122	(12,205)	(851)
Other liabilities	(247)	(1,476)	2,084
Net cash (used in) provided by operating activities	(52,537)	7,435	(32,975)
Cash flows from investing activities:			
Proceeds from sales of investments	-	-	9,875
Proceeds from maturities of investments	-	1,300	8,099
Purchase of investments	-	-	(3,199)
Transfer of restricted cash	-	9,545	(3,526)
Purchase of property and equipment	(339)	(270)	(8,060)
Net cash (used in) provided by investing activities	(339)	10,575	3,189
Cash flows from financing activities:			
Proceeds from issuance of long-term debt	-	-	55,000
Principal payments of debt	-	(50,394)	(45,779)
Payment of prepayment premium on repayment of short-term debt	-	(2,543)	-
Proceeds from issuance of common shares	70,771	49,323	7,578
Payment for modification of warrants	(4,500)	-	-
Net cash provided by (used in) financing activities	66,271	(3,614)	16,799
Net increase (decrease) in cash and cash equivalents	13,395	14,396	(12,987)
Cash and cash equivalents at the beginning of the period	23,909	9,513	22,500
Cash and cash equivalents at the end of the period	$ 37,304	$ 23,909	$ 9,513
Supplemental Cash Flow Information:			
Cash paid during the year for:			
Interest	$ -	$ 5,510	$ 4,354
Income taxes	16	5,800	-
Non-cash investing and financing activities:			
Issuance and Extinguishment of warrant liabilities	$ 1,767	$ 6,541	$ -
Interest added to principal balance on Novartis note	353	462	1,183
Debt reduction on Novartis note	-	-	7,500

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

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

1. Description of Business

XOMA Ltd. ("XOMA" or the "Company"), a Bermuda company, is a biopharmaceutical company focused on the discovery, development and manufacture of therapeutic antibodies designed to treat inflammatory, autoimmune, infectious and oncological diseases. The Company's products are presently in various stages of development and most are subject to regulatory approval before they can be commercially launched.

2. Basis of Presentation and Significant Accounting Policies

Principles of Consolidation

The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation.

Use of Estimates and Reclassifications

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosures. On an on-going basis, management evaluates its estimates, including those related to revenue recognition, research and development expense, long-lived assets, warrant liabilities and share-based compensation. The Company bases its 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 may differ significantly from these estimates, such as the Company's billing under government contracts. Under the Company's contracts with the National Institute of Allergy and Infectious Diseases ("NIAID"), a part of the National Institutes of Health ("NIH"), the Company bills using NIH provisional rates and thus are subject to future audits at the discretion of NIAID's contracting office. These audits can result in an adjustment to revenue previously reported.

Recent Accounting Pronouncements

Accounting Standards Update No. 2009-13, Revenue Recognition Topic 605: *Multiple Deliverable Revenue Arrangements – A Consensus of the FASB Emerging Issues Task Force* ("ASU 2009-13") provides application guidance on whether multiple deliverables exist, how the deliverables should be separated and how the consideration should be allocated to one or more units of accounting. This update establishes a selling price hierarchy for determining the selling price of a deliverable. The selling price used for each deliverable will be based on vendor-specific objective evidence, if available, third-party evidence if vendor-specific objective evidence is not available, or estimated selling price if neither vendor-specific or third-party evidence is available. The new guidance of ASU 2009-13 was adopted by the Company on a prospective basis effective January 1, 2010 and did not have a material effect on the Company's consolidated financial statements. The Company entered into only one revenue arrangement subject to the multiple deliverable guidance during 2010. This revenue arrangement with Servier was entered into on December 30, 2010 and the effect of the early adoption of ASU 2009-13 was not material for 2010. The Company recognized a total of $0.1 million in license revenue under this agreement during 2010. Had the Company adopted the new guidance as of January 1, 2009, it would not have affected the amount of revenue recognized in 2009.

In March of 2010, Accounting Standards Codification Topic 605, *Revenue Recognition* ("ASC 605") was amended to define a milestone and clarify that the milestone method of revenue recognition is a valid application of the proportional performance model when applied to research or development arrangements. Accordingly, a Company can make an accounting policy election to recognize a payment that is contingent upon the achievement of a substantive milestone in its entirety in the period in which the milestone is achieved. The Company plans to adopt this guidance as of January 1, 2011 on a prospective basis and does not expect the adoption will have a material effect on the Company's consolidated financial statements.

Revenue Recognition

Revenue is recognized when the four basic criteria of revenue recognition are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the fee is fixed and determinable; and (4) collectability is reasonably assured. The determination of criteria (2) is based on management's judgments regarding whether a continuing performance obligation exists. The determination of criteria (3) and (4) are based on management's judgments regarding the nature of the fee charged for products or services delivered and the collectability of those fees. Allowances are established for estimated uncollectible amounts, if any.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

The Company recognizes revenue from its license and collaboration arrangements, contract services and royalties. Revenue arrangements with multiple elements are divided into separate units of accounting if certain criteria are met, including whether the delivered element has stand-alone value to the customer and whether there is objective and reliable evidence of the fair value of the undelivered items. The consideration received is allocated among the separate units based on their respective fair values and the applicable revenue recognition criteria are applied to each of the separate units. Advance payments received in excess of amounts earned are classified as deferred revenue until earned.

License and Collaborative Fees

Revenue from non-refundable license, technology access or other payments under license and collaborative agreements where the Company has a continuing obligation to perform is recognized as revenue over the expected period of the continuing performance obligation. The Company estimates the performance period at the inception of the arrangement and reevaluates it each reporting period. This reevaluation may shorten or lengthen the period over which the remaining revenue is recognized. Changes to these estimates are recorded on a prospective basis.

Milestone payments under collaborative and other arrangements are recognized as revenue upon completion of the milestone event, once confirmation is received from the third party and collectability is reasonably assured. This represents the culmination of the earnings process when the Company has no future performance obligations related to the payment. Milestone payments that are not substantive or that require a continuing performance obligation on the part of the Company are recognized over the expected period of the continuing performance obligation. Amounts received in advance are recorded as deferred revenue until the related milestone is completed.

Contract Revenue

Contract revenue for research and development involves the Company providing research and development and manufacturing services to collaborative partners, biodefense contractors or others. Revenue for certain contracts is accounted for by a proportional performance, or output-based, method where performance is based on estimated progress toward elements defined in the contract. The amount of contract revenue and related costs recognized in each accounting period are based on management's estimates of the proportional performance during the period. Adjustments to estimates based on actual performance are recognized on a prospective basis and do not result in reversal of revenue should the estimate to complete be extended.

Up-front fees are recognized in the same manner as the final deliverable, which is generally ratably over the period of the continuing performance obligation. Given the uncertainties of research and development collaborations, significant judgment is required to determine the duration of the arrangement.

Royalty Revenue

Royalty revenue and royalty receivables are generally recorded in the periods these royalties are earned, in advance of collection. The royalty revenue and receivables in these instances is based upon communication with collaborative partners or licensees, historical information and forecasted sales trends.

Research and Development Expenses

The Company expenses research and development costs as incurred. Research and development expenses consist of direct costs such as salaries and related personnel costs and material and supply costs, and research-related allocated overhead costs, such as facilities costs. In addition, research and development expenses include costs related to clinical trials. Expenses resulting from clinical trials are recorded when incurred based in part on estimates as to the status of the various trials. From time to time, research and development expenses may include up-front fees and milestones paid to collaborative partners for the purchase of rights to in-process research and development. Such amounts are expensed as incurred. Total research and development expenses related to the Company's collaborative agreements were approximately $19.3 million, $15.9 million and $24.1 million in 2010, 2009 and 2008, respectively.

Share-Based Compensation

Share-based compensation expense is recognized ratably over the requisite service period. If options are granted that include a performance condition, the Company estimates the probability of the performance condition being achieved on a quarterly basis. If it is determined that it is probable the performance criteria will be achieved, the Company estimates an implicit service period from grant date to the most likely date of achievement of the performance criteria and records share-based compensation expense ratably over this implicit service period.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

Cash and Cash Equivalents and Short-term Investments

The Company considers all highly liquid debt instruments with maturities of three months or less at the time the Company acquires them to be cash equivalents.

Short-term investments include debt securities classified as available-for-sale. Available-for-sale securities are stated at fair value, with unrealized gains and losses, net of tax, if any, reported in other comprehensive income (loss). The estimate of fair value is based on publicly available market information. Realized gains and losses and declines in value judged to be other-than-temporary on available-for-sale securities are also included in investment and other income. The Company reviews its instruments for other-than-temporary impairment whenever the value of the instrument is less than the amortized cost. The cost of investments sold is based on the specific identification method. Interest and dividends on securities classified as available-for-sale are included in investment and other income.

Property and Equipment and Long-Lived Assets

Property and equipment is stated at cost less depreciation. Equipment depreciation is calculated using the straight-line method over the estimated useful lives of the assets (three to seven years). Leasehold improvements, buildings and building improvements are amortized and depreciated using the straight-line method over the shorter of the lease terms or the useful lives (one to fifteen years).

The Company records impairment losses on long-lived assets used in operations when events and circumstances indicate that the assets might be impaired and the undiscounted cash flows estimated to be generated by those assets in the future are less than the carrying amounts of those assets.

Warrant Liabilities

The Company has issued warrants to purchase its common shares in connection with financing activities. The Company accounts for the warrants as a liability at fair value. The fair value of the warrant liability is estimated using the Black-Scholes Model. The Black-Scholes Model requires inputs such as the expected term of the warrants, share price volatility and risk-free interest rate. These inputs are subjective and generally require significant analysis and judgment to develop. For the estimate of the expected term, the Company uses the full remaining contractual term of the warrant. The Company bases its estimate of expected volatility on its historical volatility. These assumptions are reviewed each reporting period and changes in the estimated fair value of the outstanding warrants are recognized in other income (expense).

In February of 2010, the holders of the May 2009 and June 2009 warrants agreed to amend the terms of their warrants to remove the provisions that would have required a reduction of the warrant exercise price and an increase in the number of shares issuable on exercise of the warrants each time the Company sold common shares at a price less than the exercise price of such warrants (the “Eliminated Adjustment Provisions”). Prior to the amendments, the Company recorded the warrants issued in May and June of 2009 as a liability at fair value due to the Eliminated Adjustment Provisions and certain other provisions, which was estimated using the Monte Carlo Simulation Model (“Simulation Model”).

Income Taxes

The Company accounts for uncertain tax positions in accordance with Accounting Standards Codification Topic 740,*Income Taxes* (“ASC 740”). ASC 740 provides for the recognition of deferred tax assets if realization of such assets is more likely than not.

Net Income (Loss) per Common Share

Basic net income (loss) per common share is based on the weighted average number of common shares outstanding during the period. Diluted net income (loss) per common share is based on the weighted average number of common shares and other dilutive securities outstanding during the period, provided that including these dilutive securities does not increase the net income (loss) per share.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

Potentially dilutive securities are excluded from the calculation of earnings per share if their inclusion is anti-dilutive. The following table shows the total outstanding securities considered anti-dilutive and therefore excluded from the computation of diluted net income (loss) per share (in thousands):

	December 31,		
	2010	2009	2008
Options for common shares	2,180	1,156	1,320
Convertible preference shares	254	-	254
Warrants for common shares	1,535	740	-
Total	3,969	1,896	1,574

For the year ended December 31, 2009, the following is a reconciliation of the numerators and denominators of the basic and diluted net income per share (in thousands):

	Year ended December 31, 2009
Numerator	
Net income used for basic and diluted net income per share	$ 550
Denominator	
Weighted average shares outstanding used for basic net income per share	10,993
Effect of dilutive share options	66
Effect of convertible preference shares	254
Weighted average shares outstanding and dilutive securities used for diluted net income per share	11,313

For the years ended December 31, 2010 and 2008, all outstanding common stock equivalents were considered anti-dilutive and therefore the calculations of basic and diluted net loss per share are the same.

3. Consolidated Financial Statement Detail

Cash and Cash Equivalents

At December 31, 2010 and 2009, cash and cash equivalents consisted of overnight deposits and money market funds and repurchase agreements with maturities of less than 90 days at the date of purchase. Cash and cash equivalent balances were recorded at fair value as follows as of December 31, 2010 and 2009 (in thousands):

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

	December 31, 2010			
	Cost Basis	Unrealized Gains	Unrealized Losses	Estimated Fair Value
Cash	$ 29,536	$ -	$ -	$ 29,536
Cash equivalents	7,768	-	-	7,768
Total cash and cash equivalents	$ 37,304	$ -	$ -	$ 37,304

	December 31, 2009			
	Cost Basis	Unrealized Gains	Unrealized Losses	Estimated Fair Value
Cash	$ 3,065	$ -	$ -	$ 3,065
Cash equivalents	20,844	-	-	20,844
Total cash and cash equivalents	$ 23,909	$ -	$ -	$ 23,909

Receivables

Receivables consisted of the following at December 31, 2010 and 2009 (in thousands):

	December 31,	
	2010	2009
Trade receivables, net	$ 20,309	$ 6,391
Other receivables	555	840
Total	$ 20,864	$ 7,231

Property and Equipment

Property and equipment consisted of the following at December 31, 2010 and 2009 (in thousands):

	December 31,	
	2010	2009
Furniture and equipment	$ 31,700	$ 31,429
Buildings, leasehold and building improvements	21,463	21,463
Construction-in-progress	203	196
Land	310	310
	53,676	53,398
Less: Accumulated depreciation and amortization	(38,807)	(33,128)
Property and equipment, net	$ 14,869	$ 20,270

Depreciation and amortization expense was $5.7 million, $6.8 million and $6.7 million for the years ended December 31, 2009, 2009 and 2008, respectively.

Accrued Liabilities

Accrued liabilities consisted of the following at December 31, 2010 and 2009 (in thousands):

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

	December 31,	
	2010	2009
Accrued management incentive compensation	$ 4,982	$ 3,681
Accrued payroll and other benefits	2,752	2,691
Accrued professional fees	1,020	767
Accrued clinical trial costs	1,020	609
Accrued restructuring costs	80	155
Other	796	736
Total	$ 10,650	$ 8,639

Deferred Revenue

In 2010, the Company deferred $15.9 million of revenue from five contracts including Servier, NIH, Takeda Pharmaceutical Company Limited ("Takeda"), Schering-Plough Research Institute, a division of Schering Corporation, now a subsidiary of Merck & Co., Inc. (referred to herein as "Merck/Schering-Plough") and AVEO Pharmaceuticals, Inc. ("AVEO") and recognized $2.8 million in revenue from the five contracts. In 2009, the Company deferred $16.2 million of revenue from five contracts including Takeda, Merck/Schering-Plough, and Novartis and recognized $28.4 million of revenue from the five contracts.

The following table shows the activity in deferred revenue for the years ended December 31, 2010 and 2009 (in thousands):

	Year ended December 31,	
	2010	2009
Beginning deferred revenue	$ 5,008	$ 17,213
Revenue deferred	15,949	16,220
Revenue recognized	(2,827)	(28,425)
Ending deferred revenue	$ 18,130	$ 5,008

4. Licensing, Collaborative and Other Arrangements

Licensing Agreements

XOMA has granted more than 50 licenses to biotechnology and pharmaceutical companies to use the Company's patented and proprietary technologies relating to bacterial expression of recombinant pharmaceutical products. In exchange, the Company receives license and other fees as well as access to certain of these companies' antibody display libraries, intellectual property and/or services that complement the Company's existing development capabilities and support the Company's own antibody product development pipeline.

Certain of these agreements also provide releases of the licensee companies and their collaborators from claims under the XOMA patents arising from past activities using the companies' respective technologies to the extent they also used XOMA's antibody expression technology. Licensees are generally also allowed to use XOMA's technology in combination with their own technology in future collaborations.

Pfizer

In August of 2007, the Company entered into a license agreement with Pfizer Inc. ("Pfizer") for non-exclusive, worldwide rights for XOMA's patented bacterial cell expression technology for research, development and manufacturing of antibody products. Under the terms of the agreement, the Company received a license fee payment of $30 million in 2007. The Company has no further obligations under the license agreement and accordingly, the $30 million was recognized as revenue in 2007.

From 2008 through 2010 the Company received milestone payments relating to five undisclosed product candidates, including a payment of $0.5 million for the initiation of a Phase 3 clinical trial. The Company may also be eligible for additional milestone payments aggregating up to $6.4 million relating to these five product candidates and low single-digit royalties on future sales of all products subject to this license. In addition, the Company may receive potential milestone payments aggregating up to $1.7 million for each additional qualifying product candidate. The Company's right to milestone payments expires on the later of the expiration of the last-to-expire licensed patent or the tenth anniversary of the effective date. The Company's right to royalties expires upon the expiration of the last-to-expire licensed patent.. The Company will recognize revenue on milestones when they are achieved and on royalties when the underlying sales occur.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

Collaborative and Other Agreements

Servier

In December of 2010, the Company entered into a license and collaboration agreement with Les Laboratoires Servier ("Servier"), to jointly develop and commercialize XOMA 052 in multiple indications, which provides for a non-refundable upfront payment of $15 million that was received by the Company in January of 2011. XOMA 052 is designed to inhibit the pro-inflammatory cytokine IL-1 beta that is believed to be a primary trigger of pathologic inflammation in multiple diseases. Under the terms of the agreement, Servier has worldwide rights to diabetes and cardiovascular disease indications and rights outside the U.S. and Japan to Behcet's uveitis and other inflammatory and oncology indications. XOMA retains development and commercialization rights for Behcet's uveitis and other inflammatory and oncology indications in the U.S. and Japan, and has an option to reacquire rights to diabetes and cardiovascular disease indications from Servier in these territories (the "Cardiometabolic Indications Option"). Should the Company exercise its Cardiometabolic Indications Option, it will be required to pay Servier an option fee and partially reimburse their incurred development expenses.

The collaboration agreement provides for multiple deliverables which were grouped as follows for accounting purposes: (i) certain intellectual property rights for XOMA 052, as well as product know-how and an initial clinical inventory supply, (ii) development activities, and (iii) manufacturing services, wherein the Company believes have separate stand alone value. Further, the Company believes that each of its license agreements are unique to the targets being developed and companies involved, therefore, neither Vendor Specific Objective Evidence nor Third Party Evidence exist for determining the selling price of the deliverables. The Company determined that the contractually stated amounts are considered to be representative of the estimated selling price, as these values were determined through extensive arms length negotiations with the counterparty and further supported by other term sheets offered to the Company. The first group of deliverables includes certain intellectual property rights for XOMA 052, as well as product know-how and an initial clinical inventory supply. This group of deliverables is considered to have stand-alone value due to the customer's ability to use the delivered group of items for the intended purpose without the receipt of the development activities. In addition, the manufacturing services are considered to be a contingent deliverable and will be accounted for as a deliverable under a separate arrangement. The $15 million upfront payment will be recognized over the estimated eight month period that the initial group of deliverables will be provided to the Servier. The Company recognized $0.1 million of the upfront payment in 2010. The remaining deliverables shall be recognized using the proportional performance method when those services are rendered, with each deliverable as a separate unit of accounting.

Under this agreement, Servier will fully fund activities to advance the global clinical development and future commercialization of XOMA 052 in diabetes and cardiovascular related diseases. Also, Servier will fund $50 million of future XOMA 052 global clinical development and chemistry and manufacturing controls ("CMC") expenses and 50% of further expenses for the Behcet's uveitis indication. XOMA will also be responsible for manufacturing XOMA 052 throughout clinical development and launch.

In addition, under the agreement, the Company is eligible to receive a combination of Euro and USD-denominated, development and sales milestones for multiple indications aggregating to a potential maximum of approximately $470 million converted using the December 31, 2010 Euro to US Dollar ("USD") exchange rate (the "12/31/10 Exchange Rate") if XOMA reacquires diabetes and cardiovascular rights in the U.S. and Japan. If XOMA does not reacquire these rights, then the milestone payments aggregate to a potential maximum of approximately $770 million converted using the 12/31/10 Exchange Rate. Milestone payments for which XOMA will be eligible under the agreement include $20 million upon initiation of the first Phase 3 clinical trial for XOMA 052 by Servier in its licensed territory in Type 2 diabetes. Servier's obligation to pay development and commercialization milestones will continue for so long as Servier is developing or selling products under the agreement.

The Company is also eligible to receive royalties on XOMA 052 sales, which are tiered based on sales levels and range from a mid-single digit to up to a mid-teens percentage rate. The Company's right to royalties with respect to a particular product and country will continue for so long as such product is sold in such country.

The collaboration will be carried out and managed by committees mutually established by the parties. In general, in the event of any disputes, each party will have decision-making authority over matters relating to its areas of responsibility and territory, but neither party will have unilateral decision-making rights if the decision would have a material adverse impact on the other party's rights in its territory. The agreement contains customary termination rights relating to matters such as material breach by either party, safety issues and patents. Servier also has a unilateral right to terminate the agreement on a country-by-country basis or in its entirety on 6 months' notice.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

In December of 2010, the Company also entered into a loan agreement with Servier, which provides for an advance of up to €15 million, or approximately $20 million when converted using the 12/31/10 Exchange Rate. This loan was fully funded in January of 2011. See *Note 14: Subsequent Events* for additional disclosure of the financing arrangement between the Company and Servier.

NIAID

In September of 2008, the Company announced that it had been awarded a $65 million multiple-year contract funded with federal funds from NIAID, a part of the NIH (Contract No. HHSN272200800028C), to continue development of anti-botulinum antibody product candidates. The contract work is being performed on a cost plus fixed fee basis over a three-year period. The Company is recognizing revenue under the arrangement as the services are performed on a proportional performance basis. In 2010, XOMA performed a comparison of 2009 calculated costs incurred and costs billed to the government under provisional rates. The results of the analysis indicate that the Company incurred $0.9 million of potential billable costs for work performed. This revenue has been deferred and will be recognized upon completion of an NIH audit of XOMA's 2009 and 2008 actual data. The audit, which was initiated in 2010, will focus on the accuracy of the information the Company used in calculating its 2008 and 2009 incurred costs submissions to allow the NIH auditors a basis to develop their proposed rates. Final rates will be settled through negotiations with the Company. In 2010, the Company recognized revenue of $21.2 million under this contract, compared with $5.1 million in 2009.

In July of 2006, the Company was awarded a $16.3 million contract to produce monoclonal antibodies for the treatment of botulism to protect United States citizens against the harmful effects of botulinum neurotoxins used in bioterrorism. The contract work is being performed on a cost plus fixed fee basis. The original contract was for a three-year period, however the contract was extended into 2010. The Company is recognizing revenue as the services are performed on a proportional performance basis. This work was complete in the third quarter of 2010. In 2010, XOMA performed a comparison of 2009 calculated costs incurred and costs billed to the government under provisional rates. The results of the analysis indicate that the Company incurred $0.3 million of potential billable costs for work performed. This revenue has been deferred and will be recognized upon completion of an NIH audit of XOMA's 2009 and 2008 actual data. The audit, which was initiated in 2010, will focus on the accuracy of the information the Company used in calculating its 2008 and 2009 incurred costs submissions to allow the NIH auditors a basis to develop their proposed rates. Final rates will be settled through negotiations with the Company. In 2010, the Company recognized revenue of $0.2 million under this contract, compared with $1.6 million in 2009 and $1.3 million in 2008.

SRI International

In the third quarter of 2009, the Company began work on two biodefense subcontract awards from SRI International, including a $2.1 million award to develop novel antibody drugs against the virus that causes SARS and a $2.2 million award to develop a novel antibody, known as F10, that has been shown to neutralize group 1 influenza A viruses, including the H1N1 and H5N1 strains. The subcontract awards are funded through NIAID. The Company will recognize revenue under these arrangements as the related research and development costs are incurred. In 2010, the Company recognized revenue of $1.6 million related to these subcontracts, compared with $0.3 million in 2009.

Takeda

In November of 2006, the Company entered into a fully funded collaboration agreement with Takeda for therapeutic monoclonal antibody discovery and development. Under the agreement, Takeda will make up-front, annual maintenance and milestone payments to the Company, fund its research and development and manufacturing activities for preclinical and early clinical studies and pay royalties on sales of products resulting from the collaboration. Takeda will be responsible for clinical trials and commercialization of drugs after an Investigational New Drug Application ("IND") submission and is granted the right to manufacture once the product enters into Phase 2 clinical trials. During the collaboration, the Company will discover therapeutic antibodies against targets selected by Takeda. The Company will recognize revenue on the up-front and annual payments on a straight-line basis over the expected term of each target antibody discovery, on the research and development and manufacturing services as they are performed on a time and materials basis, on the milestones when they are achieved and on the royalties when the underlying sales occur. In the first quarter of 2010, the Company received a $1.0 million payment from Takeda for achieving a pre-established, preclinical milestone under one of the discovery and development programs with Takeda. The Company recognized this milestone payment in revenue in the first quarter of 2010. Separately, another discovery and development program with Takeda under this collaboration was discontinued following the analysis of research data. The termination resulted in the recognition of the remaining unamortized balance in deferred revenue of $1.1 million in the first quarter of 2010, as no continuing performance obligation exists. In 2010, the Company recognized revenue of $3.6 million under this agreement, compared with $7.5 million in 2009 and $4.4 million in 2008.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

In February of 2009, the Company expanded its existing collaboration agreement with Takeda to provide Takeda with access to multiple antibody technologies, including a suite of research and development technologies and integrated information and data management systems. The Company may receive milestones of up to $3.25 million per discovery product candidate and low single-digit royalties on future sales of all antibody products subject to this license. The Company's right to milestone payments expires on the later of the receipt of payment from Takeda of the last amount to be paid under the agreement or the cessation of all research and development activities with respect to all program antibodies, collaboration targets and/or collaboration products. The Company's right to royalties expires on the later of 10 years from the first commercial sale of such royalty-bearing discovery product, or the expiration of the last-to-expire licensed patent.

Novartis

In November of 2008, the Company restructured its product development collaboration with Novartis entered into in 2004 for the development and commercialization of antibody products for the treatment of cancer. Under the restructured agreement, the Company received $6.2 million in cash and $7.5 million in the form of debt reduction on its existing loan facility with Novartis. In addition, the Company may, in the future, receive milestones and double-digit royalty rates for certain product programs and options to develop or receive royalties on additional programs. In exchange, Novartis received control over certain programs under the original product development collaboration. The Company recognized revenue on the $13.7 million consideration received in November of 2008, as the Company had completed the transfer of the full rights to and materials of the collaboration targets now controlled by Novartis.

Under the original product development collaboration, the Company received initial payments of $10 million in 2004, which were being recognized ratably over five years, the expected term of the agreement, as license and collaborative fees. In February of 2007, the Company announced the parties' mutual exclusivity obligation to conduct antibody discovery, development and commercialization work in oncology had ended. The expiration of this mutual obligation had no impact on the existing collaboration projects which had reached the development stage and the parties continued to collaborate on a non-exclusive basis. The remaining unamortized balance of $4.3 million of the initial collaboration fee of $10 million was recognized in 2007 due to the change in estimate from five years to three years. The Company recognized development expenses relating to the collaboration with Novartis of $4.5 million in 2008.

A loan facility of up to $50 million was available to the Company to fund up to 75% of its share of development expenses incurred beginning in 2005. See *Note 7: Long-Term Debt and Other Arrangements* for additional disclosure of the financing arrangement between the Company and Novartis.

In December of 2008, the Company entered into a Manufacturing and Technology Transfer Agreement with Novartis, effective July 1, 2008. Under this agreement, XOMA was engaged by Novartis to perform research and development, process development, manufacturing and technology transfer activities with respect to certain product programs under the original product development collaboration. The work performed under this agreement was fully funded by Novartis and completed in the third quarter of 2009. The Company recognized revenue related to this agreement as the research and development and other services were performed on a time and materials basis. In 2009, the Company recognized revenue of $2.5 million related to this agreement, compared with $6.6 million in 2008.

Arana

In September of 2009, the Company entered into an antibody discovery collaboration with Arana Therapeutics Limited, a wholly-owned subsidiary of Cephalon, Inc. ("Arana"), involving multiple proprietary XOMA antibody research and development technologies, including a new antibody phage display library and a suite of integrated information and data management systems. Arana agreed to pay the Company a fee of $6.0 million, of which $4.0 million was received in the third quarter of 2009 and the remaining $2.0 million was received in the third quarter of 2010. The Company may be entitled to future milestone payments, aggregating up to $3 million per product, and low single-digit royalties on product sales. The Company's right to milestone payments expires on the later of the receipt of payment from Arana of the last amount to be paid under the agreement, the cessation by Arana of the use of all research and development technologies or the cessation by Arana of the exercise of the patent rights granted to them. The Company's right to royalties expires five years from the first commercial sale of each royalty-bearing product.

Kaketsuken

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

In October of 2009, the Company entered into an antibody discovery collaboration with The Chemo-Sero-Therapeutic Research Institute, a Japanese research foundation known as Kaketsuken, involving multiple proprietary XOMA antibody research and development technologies, including a new antibody phage display library and a suite of integrated information and data management systems. Kaketsuken agreed to pay the Company a fee of $8.0 million, of which $6.0 million was received in the fourth quarter of 2009 and the remaining $2.0 million was received in the fourth quarter of 2010. The Company may be entitled to future milestone payments, aggregating up to $0.2 million per product, and low single-digit royalties on product sales. The Company's right to milestone payments expires upon the receipt of payment from Kaketsuken of the last amount to be paid pursuant to the agreement. The Company's right to royalties expires 15 years from the first commercial sale of each royalty-bearing discovery product.

Merck/Schering-Plough/AVEO Pharmaceuticals, Inc. ("AVEO")

In April of 2006, the Company entered into an agreement with AVEO to utilize XOMA's HE™ technology to humanize AV-299 under which AVEO paid the Company an up-front license fee and development milestones. Under this agreement the Company created four HE™ versions of the original AV-299, all of which met design goals and from which AVEO selected one as its lead development candidate.

In September of 2006, as a result of the successful humanization of AV-299, the Company entered into a second agreement with AVEO to manufacture and supply AV-299 in support of early clinical trials. Under the agreement, the Company created AV-299 production cell lines, conducted process and assay development and performed Good Manufacturing Practices ("cGMP") manufacturing activities. AVEO retains all development and commercialization rights to AV-299 and may be required to pay XOMA annual maintenance fees, additional development milestone payments aggregating up to $6.3 million and low single-digit royalties on product sales in the future. The Company's right to milestone payments expires upon full satisfaction of all financial obligations of AVEO pursuant to the agreement. The Company's right to royalties expires on the later of 15 years from the first commercial sale of each royalty-bearing product or the expiration of the last-to-expire licensed patent. In the third quarter of 2010, the Company received a $0.8 million milestone payment related to AVEO's initiation of a Phase 2 clinical trial to evaluate AV-299 for the treatment of non-small cell lung cancer. The Company recognized this milestone payment as revenue in the third quarter of 2010.

In April of 2007, Merck/Schering-Plough entered into a research, development and license agreement with AVEO concerning AV-299 and other anti-HGF molecules, under which AVEO assigned its entire right, title and interest in, to and under its manufacturing agreement with XOMA to Merck/Schering-Plough. In the third quarter of 2010, AVEO regained its worldwide rights from Merck/Schering-Plough to develop and commercialize AV-299 and other anti-HGF molecules. In 2010, the Company recognized revenue of $0.9 million under this agreement, compared with $0.7 million in 2009 and $3.2 million in 2008.

Merck/Schering-Plough

In May of 2006, the Company entered into a fully funded collaboration agreement with the Merck/Schering-Plough for therapeutic monoclonal antibody discovery and development. Under the agreement, Merck/Schering-Plough will make up-front, annual maintenance and milestone payments to the Company, fund the Company's research and development activities related to the agreement and pay the Company royalties on sales of products resulting from the collaboration. During the collaboration, the Company will discover therapeutic antibodies against targets selected by Merck/Schering-Plough, use the Company's proprietary Human Engineering™ ("HE™") technology to humanize antibody candidates generated by hybridoma techniques, perform preclinical studies to support regulatory filings, develop cell lines and production processes and produce antibodies for initial clinical trials. The Company will recognize revenue on the up-front and annual payments on a straight-line basis over the expected term of each target antibody discovery, on the research and development activities as they are performed on a time and materials basis, on the milestones when they are achieved and on the royalties when the underlying sales occur. In 2010, the Company recognized revenue of $0.5 million under this agreement, compared with $7.6 million in 2009 and $10.8 million in 2008. In January of 2011, the Company successfully completed the services to Merck/Schering-Plough and the collaboration agreement in now complete.

UCB

In December of 1998, the Company licensed its bacterial cell expression technology to Celltech Therapeutics Ltd., now UCB Celltech, a branch of UCB, which utilizes this technology in the production of CIMZIA® for the treatment of moderate-to-severe Crohn's disease and moderate-to-severe rheumatoid arthritis. The license provides for a low single-digit royalty on sales of CIMZIA® in those countries where the bacterial cell expression technology is patented, which includes the U.S. and Canada. In August of 2010, the Company sold its royalty interest in CIMZIA® to an undisclosed buyer for gross proceeds of $4.0 million. In connection with this transaction, XOMA CDRA LLC, a wholly owned bankruptcy-remote entity, was established to hold the rights, title, and interests under the license agreement with UCB. As a bankruptcy-remote entity, XOMA CDRA LLC has a corporate existence, assets, properties, and creditors separate from the Company's. Accordingly, in calculating the value of its own assets, the Company has not ascribed any value to the assets owned by XOMA CDRA LLC, and the assets of XOMA CDRA LLC will not be available to pay any creditors of the Company. During 2010, including the sale of its royalty interest in CIMZIA®, the Company recognized $4.2 million in revenue compared with $0.5 million in 2009 and $0.1 million in 2008. The Company will no longer receive royalties on sales of CIMZIA®.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

Genentech, Inc., a wholly-owned member of the Roche Group (referred to herein as "Genentech")

In April of 1996, the Company entered into a collaboration agreement with Genentech for the development of RAPTIVA®. In March of 2003, it entered into amended agreements which called for the Company to share in the development costs and to receive a 25% share of future U.S. operating profits and losses and a royalty on sales outside the United States. The amended agreements also called for Genentech to finance the Company's share of development costs up until first FDA marketing approval via a convertible subordinated loan, and its share of pre-launch marketing and sales costs via an additional commercial loan facility. Under the loan agreement, upon FDA approval of the product, which occurred in October of 2003, the Company elected to pay $29.6 million of the development loan in convertible preference shares, which are convertible into approximately 0.3 million common shares at a price of $116.25 per common share. The commercial loan was repaid in cash in two installments in 2004.

In January of 2005, the Company announced a restructuring of its arrangement with Genentech on RAPTIVA®. Under the restructured arrangement, the Company was entitled to receive mid-single digit royalties on worldwide sales of RAPTIVA® in all indications. The previous cost and profit sharing arrangement for RAPTIVA® in the U.S. was discontinued and Genentech was responsible for all operating and development costs associated with the product. In addition, the Company's remaining obligation under the development loan was extinguished. In the first half of 2009, RAPTIVA® was withdrawn from the commercial drug markets and royalties ceased.

Genentech utilized the Company's bacterial cell expression technology under license to develop LUCENTIS® for the treatment of neovascular wet age-related macular degeneration. The Company was entitled to receive a low single-digit royalty on worldwide sales of LUCENTIS®. In the third quarter of 2009, the Company sold its LUCENTIS® royalty interest to Genentech for $25 million, including royalty revenue from the second quarter of 2009. The Company will not receive any further royalties from sales of LUCENTIS®.

The Company recognized royalty revenue related to its agreements with Genentech of $28.6 million in 2009, compared with $21.0 million in 2008.

5. Restructuring Charges

On January 15, 2009, the Company announced a workforce reduction of approximately 42%. As part of this workforce reduction, the Company recorded a charge of $3.1 million related to severance, other termination benefits and outplacement services, which were fully paid in 2009. The Company does not expect to incur any additional employee-related restructuring charges in connection with this workforce reduction.

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As a result of the workforce reduction, in the second quarter of 2009, the Company vacated one of its leased buildings and recorded a restructuring charge of $0.5 million primarily related to the net present value of the net future minimum lease payments at the cease-use date, less the estimated future sublease income. Effective December of 2010, the Company entered into a sublease agreement for this building. The remaining liability related to this lease was $0.2 million and $0.4 million at December 31, 2010 and 2009, respectively.

The following table summarizes the restructuring charges and utilization for the years ended December 31, 2010 and 2009 (in thousands):

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	Balance as of December 31, 2009	Charges	Cash Payments	Adjustments	Balance as of December 31, 2010
Facilities consolidation	$ 374	$ 39	$ (202)	$ 32	$ 243
Total	$ 374	$ 39	$ (202)	$ 32	$ 243

	Balance as of December 31, 2008	Charges	Cash Payments	Adjustments	Balance as of December 31, 2009
Employee severance and benefits	$ -	$ 3,289	$ (3,098)	$ (191)	$ -
Facilities consolidation	-	491	(124)	7	374
Total	$ -	$ 3,780	$ (3,222)	$ (184)	$ 374

Additionally, as a result of the workforce reduction, the Company temporarily vacated a building in order to optimize its facility usage. As manufacturing demand increases in the future, the Company plans to resume operations at this facility. As of December 31, 2010, the Company performed an analysis of the long-lived assets related to the vacant building, with an approximate net book value of $3.5 million. Based on estimated undiscounted future cash inflows, the Company has determined that there is no current impairment relating to these assets, and will continue to assess these assets for impairment at each future reporting period.

6. Fair Value Measurements

Effective January 1, 2008, the Company adopted ASC 820, which established a framework for measuring fair value and a fair value hierarchy that prioritizes the inputs used in valuation techniques. ASC 820 describes a fair value hierarchy based on three levels of inputs, of which the first two are considered observable and the last unobservable, that may be used to measure fair value which are the following:

Level 1 – Quoted prices in active markets for identical assets or liabilities.

Level 2 – Observable inputs other than quoted prices in active markets for similar assets or liabilities.

Level 3 – Unobservable inputs.

The following tables set forth the Company's fair value hierarchy for its financial assets (cash equivalents and investments) and liabilities measured at fair value on a recurring basis as of December 31, 2010 and 2009.

Financial assets and liabilities carried at fair value as of December 31, 2010 and 2009 are classified as follows (in thousands):

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

	Fair Value Measurements at December 31, 2010 Using			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Repurchase agreements	$ 1,428	$ 1,428	$ -	$ -
Money market funds	6,340	6,340	-	-
Warrant liabilities	(4,245)	-	-	(4,245)
Total	$ 3,523	$ 7,768	$ -	$ (4,245)

	Fair Value Measurements at December 31, 2009 Using			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Repurchase agreements	$ 6,504	$ 6,504	$ -	$ -
Money market funds	14,340	14,340	-	-
Warrant liabilities	(4,760)	-	-	(4,760)
Total	$ 16,084	$ 20,844	$ -	$ (4,760)

Due to the unique structure of the secured note agreement with Novartis and since there is no liquid market for this note, there is no practical method to estimate fair value of our long-term debt with Novartis. See *Note 7: Long-Term Debt and Other Arrangements* for additional disclosure of the financing arrangement between the Company and Novartis.

As discussed in *Note 2: Basis of Presentation and Significant Accounting Policies – Significant Accounting Policies*, the fair value of the warrant liabilities was determined at December 31, 2010 using the Black-Scholes Model and at December 31, 2009 using the Simulation Model, both of which require inputs such as the expected term of the warrants, share price volatility and risk-free interest rate. These inputs are subjective and generally require significant analysis and judgment to develop.

The fair value of the warrant liabilities was estimated using the following range of assumptions at December 31, 2010 and 2009:

	December 31, 2010	December 31, 2009
Expected volatility	93.5 - 94.9%	77.0 - 77.7%
Risk-free interest rate	2.0%	2.4 - 2.7%
Expected term	3.9 - 4.1 years	4.4 - 5.0 years

The following table provides a summary of changes in the fair value of the Company's Level 3 financial liabilities for the year ended December 31, 2010 (in thousands):

	Warrant Liabilities
Balance at December 31, 2008	$ -
Initial fair value of warrants	6,541
Change in fair value of warrant liabilities included in other income (expense)	(1,781)
Balance at December 31, 2009	4,760
Initial fair value of warrants	4,382
Reclassification of warrant liability to equity upon exercise of warrants	(2,615)
Change in fair value of warrant liabilities included in other income (expense)	(2,282)
Balance at December 31, 2010	$ 4,245

7. Long-Term Debt and Other Arrangements

As of December 31, 2010 and 2009, the Company had long-term debt of $13.7 million and $13.3 million respectively, all of which was under its note with Novartis.

Novartis Note

In May of 2005, the Company executed a secured note agreement with Novartis (then Chiron Corporation), which is due and payable in full in June of 2015. Under the note agreement, the Company borrowed semi-annually to fund up to 75% of the Company's research and development and commercialization costs under its collaboration arrangement with Novartis, not to exceed $50 million in aggregate principal amount. Interest on the principal amount of the loan accrues at six-month LIBOR plus 2%, which was equal to 2.46% at December 31, 2010, and is payable semi-annually in June and December of each year. Additionally, the interest rate resets in June and December of each year. At the Company's election, the semi-annual interest payments can be added to the outstanding principal amount, in lieu of a cash payment, as long as the aggregate principal amount does not exceed $50 million. The Company has made this election for all interest payments thus far. Loans under the note agreement are secured by the Company's interest in its collaboration with Novartis, including any payments owed to it thereunder.

At December 31, 2010 and 2009, the outstanding principal balance under this note agreement was $13.7 million and $13.3 million. Pursuant to the terms of the arrangement as restructured in November of 2008, the Company will not make any additional borrowings under the Novartis note. Accrued interest of $0.4 million, $0.5 million and $1.2 million was added to the principal balance of the loan for the years ended December 31, 2010, 2009 and 2008, respectively.

Goldman Sachs Term Loan

In May of 2008, the Company refinanced its five-year term loan facility with Goldman Sachs, originally entered into in November of 2006, and borrowed the full amount of the facility of $55 million. Interest on this facility was charged at an annual rate equal to the greater of (x) six-month LIBOR or (y) 3.0%, plus 8.5% and was subject to reset on April 1 and October 1 of each year. As of December 31, 2008, the interest rate was 12.3%. The debt was secured by all rights to receive payments due to the Company relating to RAPTIVA®, LUCENTIS® and CIMZIA®. Debt issuance costs under the facility of $2 million were being amortized on a straight-line basis over the five-year life of the loan and were disclosed as current and long-term debt issuance costs on the balance sheet prior to repayment.

In addition, the Company was required to comply with certain covenants including a ratio of royalties collected to interest payable and a requirement that quarterly U.S. and outside-the-U.S. sales of RAPTIVA® and LUCENTIS® exceeded certain specified minimum levels. The Company was in compliance with these covenants as of December 31, 2008, but due to the cessation of royalties from sales of RAPTIVA® related to its market withdrawal in the first half of 2009, the Company was not in compliance with these covenants in the first quarter of 2009.

In September of 2009, the Company fully repaid its term loan facility with Goldman Sachs. Repayment of this loan facility discharged all of the Company's obligations to the lenders. The Company repaid the outstanding principal balance of $42 million, accrued interest to the date of payment of $2.4 million and a prepayment premium of $2.5 million. In the third quarter of 2009, the Company recorded a loss on repayment of debt of $3.6 million, which included the prepayment premium and the recognition of unamortized debt issuance costs of $1.1 million. This loss was recorded as loss on debt extinguishment in the consolidated statement of operations for the year ended December 31, 2009.

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Interest Expense

Interest expense and amortization of debt issuance costs, excluding losses on debt extinguishment, recorded as other expense in the consolidated statement of operations for the year ended December 31, 2010, 2009 and 2008 are shown below (in thousands):

	Year ended December 31,		
	2010	**2009**	**2008**
Interest expense			
Goldman Sachs term loan	$ -	$ 3,932	$ 5,095
Novartis note	354	455	1,181
Other	31	14	-
Total interest expense	$ 385	$ 4,401	$ 6,276
Amortization of debt issuance costs			
Goldman Sachs term loan	$ -	$ 487	$ 726
Total interest expense	$ 385	$ 4,888	$ 7,002

8. Income Taxes

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

The total provision for income taxes consists of the following:

	Year ended December 31,		
	2010	2009	2008
Federal income tax provision	$ 27	$ (113)	$ (384)
State income tax provision	-	6	-
Foreign income tax provision	-	5,834	1
Total	$ 27	$ 5,727	$ (383)

Income tax expense was $27,000 in 2010. Income tax expense in 2009 was primarily related to $5.8 million of foreign income tax expense recognized in connection with the expansion of the Company's existing collaboration with Takeda in February of 2009. The Company was paid a $29 million expansion fee, of which $5.8 million was withheld for payment to the Japanese taxing authority. The Company also recognized $0.1 million of income tax benefit for 2009 relating to research and development refundable credits, in addition to the $0.4 million in research and development refundable credits recognized in 2008.

The significant components of net deferred tax assets as of December 31, 2010 and 2009 were as follows (in millions):

	December 31,	
	2010	2009
Capitalized research and development expenses	$ 65.4	$ 65.7
Net operating loss carryforwards	117.4	93.3
Research and development and other credit carryforwards	20.4	20.0
Other	11.1	10.9
Total deferred tax assets	214.3	189.9
Valuation allowance	(214.3)	(189.9)
Net deferred tax assets	$ -	$ -

The net increase (decrease) in the valuation allowance was $24.4 million, $(24.8) million and $9.1 million for the years ended December 31, 2010, 2009 and 2008, respectively. Approximately $13.1 million in unutilized federal net operating loss carry-forwards ("NOLs") expired in 2008, no net operating loss carry-forward expired in 2010 or 2009.

ASC 740 provides for the recognition of deferred tax assets if realization of such assets is more likely than not. Based upon the weight of available evidence, which includes the Company's historical operating performance and carry-back potential, the Company has determined that total deferred tax assets should be fully offset by a valuation allowance.

As of December 31, 2010, the Company had accumulated federal tax net operating loss carry-forwards of $149.4 million, with expiration dates from 2018 to 2030, federal tax credit carry-forwards of $9.5 million, with expiration dates from 2010 to 2030, state tax net operating loss carry-forwards of $287.4 million, with expiration dates from 2014 to 2030, state tax credit carry-forwards of $16.0 million, without expiration, and foreign tax net operating loss carry-forwards of $399.4 million, without expiration.

In 2009, the Company experienced an "ownership change" under Section 382 of the Internal Revenue Code, which subjects the amount of federal and state tax carry-forwards that can be utilized to an annual limitation, which will substantially limit the Company's future use of these carry-forwards per year. To the extent that the Company does not utilize its carry-forwards within the applicable statutory carry-forward periods, either because of Section 382 limitations or the lack of sufficient taxable income, the carry-forwards will expire unused.

The Company files income tax returns in the U.S. federal jurisdiction, State of California and Ireland. The Company's federal income tax returns for tax years 2007 and beyond remain subject to examination by the Internal Revenue Service. The Company's California and Irish income tax returns of the tax years 2006 and beyond remain subject to examination by the Franchise Tax Board and Irish Revenue Commissioner. In addition, all of the net operating losses and research and development credit carry-forwards that may be used in future years are still subject to adjustment.

The Company did not have unrecognized tax benefits as of December 31, 2010 and does not expect this to change significantly over the next twelve months. The Company will recognize interest and penalties accrued on any unrecognized tax benefits as a component of income tax expense. As of December 31, 2010, the Company has not accrued interest or penalties related to uncertain tax positions.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

9. Compensation and Other Benefit Plans

The Company grants qualified and non-qualified share options, shares and other share-related awards under various plans to directors, officers, employees and other individuals. Share options are granted at exercise prices of not less than the fair market value of the Company's common shares on the date of grant. Generally, share options granted to employees fully vest four years from the grant date and expire ten years from the date of the grant or three months from the date of termination of employment (longer in case of death or certain retirements). However, certain options granted to employees vest monthly or immediately, certain options granted to directors vest monthly over one year or three years and certain options may fully vest upon a change of control of the Company or may accelerate based on performance-driven measures. Additionally, the Company has an Employee Share Purchase Plan ("ESPP") that allows employees to purchase Company shares at a purchase price equal to 95% of the closing price on the exercise date.

Employee Share Purchase Plan

In 1998, the Company's shareholders approved the 1998 Employee Share Purchase Plan which provides employees of the Company the opportunity to purchase common shares through payroll deductions. Up to 133,333 common shares are authorized for issuance under the Share Purchase Plan. An employee may elect to have payroll deductions made under the Share Purchase Plan for the purchase of common shares in an amount not to exceed 15% of the employee's compensation.

Effective January 1, 2005, the plan was amended to reduce future offering periods to three months and to change the purchase price per common share to 95% of the closing price of XOMA shares on the exercise date.

In 2010, 2009, and 2008, employees purchased 5,903, 14,735 and 13,027 common shares, respectively, under the Employee Share Purchase Plan. Net payroll deductions under the Share Purchase Plan totaled $41,000, $0.1 million and $0.3 million for 2010, 2009 and 2008, respectively.

Deferred Savings Plan

Under section 401(k) of the Internal Revenue Code of 1986, the Board of Directors adopted, effective June 1, 1987, a tax-qualified deferred compensation plan for employees of the Company. Participants may make contributions which defer up to 50% of their eligible compensation per payroll period, up to a maximum for 2010 of $16,500 (or $22,000 for employees over 50 years of age). The Company may, at its sole discretion, make contributions each plan year, in cash or in the Company's common shares, in amounts which match up to 50% of the salary deferred by the participants. The expense related to these contributions was $1.0 million, $0.9 million and $1.1 million for the years ended December 31, 2010, 2009 and 2008, respectively, and 100% was paid in common shares in each year.

Share Options

At December 31, 2010, the Company had share-based compensation plans, as described below. The aggregate number of common shares that may be issued under these plans is 3,254,331 shares.

In February of 2009, the Board of Directors approved a company-wide grant of 315,333 share options, of which 304,533 were issued as part of the Company's annual incentive compensation package. These options vest monthly over four years and include an acceleration clause based on meeting certain performance measures. In 2009 and 2010, management estimated the timing and probability of the achievement of the acceleration event, which occurred in December of 2010. The Company recognized compensation expense of $0.2 million and $0.1 million for the years ended December 31, 2010 and 2009, respectively, in connection with the accelerated awards.

In March of 2010, the Board of Directors of the Company approved a company-wide grant of an aggregate of 865,806 share options. This grant included 856,006 options that were issued as part of the Company's annual incentive compensation review, of which 596,666 options were granted subject to shareholder approval of an increase in the number of shares available under the Company's existing share option plans. On July 21, 2010 shareholder approval was obtained at the Company's annual general meeting of shareholders. A cumulative adjustment of $0.7 million was recorded in the third quarter of 2010 to reflect share-based compensation expense that would have been recorded from grant date to July 20, 2010. The adjustment was based on the fair value of these options at the date of shareholder approval and calculated using the closing share price on that date. The options granted as part of this annual incentive compensation review will vest monthly over four years.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

Share Option Plan

Under the Company's amended 1981 Share Option Plan ("Option Plan") the Company grants qualified and non-qualified share options to employees and other individuals, as determined by the Board of Directors, at exercise prices of not less than the fair market value of the Company's common shares on the date of grant. Options granted under the Option Plan may be exercised when vested and generally expire ten years from the date of the grant or three months from the date of termination of employment (longer in case of death or certain retirements). Options granted generally vest over four years. However, certain options may vest monthly or immediately, and certain options fully vest upon a change of control of the Company or may accelerate based on performance-driven measures. The Option Plan will terminate on November 15, 2011.

Up to 2,303,333 shares are authorized for issuance under the Option Plan. As of December 31, 2010, options covering 2,029,352 common shares were outstanding under the Option Plan.

Restricted Share Plan

The Company also has a Restricted Share Plan ("Restricted Plan") which provides for the issuance of options or grants of common shares to certain employees and other individuals as determined by the Board of Directors at fair market value of the common shares on the grant date. Prior to 2005, options or shares could be granted at not less than 85% of fair market value of the common shares on the grant date. Each option issued under the Restricted Plan will be a non-statutory share option under federal tax laws and will have a term not in excess of ten years from the grant date or three months from the date of termination of employment (longer in the case of death or certain retirements). Options granted generally vest over four years and certain options may fully vest upon a change of control of the Company. The Restricted Plan will terminate on November 15, 2011.

Up to 183,333 shares are authorized for issuance under the Restricted Plan, subject to the condition that not more than 2,486,666 shares are authorized under both the Option Plan and the Restricted Plan. As of December 31, 2010, options covering 83,467 common shares were outstanding under the Restricted Plan.

Directors Share Option Plan and Other Options

In 1992, the shareholders approved a Directors Share Option Plan ("Directors Plan") which provides for the issuance of options to purchase common shares to non-employee directors of the Company at 100% of the fair market value of the shares on the date of the grant. Up to 106,666 shares are authorized for issuance during the term of the Directors Plan. Options generally vest on the date of grant, or monthly over one year or three years and have a term of up to ten years. As of December 31, 2010, options for 62,867 common shares were outstanding under the Directors Plan.

In addition, in July of 2002, the Company granted a non-qualified fully-vested option to a director to purchase 1,000 common shares at 100% of the fair market value of the shares on the date of grant, which will expire in ten years. This option was not issued as part of the Directors Plan.

In August of 2007, the Company granted a non-qualified option to Steven B. Engle, CEO, to purchase 73,333 common shares at 100% of the fair market value of the shares on the date of grant. The option is subject to the Company's typical four-year vesting schedule and will expire 10 years from the date of issuance. This option was not issued as part of the Company's Option Plan or the Restricted Plan.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

Share Option Plans Summary

A summary of the status of the Company's share option plans as of December 31, 2010, 2009 and 2008, and changes during the years ended on those dates is presented below:

	2010		2009		2008	
Options:	**Shares**	**Price***	**Shares**	**Price***	**Shares**	**Price***
Outstanding at beginning of year	1,520,102	$ 38.40	1,320,679	$ 48.60	740,541	$ 54.90
Granted						
(1)	978,264	7.07	432,400	9.00	185,650	23.85
(2)	-	-	-	-	579,400	49.24
Exercised	(19)	8.40	(2,056)	8.40	(5,716)	23.07
Forfeited, expired or cancelled (3)	(166,897)	37.26	(230,921)	41.40	(179,196)	51.95
Outstanding at end of year	2,331,450	25.36	1,520,102	38.40	1,320,679	48.60
Exercisable at end of year	1,259,272	36.51	823,096	49.05	571,720	59.10
Weighted average fair value of options granted						
(1)		$ 3.58		$ 5.85		$ 14.10
(2)		-		$ -		$ 14.91

* Weighted-average exercise price:
(1) Option price equal to market price on date of grant.
(2) Option price greater than market price on date of grant
(3) The Company adjusts for forfeitures as they occur.

At December 31, 2010, there were 2,240,791 options vested and expected to vest with a weighted-average exercise price of $26.07. The weighted average remaining contractual term of outstanding share options at December 31, 2010 was 7.7 years and the aggregate intrinsic value was $0.1 million. The weighted average remaining contractual term of exercisable share options at December 31, 2010 was 6.8 years and the aggregate intrinsic value was $4,000.

Share-Based Compensation Expense

The Company recognizes compensation expense for all share-based payment awards made to the Company's employees and directors based on estimated fair values. The valuation of share-based compensation awards is determined at the date of grant using the Black-Scholes option pricing model. This model requires inputs such as the expected term of the option, expected volatility and risk-free interest rate. Further, the forfeiture rate also impacts the amount of aggregate compensation. To establish an estimate of expected term, the Company considers the vesting period and contractual period of the award and its historical experience of share option exercises, post-vesting cancellations and volatility. The estimate of expected volatility is based on the Company's historical volatility. To establish an estimate of forfeiture rate, the Company considers its historical experience of option forfeitures and terminations. The risk-free rate is based on the yield available on United States Treasury zero-coupon issues.

The following table shows total share-based compensation expense included in the consolidated statements of operations for the years ended December 31, 2010, 2009 and 2008 (in thousands):

	Year Ended December 31,		
	2010	**2009**	**2008**
Research and development	$ 2,302	$ 2,182	$ 2,307
Selling, general and administrative	2,611	2,213	2,627
Total share-based compensation expense	$ 4,913	$ 4,395	$ 4,934

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

There was no capitalized share-based compensation cost as of December 31, 2010 or 2009, and there were no recognized tax benefits related to the Company's share-based compensation expense during the years ended December 31, 2010 or 2009.

The fair value of share-based awards was estimated using the Black-Scholes model with the following weighted average assumptions for the years ended December 31, 2010, 2009 and 2008:

	Year Ended December 31,		
	2010	2009	2008
Dividend yield	0%	0%	0%
Expected volatility	79%	75%	65%
Risk-free interest rate	1.67%	2.00%	2.84%
Expected term	5.3 years	5.6 years	5.4 years

Unvested share option activity for the year ended December 31, 2010 is summarized below:

	Unvested Number of Shares	Weighted-Average Grant-Date Fair Value
Unvested balance at December 31, 2009	696,786	$ 20.85
Granted	978,264	3.58
Vested	(574,699)	8.86
Forfeited	(28,173)	14.62
Unvested balance at December 31, 2010	1,072,178	5.69

At December 31, 2010, there was $4.7 million of unrecognized share-based compensation expense related to unvested share options with a weighted average remaining recognition period of 2.5 years. The estimated fair value of options vested during 2010, 2009 and 2008 was $4.9 million, $4.1 million and $3.6 million, respectively. Total intrinsic value of the options exercised was $6,000 in 2009 and $50,000 million in 2008. Total intrinsic value and total cash received from share option exercises in 2010 was not material.

10. Share Capital

Reverse Stock Split

All references to numbers of common shares and per-share information in the accompanying financial statements have been adjusted retroactively to reflect the Company's reverse stock split on August 18, 2010.

Series B Preference Shares

In December of 2003, the Company issued 2,959 of the Series B preference shares to Genentech in repayment of $29.6 million of the outstanding balance under a convertible subordinated debt agreement. Pursuant to the rights of the Series B preference shares, the holders of Series B preference shares will not be entitled to receive any dividends on the Series B preference shares. The Series B preference shares will rank senior with respect to rights on liquidation, winding-up and dissolution of the Company to all classes of common shares. Upon any voluntary or involuntary liquidation, dissolution or winding-up of the Company, holders of Series B preference shares will be entitled to receive $10,000 per share of Series B preference shares before any distribution is made on the common shares. The holder of the Series B preference shares has no voting rights, except as required under Bermuda law.

The holder of Series B preference shares has the right to convert Series B preference shares into common shares at a conversion price equal to $116.25 per common share, subject to adjustment in certain circumstances. Accordingly, the 2,959 issued Series B preference shares are convertible into 254,560 common shares.

The Series B preference shares will be automatically converted into common shares at their then effective conversion rate immediately upon the transfer by the initial holder to any third party which is not an affiliate of such holder. The Company will have the right, at any time and from time to time, to redeem any or all Series B preference shares for cash in an amount equal to the conversion price multiplied by the number of common shares into which each such share of Series B preference shares would then be convertible.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

Shareholder Rights Plan

On February 26, 2003, the Company's Board of Directors unanimously adopted a Shareholder Rights Plan ("Rights Plan"), which was designed to extend the provisions of a similar rights plan originally adopted in October of 1993. Under the Rights Plan, Preference Share Purchase Rights ("Rights") are authorized and granted at the rate of fifteen Rights for each outstanding common share. Each Right entitles the registered holder of common shares to buy a fraction of a share of the new series of Preference Shares ("Series A Preference Shares") at an exercise price of $30.00, subject to adjustment. The Rights will be exercisable and will detach from the common share, only if a person or group acquires 20 percent or more of the common shares, announces a tender or exchange offer that if consummated will result in a person or group beneficially owning 20 percent or more of the common shares or if the Board of Directors declares a person or group owning 10 percent or more of the outstanding common shares to be an Adverse Person (as defined in the Rights Plan). Once exercisable, each Right will entitle the holder (other than the acquiring person) to purchase units of Series A Preference Share (or, in certain circumstances, common shares of the acquiring person) with a value of twice the Rights' exercise price. The Company will generally be entitled to redeem the Rights at $0.015 per Right at any time until the close of business on the tenth day after the Rights become exercisable. The Rights will expire at the close of business on February 26, 2013.

Underwritten Offering

In February of 2010, the Company completed an underwritten offering of 2.8 million units, with each unit consisting of one of the Company's common shares and a warrant to purchase 0.45 of a common share, for gross proceeds of approximately $21 million. As of December 31, 2010 all of these warrants were outstanding.

Registered Direct Offerings

In May of 2009, the Company entered into a definitive agreement with an institutional investor to sell 784,313 units, with each unit consisting of one of the Company's common shares and a warrant to purchase 0.50 of a common share, for gross proceeds of approximately $10 million, before deducting placement agent fees and estimated offering expenses of $0.8 million, in a registered direct offering. The investor purchased the units at a price of $12.75 per unit. The warrants, which represent the right to acquire an aggregate of up to 392,157 common shares, were exercisable at any time on or after May 15, 2009 and prior to May 20, 2014 at an exercise price of $15.30 per share. In February of 2010, the holders of these warrants agreed to amend the terms of their warrants to remove the Eliminated Adjustment Provisions and the exercise price of these warrants was reduced from $15.30 per share to $0.015 per share. In the first quarter of 2010, the holders of these warrants exercised all warrants, acquiring 392,157 common shares for an aggregate exercise price of $5,882.

In June of 2009, the Company entered into a definitive agreement with certain institutional investors to sell 695,652 units, with each unit consisting of one of the Company's common shares and a warrant to purchase 0.50 of a common share, for gross proceeds of approximately $12 million, before deducting placement agent fees and estimated offering expenses of $0.8 million, in a second registered direct offering. The investor purchased the units at a price of $17.25 per unit. The warrants, which represent the right to acquire an aggregate of up to 347,826 common shares, are exercisable at any time on or prior to December 10, 2014 at an exercise price of $19.50 per share. As of December 31, 2010 all of these warrants were outstanding.

ATM Agreement

In the third quarter of 2009, the Company entered into an At Market Issuance Sales Agreement (the "2009 ATM Agreement"), under which the Company could sell up to 1.7 million of its common shares from time to time through Wm Smith, as the agent for the offer and sale of the common shares. Wm Smith could sell these common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act of 1933, including but not limited to sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. Wm Smith could also sell the common shares in privately negotiated transactions, subject to the Company's approval. The Company paid Wm Smith a commission equal to 3% of the gross proceeds of all common shares sold through it as sales agent under the 2009 ATM Agreement but in no event less than $0.02 per share. Shares sold under the 2009 ATM Agreement were sold pursuant to a prospectus which formed a part of a registration statement declared effective by the U.S. Securities and Exchange Commission (the "SEC") on May 29, 2008. From the inception of the 2009 ATM Agreement through October of 2010, the Company sold a total of 1.7 million common shares through Wm Smith for aggregate gross proceeds of $12.2 million, including 1.4 million common shares sold in 2010 for aggregate gross proceeds of $9.3 million. Total offering expenses related to these sales from inception to October of 2010 were $0.4 million.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

In the third quarter of 2010, the Company entered into an At Market Issuance Sales Agreement (the "2010 ATM Agreement"), with Wm Smith and McNicoll, Lewis & Vlak LLC (the "Agents") under which the Company may sell common shares from time to time through the Agents, as its agents for the offer and sale of the common shares, in an aggregate amount not to exceed the amount that can be sold under its registration statement on Form S-3 (File No. 333-148342) filed with the SEC on December 26, 2007. The Agents may sell the common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. The Agents may also sell the common shares in privately negotiated transactions, subject to the Company's prior approval. The Company will pay the Agents, collectively, a commission equal to 3% of the gross proceeds of the sales price of all common shares sold through them as sales agents under the 2010 ATM Agreement. From the inception of the ATM Agreement through December 31, 2010, the Company sold a total of 6.7 million common shares under this agreement for aggregate gross proceeds of $29.7 million. Total offering expenses related to these sales from inception to December 31, 2010 were $0.9 million. Subsequent to December 31, 2010 through March 8, 2011, the Company has sold an additional 796,898 common shares through the Agents pursuant to the 2010 ATM Agreement for aggregate gross proceeds of $ 4.3 million. Total offering expenses related to these sales were $0.1 million.

Equity Line of Credit

On October 21, 2008, the Company entered into a common share purchase agreement (the "Purchase Agreement") with Azimuth Opportunity Ltd. ("Azimuth"), pursuant to which it obtained a committed equity line of credit facility (the "Facility") under which the Company could sell up to $60 million of its registered common shares to Azimuth over a 24-month period, subject to certain conditions and limitations. The Purchase Agreement required a minimum share price of $1.00 per share to allow the Company to issue shares to Azimuth under the Facility. However, at its election, Azimuth could buy shares below the threshold price at a negotiated discount. The Company was not obligated to utilize any of the $60 million Facility and remained free to enter other financing transactions. Shares under the Facility were sold pursuant to a prospectus which forms a part of a registration statement declared effective by the Securities and Exchange Commission on May 29, 2008. At the end of the third quarter of 2009, the Facility was no longer in effect, and no additional shares could be issued thereunder.

From the inception of the Facility in October of 2008 through December 31, 2009, the Company sold a total of 2,815,228 common shares to Azimuth for aggregate gross proceeds of $33.9 million. This included the sale of 0.3 million shares under the Facility in December of 2008 and 2.3 million shares in two transactions in September of 2009 that Azimuth agreed to purchase notwithstanding that the purchase prices were below the minimum price of $1.00 required by the Purchase Agreement. Under the terms of the Purchase Agreement, the Company negotiated a discount rate (excluding placement agent fees) of 8.86% for the sale in December of 2008 and 8.0% for the sales in September of 2009. Prior to the successful conclusion of negotiations, Azimuth was not obligated to purchase these shares. Offering expenses incurred from inception of the Facility through December 31, 2009 related to sales to Azimuth were $0.7 million.

In July of 2010, the Company entered into a common share purchase agreement (the "Purchase Agreement") with Azimuth Opportunity Ltd. ("Azimuth"), pursuant to which the Company obtained a committed equity line of credit facility (the "Facility") under which the Company could sell up to $30 million of its registered common shares to Azimuth over a 12-month period, subject to certain conditions and limitations. The Purchase Agreement provided that the Company could determine, in its sole discretion, the timing, dollar amount and floor price per share of each draw down under the Facility, subject to certain conditions and limitations and that the number and price of shares sold in each draw down were generally to be determined by a contractual formula designed to approximate fair market value, less a discount. The Purchase Agreement also provided that from time to time and in the Company's sole discretion, it could grant Azimuth the right to exercise one or more options to purchase additional common shares during each draw down pricing period for the amount of shares based upon the maximum option dollar amount and the option threshold price specified by the Company. The Company also agreed to issue 111,111 common shares to Azimuth upon execution of the agreement relating to the Facility, in consideration of Azimuth's execution and delivery of that agreement. Shares under the Facility and the shares the Company agreed to issue to Azimuth upon execution of the agreement relating to the Facility were sold pursuant to a prospectus which forms a part of a registration statement declared effective by the SEC on May 29, 2008. In August of 2010, the Company sold a total of 3,421,407 common shares under the Facility for aggregate gross proceeds of $14.2 million, representing the maximum number of shares that could be sold under the Facility. As a result, the Facility is no longer in effect, and no additional shares can be issued thereunder.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

11. Commitments and Contingencies

Collaborative Agreements, Royalties and Milestone Payments

The Company is obligated to pay royalties, ranging generally from 1.5% to 14% of the selling price of the licensed component and up to 40% of any sublicense fees to various universities and other research institutions based on future sales or licensing of products that incorporate certain products and technologies developed by those institutions.

In addition, the Company has committed to make potential future "milestone" payments to third parties as part of licensing and development programs. Payments under these agreements become due and payable only upon the achievement of certain developmental, regulatory and/or commercial milestones. Because it is uncertain if and when these milestones will be achieved, such contingencies, aggregating up to $97 million (assuming one product per contract meets all milestones events) have not been recorded on the consolidated balance sheet. The Company is unable to determine precisely when and if payment obligations under the agreements will become due as these obligations are based on milestone events, the achievement of which is subject to a significant number of risks and uncertainties.

Leases

As of December 31, 2010, the Company leased administrative, research facilities, and office equipment under operating leases expiring on various dates through May of 2014. These leases generally require the Company to pay taxes, insurance, maintenance and minimum lease payments.

The Company estimates future minimum lease commitments to be (in thousands):

	Operating Leases
2011	5,219
2012	4,883
2013	2,865
2014	785
Thereafter	-
Minimum lease payments	$ 13,752

Total rental expense, including other costs required under the Company's leases, was approximately $5.1 million, $5.2 million and $5.2 million for the years ended December 31, 2010, 2009 and 2008, respectively. Rental expense based on leases allowing for escalated rent payments are recognized on a straight-line basis. The Company is required to restore certain of its leased property to certain conditions in place at the time of lease. The Company believes these costs will not be material to its operations.

As a result of the restructuring in the second quarter of 2009, the Company vacated one of its leased buildings. Effective December of 2010, the Company entered into a sublease agreement for this building through May of 2014. The Company estimates future sublease income to be $0.4 million under this agreement.

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Legal Proceedings

On April 9, 2009, a complaint was filed in the Superior Court of Alameda County, California, in a lawsuit captioned Hedrick et al. v. Genentech, Inc. et al, Case No. 09-446158. The complaint asserts claims against Genentech, the Company and others for alleged strict liability for failure to warn, strict product liability, negligence, breach of warranty, fraudulent concealment, wrongful death and other claims based on injuries alleged to have occurred as a result of three individuals' treatment with RAPTIVA ®. The complaint seeks unspecified compensatory and punitive damages. Since then, additional complaints have been filed in the same court, bringing the total number of pending cases to fifty eight. All of the complaints allege the same claims and seek the same types of damages based on injuries alleged to have occurred as a result of the plaintiffs' treatment with RAPTIVA®. The Company's agreement with Genentech provides for an indemnity of XOMA and payment of legal fees by Genentech which the Company believes is applicable to this matter. The Company believes the claims against it to be without merit and intends to defend against them vigorously.

On August 4, 2010, a Petition was filed in the District Court of Dallas County, Texas in a case captioned McCall v. Genentech, Inc., et al., No. 10-09544. The defendants filed a Notice of Removal to the United States District Court for the Northern District of Texas on September 3, 2010. The removed case is captioned McCall v. Genentech, Inc., et al., No. 3:10-cv-01747-B. The parties have fully briefed the Plaintiff's Motion to Remand and are awaiting a final ruling from the Court. The Petition asserts personal injury claims against Genentech, the Company, and others arising out of the plaintiff's treatment with RAPTIVA ®. The Petition alleges claims based on negligence, strict liability, misrepresentation and suppression, conspiracy, and actual and constructive fraud. The Petition seeks compensatory damages and punitive damages in an unspecified amount. The Company's agreement with Genentech provides for an indemnity of XOMA and payment of legal fees by Genentech which the Company believes is applicable to this matter. The Company believes the claims against it to be without merit and intends to defend against them vigorously.

On January 7, 2011, a Complaint was filed in the United States District Court for the Northern District of Texas in a case captioned Massa v. Genentech, Inc., et al., No. 4:11CV70. The Complaint alleges the same claims and seeks the same types of damages as the Complaints filed in the Superior Court of Alameda County, referenced above. The Complaint asserts personal injury claims against Genentech and the Company arising out of the plaintiff's treatment with RAPTIVA ®. The Company's agreement with Genentech provides for an indemnity of XOMA and payment of legal fees by Genentech which the Company believes is applicable to this matter. The Company believes the claims against it to be without merit and intends to defend against them vigorously.

12. Concentration of Risk, Segment and Geographic Information

Concentration of Risk

Cash equivalents and receivables are financial instruments, which potentially subject the Company to concentrations of credit risk, as well as liquidity risk for certain cash equivalents such as money market funds. The Company has not encountered such issues during 2010.

The Company has not experienced any significant credit losses and does not generally require collateral on receivables. In 2010, three customers represented 64%, 13%, and 11% of total revenue and as of December 31, 2010, there were billed receivables of $19.7 million outstanding from two customers representing 72% and 23% of the accounts receivable balance.

In 2009, two customers represented 36% and 29% of total revenue and as of December 31, 2009, there were receivables of $5.7 million outstanding from three customers representing 90% of the accounts receivable balance. In 2008, three customers represented 31%, 30% and 20% of total revenue.

Segment Information

The Company has determined that it operates in one segment as it only reports operating results on an aggregate basis to the chief operating decision maker of the Company. The Company's property and equipment is held primarily in the United States.

Geographic Information

Revenue attributed to the following countries for each of the three years ended December 31, 2010, 2009 and 2008 was as follows (in thousands):

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

	Year ended December 31,		
	2010	2009	2008
United States	$ 25,306	$ 47,656	$ 62,262
Europe	4,728	613	1,351
Asia Pacific	3,607	50,161	4,374
Total	$ 33,641	$ 98,430	$ 67,987

13. Subsequent Events

Servier – Cash Receipts and Loan Agreement

In January of 2011, the Company received a non-refundable upfront cash payment of $15 million in connection with the license and collaboration agreement entered into with Servier in December of 2010. In addition, the Company also received the full €15 million, or approximately $20 million when converted using the 12/31/10 Exchange Rate, loan in connection with the loan agreement entered into with Servier in December of 2010.

The loan is secured by an interest in XOMA's intellectual property rights to all XOMA 052 indications worldwide, excluding certain rights in the U.S. and Japan territories. Interest is calculated at a floating rate based on a Euro Inter-Bank Offered Rate ("EURIBOR") and subject to a cap. The interest rate is reset semi-annually in January and July of each year. The interest rate for the initial interest period has been set at 3.22%. Interest is payable semi-annually; however, the loan agreement provides for a deferral of interest payments over a period determined by the parties. During the deferral period, accrued interest will be added to the outstanding principal amount for the purpose of interest calculation for the next six month interest period. On the repayment commencement date, all unpaid and accrued interest shall be paid to Servier, and thereafter, all accrued and unpaid interest shall be due and payable at the end of each six-month period. The loan has a final maturity date in 2016; however, after a specified period prior to final maturity, the loan (i) may be repaid at Servier's option, by applying up to a significant percentage of any milestone or royalty payments owed by Servier under the Company's collaboration agreement and (ii) will be repaid by using a significant percentage of any upfront, milestone or royalty payments the Company receives from any third party collaboration or development partner for rights to XOMA 052 in the U.S. and/or Japan. In addition, the loan becomes immediately due and payable upon certain customary events of default.

2011 ATM Agreement

On February 4, 2011, the Company entered into an At Market Issuance Sales Agreement (the "2011 ATM Agreement"), with McNicoll, Lewis & Vlak LLC ("MLV"), under which the Company may sell common shares from time to time through MLV, as its agent for the offer and sale of the common shares, in an aggregate amount not to exceed the amount that can be sold under the Company's registration statement on Form S-3 (File No. 333-172197) filed with the SEC on February 11, 2011, once such registration statement has been declared effective by the SEC. MLV may sell the common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. MLV may also sell the common shares in privately negotiated transactions, subject to the Company's prior approval. The Company will pay MLV a commission equal to 3% of the gross proceeds of the sales price of all common shares sold through them as sales agent under the 2011 ATM Agreement. As of March 8, 2011, the Company has not sold any common shares under the 2011 ATM Agreement.

XOMA Ltd.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - (Continued)

14. Quarterly Financial Information (unaudited)

The following is a summary of the quarterly results of operations for the years ended December 31, 2010 and 2009:

	Consolidated Statements of Operations			
	Quarter Ended			
	March 31	June 30	September 30	December 31
	(In thousands, except per share amounts)			
2010				
Total revenues [1]	$ 7,202	$ 5,942	$ 10,897	$ 9,601
Total operating costs and expenses [2]	23,140	24,372	27,542	25,691
Other income (expense), net	(5,847)	2,866	3,013	(1,657)
Net loss	(21,785)	(15,580)	(13,633)	(17,758)
Basic net loss per common share	$ (1.36)	$ (0.93)	$ (0.69)	$ (0.84)
Diluted net loss per common share	$ (1.36)	$ (0.93)	$ (0.69)	$ (0.84)
2009				
Total revenues [1]	$ 39,704	$ 9,706	$ 27,423	$ 21,597
Total operating costs and expenses [2]	25,930	19,474	20,643	19,423
Other expense, net [3]	(1,735)	(529)	(4,872)	453
Net income (loss)	6,239	(10,210)	1,538	2,983
Basic net income (loss) per common share	$ 0.66	$ (1.02)	$ 0.14	$ 0.22
Diluted net income (loss) per common share	$ 0.64	$ (1.02)	$ 0.13	$ 0.22

(1) Revenue in the third quarter of 2010 includes a non-recurring fee of $4.0 million related to the sale of the Company's CIMZIA® royalty interest to an undisclosed buyer. Revenue in the first quarter of 2009 includes a non-recurring fee of $28.1 million related to the expansion of the Company's collaboration agreement with Takeda. Revenue in the third quarter of 2009 includes a non-recurring fee of $22.3 million related to the sale of the LUCENTIS® royalty interest to Genentech. Revenue in the fourth quarter of 2009 includes fees of $14.0 million related to two antibody discovery collaborations.

(2) Operating expenses in the third quarter of 2010 includes increased spending on NIAID 3 due to increased activity under the contract. Operating expenses in the first and second quarters of 2009 include restructuring expense of $3.3 million and $0.3 million, respectively.

(3) Other expense in the first and fourth quarters of 2010 primarily relates to the revaluation of the warrant liabilities of $5.8 million and $2.5 million, respectively. Other income in the second and third quarters of 2010 primarily relates to the revaluation of the warrant liabilities of $3.0 million and $3.1 million, respectively. Other expense for the third quarter of 2009 includes a loss of $3.6 million on debt extinguishment relating to the repayment of the Goldman Sachs term loan. Other income in the second, third and fourth quarter of 2009 of $1.0 million, $0.2 million and $0.6 million, respectively was recorded relating to the revaluation of the warrant liabilities in 2009.

Exhibit Number	Index to Exhibits
1.1	Underwriting Agreement dated February 2, 2010 (Exhibit 10.1)[1]
3.1	Memorandum of Continuance of XOMA Ltd. (Exhibit 3.4)[2]
3.2	Bye-Laws of XOMA Ltd. (as amended) (Exhibit 3.2)[3]
4.1	Shareholder Rights Agreement dated as of February 26, 2003 by and between XOMA Ltd. and Mellon Investor Services LLC as Rights Agent (Exhibit 4.1)[3]
4.1A	Amendment to Shareholder Rights Agreement dated December 21, 2010 between XOMA Ltd. and Wells Fargo Bank, N.A. as Rights Agent*
4.2	Resolution Regarding Preferences and Rights of Series A Preference Shares (Exhibit A to Exhibit 4.1)[3]
4.3	Resolution Regarding Preferences and Rights of Series B Preference Shares (Exhibit B to Exhibit 3)[4]
4.4	Indenture between XOMA Ltd. and Wells Fargo Bank, National Association, as trustee, relating to the Company's 6.50% Convertible SNAPs$_{SM}$ due February 1, 2012 (Exhibit 2)[5]
4.5	Form of Warrant (May 2009 Warrants) (Exhibit 10.2)[6]
4.5A	Form of Amended and Restated Warrant (May 2009 Warrants) (Exhibit 10.5)[1]
4.6	Form of Warrant (June 2009 Warrants) (Exhibit 10.2)[7]
4.6A	Form of Amended and Restated Warrant (June 2009 Warrants) (Exhibit 10.6)[1]
4.7	Form of Warrant (February 2010 Warrants) (Exhibit 10.2)[1]
10.1	1981 Share Option Plan as amended and restated (Exhibit 10.1)[8]
10.1A	Form of Share Option Agreement for 1981 Share Option Plan (Exhibit 10.1A)[9]
10.2	Restricted Share Plan as amended and restated (Exhibit 10.2)[8]
10.2A	Form of Share Option Agreement for Restricted Share Plan (Exhibit 10.2A)[9]
10.3	2007 CEO Share Option Plan (Exhibit 10.7)[10]
10.4	1992 Directors Share Option Plan as amended and restated (Exhibit 10.3)[8]
10.4A	Form of Share Option Agreement for 1992 Directors Share Option Plan (initial grants) (Exhibit 10.3A)[9]
10.4B	Form of Share Option Agreement for 1992 Directors Share Option Plan (subsequent grants) (Exhibit 10.3B)[9]
10.5	2002 Director Share Option Plan (Exhibit 10.10)[11]
10.6	2010 Long Term Incentive and Share Award Plan (Exhibit 10.5)[8]
10.6A	Form of Share Option Agreement for 2010 Long Term Incentive and Share Award Plan (Exhibit 10.5A)[8]
10.7	Management Incentive Compensation Plan as amended and restated (Exhibit 10.3)[12]
10.7A	CEO Incentive Compensation Plan (Exhibit 10.4A)[9]
10.7B	Bonus Compensation Plan (Exhibit 10.4B)[9]

10.8	1998 Employee Share Purchase Plan as amended and restated (Exhibit 10.4)[8]
10.9	Form of Amended and Restated Indemnification Agreement for Officers (Exhibit 10.6)[13]
10.9A	Form of Amended and Restated Indemnification Agreement for Employee Directors (Exhibit 10.7)[13]
10.9B	Form of Amended and Restated Indemnification Agreement for Non-employee Directors (Exhibit 10.8)[13]
10.10	Amended and Restated Employment Agreement entered into between XOMA (US) LLC and Steven B. Engle, dated as of December 30, 2008 (Exhibit 10.7)[14]
10.10A	Amended and Restated Employment Agreement entered into between XOMA (US) LLC and Patrick J. Scannon, dated as of December 30, 2008 (Exhibit 10.7A)[14]
10.10B	Amended and Restated Employment Agreement entered into between XOMA (US) LLC and Fred Kurland, dated as of December 29, 2008 (Exhibit 10.7B)[14]
10.10C	Amended and Restated Employment Agreement entered into between XOMA (US) LLC and Christopher J. Margolin, dated as of December 30, 2008 (Exhibit 10.7C)[14]
10.10D	Amended and Restated Employment Agreement entered into between XOMA (US) LLC and Charles C. Wells, dated as of December 30, 2008 (Exhibit 10.7D)[14]
10.11	Consulting Agreement effective as of August 3, 2007 between XOMA (US) LLC and John L. Castello (Exhibit 10.8)[10]
10.12	Form of Change of Control Severance Agreement entered into between XOMA Ltd. and certain of its executives, with reference schedule*
10.13	Lease of premises at 890 Heinz Street, Berkeley, California dated as of July 22, 1987 (Exhibit 10.12)[5]
10.14	Lease of premises at Building E at Aquatic Park Center, Berkeley, California dated as of July 22, 1987 and amendment thereto dated as of April 21, 1988 (Exhibit 10.13) [15]
10.15	Lease of premises at Building C at Aquatic Park Center, Berkeley, California dated as of July 22, 1987 and amendment thereto dated as of August 26, 1987 (Exhibit 10.14)[15]
10.16	Letter of Agreement regarding CPI adjustment dates for leases of premises at Buildings C, E and F at Aquatic Park Center, Berkeley, California dated as of July 22, 1987 (Exhibit 10.15)[15]
10.17	Lease of premises at 2910 Seventh Street, Berkeley, California dated March 25, 1992 (Exhibit 10.16)[5]
10.17A	Fifth amendment to lease of premises at 2910 Seventh Street, Berkeley, California dated June 1, 2006 (Exhibit 10.58)[16]
10.18	Lease of premises at 5860 and 5864 Hollis Street, Emeryville, California dated as of November 2, 2001 (with addendum) (Exhibit 10.19)[7]
10.19	Lease of premises at 2850 Seventh Street, Second Floor, Berkeley, California dated as of December 28, 2001 (with addendum and guaranty) (Exhibit 10.20)[17]
10.20	Amended and Restated Research and License Agreement dated September 1, 1993, between the Company and New York University (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.28)[15]
10.20A	Third Amendment to License Agreement dated June 12, 1997, between the Company and New York University (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.28A)[15]
10.20B	Fourth Amendment to License Agreement dated December 23, 1998, between the Company and New York University (Exhibit 10.22B)[8]
10.20C	Fifth Amendment to License Agreement dated June 25, 1999, between the Company and New York University (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.21C)[19]

10.20D	Sixth Amendment to License Agreement dated January 25, 2000, between the Company and New York University (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.1)[20]
10.20E	Seventh Amendment to License Agreement by and among New York University, XOMA Technology Limited and XOMA Ireland Limited effective as of November 10, 2004 (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 3)[21]
10.21	Second Amended and Restated Collaboration Agreement dated January 12, 2005, by and between XOMA (US) LLC and Genentech, Inc. (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission)[22]
10.21A	Agreement related to LUCENTIS® License Agreement and RAPTIVA® Collaboration Agreement dated September 9, 2009, by and between XOMA (Bermuda) Ltd., XOMA (US) LLC and Genentech, Inc. (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.18A)[23]
10.22	License Agreement by and between XOMA Ireland Limited and MorphoSys AG, dated as of February 1, 2002 (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.43)[24]
10.23	Amended and Restated License Agreement by and between XOMA Ireland Limited and DYAX Corp., dated as of October 27, 2006 (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.32)[13]
10.24	License Agreement by and between XOMA Ireland Limited and Cambridge Antibody Technology Limited, dated as of December 22, 2002 (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.46)[3]
10.25	License Agreement, dated as of December 29, 2003, by and between Diversa Corporation and XOMA Ireland Limited (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 2)[25]
10.25A	GSSM License Agreement, effective as of May 2, 2008, by and between Verenium Corporation and XOMA Ireland Limited (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed seperately with the Securities and Exchange Commission)*
10.26	Agreement, dated February 27, 2004, by and between Chiron Corporation and XOMA (US) LLC (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.50)[26]
10.26A	Research, Development and Commercialization Agreement, dated as of May 26, 2005, by and between Chiron Corporation and XOMA (US) LLC (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.2)[27]
10.26B	Secured Note Agreement, dated as of May 26, 2005, by and between Chiron Corporation and XOMA (US) LLC (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.3)[27]
10.26C	Amended and Restated Research, Development and Commercialization Agreement, executed November 7, 2008, by and between Novartis Vaccines and Diagnostics, Inc. (formerly Chiron Corporation) and XOMA (US) LLC (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission)[28]
10.26D	Manufacturing and Technology Transfer Agreement, executed December 16, 2008, by and between Novartis Vaccines and Diagnostics, Inc. (formerly Chiron Corporation) and XOMA (US) LLC (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission)[28]

10.27	Collaboration Agreement, dated as of September 23, 2004, by and between Aphton Corporation and XOMA (US) LLC (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 2)[29]
10.28	Agreement dated March 8, 2005, between XOMA (US) LLC and the National Institute of Allergy and Infectious Diseases (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.53)[22]
10.28A	Agreement dated July 28, 2006, between XOMA (US) LLC and the National Institute of Allergy and Infectious Diseases (Exhibit 10.60)[16]
10.28B	Agreement dated September 15, 2008, between XOMA (US) LLC and the National Institute of Allergy and Infectious Diseases (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.39)[30]
10.28C	Second Amendment to Agreement dated September 15, 2008, between XOMA (US) LLC and the National Institute of Allergy and Infectious Diseases (Exhibit 10.24C) [31]
10.29	License Agreement, effective as of June 20, 2005, by and between Merck & Co., Inc. and XOMA Ireland Limited (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.4)[27]
10.30	Form of Dealer Manager Agreement relating to the Company's 6.50% Convertible SNAPs$_{SM}$ due February 1, 2012 (Exhibit 1.1)[32]
10.30A	Form of Placement Agreement relating to the Company's 6.50% Convertible SNAPs$_{SM}$ due February 1, 2012 (Exhibit 1.2)[32]
10.31	Collaboration Agreement dated as of May 22, 2006, by and between Schering Corporation, acting through its Schering-Plough Research Institute division, and XOMA (US) LLC (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.59)[16]
10.32	Collaboration Agreement, dated as of November 1, 2006, between Takeda Pharmaceutical Company Limited and XOMA (US) LLC (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.46)[13]
10.32A	First Amendment to Collaboration Agreement, effective as of February 28, 2007, between Takeda Pharmaceutical Company Limited and XOMA (US) LLC (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.48)[33]
10.32B	Second Amendment to Collaboration Agreement, effective as of February 9, 2009, among Takeda Pharmaceutical Company Limited and XOMA (US) LLC (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission)[28]
10.33	Loan Agreement, dated as of November 9, 2006, between Goldman Sachs Specialty Lending Holdings, Inc., XOMA (US) LLC and XOMA Ltd. (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.47)[13]
10.33A	Amended & Restated Loan Agreement, dated as of May 9, 2008 between Goldman Sachs Specialty Lending Holdings, Inc., XOMA Ltd. and XOMA (US) LLC (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.37)[34]
10.34	License Agreement, effective as of August 27, 2007, by and between Pfizer Inc. and XOMA Ireland Limited (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 2)[35]

10.35	Common Stock Purchase Agreement, dated as of October 21, 2008, by and between XOMA Ltd. and Azimuth Opportunity Ltd. (Exhibit 10.1)[36]
10.35A	Common Stock Purchase Agreement, dated as of July 23, 2010, by and between XOMA Ltd. and Azimuth Opportunity Ltd. (Exhibit 10.1)[37]
10.36	Securities Purchase Agreement dated May 15, 2009, between XOMA Ltd. and the investors named therein (Exhibit 10.1)[6]
10.36A	Engagement Letter dated May 15, 2009 (Exhibit 10.3)[6]
10.36B	Securities Purchase Agreement dated June 5, 2009, between XOMA Ltd. and the investors named therein (Exhibit 10.1)[7]
10.36C	Engagement Letter dated June 4, 2009 (Exhibit 10.3)[7]
10.37	Discovery Collaboration Agreement dated September 9, 2009, by and between XOMA Development Corporation and Arana Therapeutics Limited (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.35) [38]
10.38	At Market Issuance Sales Agreement dated July 14, 2009, between XOMA Ltd. and Wm Smith & Co. (Exhibit 10.36)[23]
10.38A	At Market Issuance Sales Agreement dated October 26, 2010, between XOMA Ltd. and Wm Smith & Co. and McNicholl, Lewis & Vlak LLC (Exhibit 10.1) [39]
10.38B	At Market Issuance Sales Agreement dated February 4, 2011, between XOMA Ltd. and McNicholl, Lewis & Vlak LLC (Exhibit 1.2)[40]
10.39	Discovery Collaboration Agreement dated October 29, 2009, by and between XOMA Development Corporation and The Chemo-Sero-Therapeutic Research Institute (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission)[28]
10.40	Warrant Amendment Agreement dated February 2, 2010 (May 2009 Warrants) (Exhibit 10.3)[1]
10.40A	Form of Warrant Amendment Agreement dated February 2, 2010 (June 2009 Warrants) (Exhibit 10.4)[1]
10.41	Royalty Purchase Agreement, dated as of August 12, 2010, by and among XOMA CDRA LCC, XOMA (US) LLC, XOMA Ltd. and the buyer named therein (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission) (Exhibit 10.38) [31]
10.42	Collaboration and License Agreement dated as of December 30, 2010, by and between XOMA Ireland Limited, Les Laboratoires Servier and Institut de Recherches Servier (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission)*
10.42A	Loan Agreement dated as of December 30, 2010, by and between XOMA Ireland Limited and Les Laboratoires Servier (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission)*
21.1	Subsidiaries of the Company*
23.1	Consent of Independent Registered Public Accounting Firm*
31.1	Certification of Steven B. Engle, filed pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*
31.2	Certification of Fred Kurland, filed pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*
32.1	Certification of Steven B. Engle, furnished pursuant to Section 906 of the Sarbanes-Oxley Act of 2002*
32.2	Certification of Fred Kurland, furnished pursuant to Section 906 of the Sarbanes-Oxley Act of 2002*
99.1	Press Release dated March 10, 2011 furnished herewith

Footnotes:

Footnotes:

*	Filed herewith.
1	Incorporated by reference to the referenced exhibit to the Company's Current Report on Form 8-K filed February 2, 2010.
2	Incorporated by reference to the referenced exhibit to the Company's Registration Statement on Form S-4 filed November 27, 1998, as amended.
3	Incorporated by reference to the referenced exhibit to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2002.
4	Incorporated by reference to the referenced exhibit to the Company's Amendment No. 1 to Form 8-K/A filed April 18, 2003.
5	Incorporated by reference to the referenced exhibit to the Company's Current Report on Form 8-K filed February 13, 2006.
6	Incorporated by reference to the referenced exhibit to the Company's Current Report on Form 8-K filed May 19, 2009.
7	Incorporated by reference to the referenced exhibit to the Company's Current Report on Form 8-K filed June 10, 2009.
8	Incorporated by reference to the referenced exhibit to the Company's Registration Statement on Form S-8 (File No. 333-171429) filed December 27, 2010.
9	Incorporated by reference to the referenced exhibit to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007, as amended.
10	Incorporated by reference to the referenced exhibit to the Company's Current Report on Form 8-K filed August 7, 2007.
11	Incorporated by reference to the referenced exhibit to the Company's Registration Statement on Form S-8 (File No. 333-151416) filed June 4, 2008.
12	Incorporated by reference to the referenced exhibit to the Company's Current Report on Form 8-K filed November 6, 2007.
13	Incorporated by reference to the referenced exhibit to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2006.
14	Incorporated by reference to the referenced exhibit to the Company's Amendment No. 2 to Annual Report on Form 10-K/A for the fiscal year ended December 31, 2009.
15	Incorporated by reference to the referenced exhibit to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1997, as amended.
16	Incorporated by reference to the referenced exhibit to the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2006.
17	Incorporated by reference to the referenced exhibit to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2001.
18	Incorporated by reference to the referenced exhibit to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1998.
19	Incorporated by reference to the referenced exhibit to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1999.
20	Incorporated by reference to the referenced exhibit to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2000.
21	Incorporated by reference to the referenced exhibit to the Company's Amendment No. 1 on Form 8-K/A filed November 30, 2004.
22	Incorporated by reference to the referenced exhibit to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2004.
23	Incorporated by reference to the referenced exhibit to the Company's Quarterly Report on Form 10-Q for the quarterly period ended Septemer 30, 2009 filed November 9, 2009.
24	Incorporated by reference to the referenced exhibit to Amendment No. 2 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2002 filed on December 12, 2002.
25	Incorporated by reference to the referenced exhibit to the Company's Amendment No. 2 on Form 8-K/A filed March 19, 2004.
26	Incorporated by reference to the referenced exhibit to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2003.
27	Incorporated by reference to the referenced exhibit to the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2005.
28	Incorporated by reference to the referenced exhibit to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2009.
29	Incorporated by reference to the referenced exhibit to the Company's Amendment No. 1 on Form 8-K/A filed October 26, 2004.
30	Incorporated by reference to the referenced exhibit to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008.
31	Incorporated by reference to the referenced exhibit to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2010 filed on November 4, 2010.
32	Incorporated by reference to the referenced exhibit to Amendment No. 2 to the Company's Registration Statement on Form S-4 filed January 11, 2006.
33	Incorporated by reference to the referenced exhibit to Amendment No. 1 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2007 filed on March 5, 2010.
34	Incorporated by reference to the referenced exhibit to Amendment No. 2 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2008 filed on March 5, 2010.
35	Incorporated by reference to the referenced exhibit to the Company's Current Report on Form 8-K filed September 13, 2007.
36	Incorporated by reference to the referenced exhibit to the Company's Current Report on Form 8-K filed October 22, 2008.
37	Incorporated by reference to the referenced exhibit to the Company's Current Report on Form 8-K filed July 23, 2010.
38	Incorporated by reference to the referenced exhibit to Amendment No. 1 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2009 filed on March 5, 2010.
39	Incorporated by reference to the referenced exhibit to the Company's Current Report on Form 8-K filed October 26, 2010.
40	Incorporated by reference to the referenced exhibit to the Company's Registration Statement on Form S-3 (File No. 333-172197) filed February 11, 2011.

EXHIBIT 4.1A

December 21, 2010

Wells Fargo Shareowner Services
Attn: Marcus Blue
161 North Concord Exchange
South St. Paul, MN 55075

Re: Rights Agreement of XOMA Ltd., a Bermuda company ("XOMA")

Dear Mr. Blue:

As you are aware, XOMA is a party to that certain Shareholder Rights Agreement dated as of February 26, 2003, by and between XOMA and Mellon Investor Services LLC (now BNY Mellon Shareowner Services), as rights agent (the "Existing Rights Agent") (as amended, supplemented or otherwise modified prior to the date hereof, the 'Rights Agreement"). XOMA has removed the Existing Rights Agent under the Rights Agreement effective as of December 21, 2010.

Pursuant to Sections 2 ("Appointment of Rights Agent") and 21 ("Change of Rights Agent") of the Rights Agreement, XOMA hereby appoints Wells Fargo Bank, N.A. as the Rights Agent under the Rights Agreement effective as of December 21, 2010 (in such capacity, the "New Rights Agent"). Please acknowledge the New Rights Agent's acceptance of such appointment by executing this letter where indicated below and returning a fully executed copy of this letter to the attention of the undersigned.

In addition, pursuant to Section 27 ("Supplements and Amendments") of the Rights Agreement, the Rights Agreement is hereby amended, as follows:

(a) to include a new Section 34 ("Electronic Records"), which shall read as set forth below:

> "Section 34. Electronic Records. Subject to applicable law and regulation, the Rights Agent shall maintain in a retrievable database electronic records of all cancelled or destroyed share certificates which have been canceled or destroyed by the Rights Agent. The Rights Agent shall maintain such electronic records or physical records for the time period required by applicable law and regulation. Upon written request of the Company (and at the expense of the Company), the Rights Agent shall provide to the Company or its designee copies of such electronic records or physical records relating to rights certificates cancelled or destroyed by the Rights Agent."

and (b) Section 26 ("Notices") is hereby amended to delete in its entirety the reference to the Existing Rights Agent and the address thereof and insert in its place the following language:

"Wells Fargo Bank, N.A.
161 North Concord Exchange
South St. Paul, MN 55075
Attn: Marcus Blue"

This letter shall be governed by and construed in accordance with the laws of Bermuda, without regard to the conflicts of law or choice of law provisions thereof~~provided~~, however, that all provisions regarding the rights, duties and obligations of the Rights Agent shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely within such State.

Except as expressly amended by this letter, the provisions of Rights Agreement shall remain in full force and effect, without modification, and this letter shall not be deemed to constitute a novation of the Rights Agreement.

Sincerely,

XOMA Ltd.

By: _____
Name: Christopher J. Margolin
Title Vice President, General Counsel
and Secretary

ACCEPTED AND AGREED:

Wells Fargo Bank, N.A.

By: _____
Name: Jeffrey E. Seadschlag
Title: Vice President

FORM OF

XOMA LTD.

AMENDED AND RESTATED

CHANGE OF CONTROL SEVERANCE AGREEMENT

This Amended and Restated Change of Control Severance Agreement (the "Agreement") is made and entered into effective as of _____, 200_ (the "Effective Date"), by and between _____ (the "Employee") and XOMA Ltd., a Bermuda company (the "Company").

R E C I T A L S

A. It is expected that the Company may from time to time consider the possibility of a Change of Control (as hereinafter defined). The Board of Directors of the Company (the "Board") recognizes that such consideration could be a distraction to the Employee and could cause the Employee to consider alternative employment opportunities.

B. The Board believes that it is in the best interest of the Company and its shareholders to provide the Employee with an incentive to continue the Employee's employment and to maximize the value of the Company upon a Change of Control for the benefit of its shareholders.

C. In order to provide the Employee with enhanced financial security and sufficient encouragement to remain with the Company notwithstanding the possibility of a Change of Control, the Company and the Employee entered into a Change of Control Severance Agreement effective as of _____, 200_ (the "Original Agreement") to provide the Employee with certain severance benefits upon the Employee's termination of employment following a Change of Control.

D. The Company and the Employee wish to enter into this Agreement to amend and restate the Original Agreement.

E. XOMA (US) LLC, a wholly-owned subsidiary of the Company, and the Employee have previously entered into an employment agreement effective as of _____, 200_, which has been amended and restated effective as of _____, 200_ (the "Existing Agreement") and provides the Employee with certain severance benefits upon the Employee's termination of employment.

F. The parties intend that this Agreement shall operate in addition to, and not in replacement of, the Existing Agreement.

AGREEMENT

In consideration of the mutual covenants herein contained and the continued employment of the Employee by the Company, the parties agree as follows:

1. Definition of Terms. The following terms referred to in this Agreement shall have the following meanings:

(a) "Cause" shall mean (i) the Employee has been convicted of any crime or offense constituting a felony under applicable law, including, without limitation, any act of dishonesty such as embezzlement, theft or larceny, (ii) the Employee has acted or refrained from acting in respect of any of the duties and responsibilities which have been assigned to her/him in accordance with this Agreement or the Existing Agreement and shall fail to desist from such action or inaction within thirty (30) days after the Employee's receipt of notice from the Company of such action or inaction and the Board determines that such action or inaction constituted gross negligence or a willful act of malfeasance or misfeasance of the Employee in respect of such duties, or (iii) the Employee has breached any material term of this Agreement or the Existing Agreement and shall fail to correct such breach within thirty (30) days after the Employee's receipt of notice from the Company of such breach.

(b) "Change of Control" shall mean the occurrence of any of the following events:

(i) a merger, amalgamation or acquisition in which the Company is not the surviving or continuing entity, except for a transaction the principal purpose of which is to change the jurisdiction of the Company's organization;

(ii) the sale, transfer or other disposition of all or substantially all of the assets of the Company;

(iii) any other reorganization or business combination in which fifty percent (50%) or more of the Company's outstanding voting securities are transferred to different holders in a single transaction or series of related transactions;

(iv) any approval by the shareholders of the Company of a plan of complete liquidation of the Company;

(v) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended) becoming the "beneficial owner" (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the total voting power represented by the Company's then outstanding voting securities; or

(vi) a change in the composition of the Board, as a result of which fewer than a majority of the directors are Incumbent Directors. "Incumbent Directors" shall mean directors who (A) are directors of the Company as of the date hereof, (B) are elected, or nominated for election, to the Board with the affirmative votes of the directors of the Company as of the date hereof, or (C) are elected, or nominated for election, to the Board with the affirmative votes of at least a majority of those directors whose election or nomination was not in connection with any transaction described in subsections (i) through (v) or in connection with an actual or threatened proxy contest relating to the election of directors of the Company.

(c) "Change of Control Protection Period" shall mean the period commencing one (1) month prior to the execution of the definitive agreement for a Change of Control and eighteen (18) months following the closing of a Change of Control.

(d) "Compensation Continuation Period" shall mean the period of time commencing with termination of the Employee's employment as a result of Involuntary Termination at any time within a Change of Control Protection Period and ending with the date _____ months following the date of the Employee's Involuntary Termination.

(e) "Code" shall mean the Internal Revenue Code of 1986, as amended.

(f) "Involuntary Termination" shall mean (i) the failure of a successor or an acquiring company to offer the Employee the position held by Employee on the date of this Agreement (or, if higher, a subsequent position of the Employee) with the successor or acquiring company following a Change of Control; (ii) without the Employee's express written consent, a substantial reduction, without good business reasons, of the rights, privileges and perquisites available to the Employee immediately prior to such reduction; (iii) without the Employee's express written consent, a material diminution in the authority, responsibilities, duties or reporting lines held or possessed by the Employee prior to the Change of Control; (iv) without the Employee's express written consent, a reduction by the Company of the Employee's base salary or target bonus as in effect immediately prior to such reduction; (v) without the Employee's express written consent, a material reduction by the Company in the kind or level of employee benefits to which the Employee is entitled immediately prior to such reduction with the result that the Employee's overall benefits package is significantly reduced; (vi) without the Employee's express written consent, the relocation of the regular offices of the Employee to a facility or a location more than thirty (30) miles further from the Employee's current location (unless such new facility or location is closer to the Employee's residence); (vii) any purported termination of the Employee by the Company which is not effected for Cause or for which the grounds relied upon are not valid; or (viii) the failure of the Company to obtain the assumption of this Agreement by any successors contemplated in Section 7 below.

2. Term of Agreement. This Agreement shall terminate upon the date that all obligations of the parties hereto under this Agreement have been satisfied or, if earlier, on the date, prior to a Change of Control Protection Period, the Employee is no longer employed by the Company.

3. At-Will Employment. The Company and the Employee acknowledge that the Employee's employment is and shall continue to be at-will, as defined under applicable law. If the Employee's employment terminates for any reason, the Employee shall not be entitled to any payments, benefits, damages, awards or compensation other than as provided by this Agreement or the Existing Agreement or as may otherwise be established under the Company's then existing employee benefit plans or policies at the time of termination.

4. Change of Control and Severance Benefits.

(a) Option Acceleration and Extended Exercise Period. If the Employee's employment with the Company terminates as a result of an Involuntary Termination at any time within a Change of Control Protection Period, then the exercisability of all options granted to the Employee by the Company (including any such options granted or assumed by the surviving or continuing entity of the Change of Control) and still outstanding (the "Options") shall automatically be accelerated so that all the Options may be exercised immediately upon such Involuntary Termination for any or all of the shares subject thereto and the post-termination exercise period of each Option shall be extended to sixty (60) months (but in no event beyond the remainder of the maximum term of the Option). The Options shall continue to be subject to all other terms and conditions of the Company's share option plans and the applicable option agreements between the Employee and the Company.

(b) Outplacement Program. If the Employee's employment with the Company terminates as a result of an Involuntary Termination at any time within a Change of Control Protection Period, the Employee will immediately become entitled to participate in a twelve (12) month executive outplacement program provided by an executive outplacement service, at the Company's expense not to exceed fifteen thousand dollars ($15,000).

(c) Termination Following a Change of Control.

(i) Cash Severance Payment Upon Involuntary Termination. If the Employee's employment with the Company terminates as a result of an Involuntary Termination at any time within a Change of Control Protection Period, then the Employee shall be entitled to receive a severance payment equal to the sum of (A) an amount equal to ____ times the Employee's annual base salary as in effect immediately prior to the Involuntary Termination, plus (B) an amount equal to ____ times Employee's target bonus as in effect for the fiscal year in which the Involuntary Termination occurs. Such severance payments shall be in lieu of any other severance payment to which the Employee shall be entitled as a result of such termination pursuant to this Agreement, any employment agreement with or offer letter from the Company or any of its affiliates or the Company's or any of its affiliate's then existing severance plans and policies. The severance payment described in Section 4(c)(i)(A) shall be paid in monthly installments over [ ] months (the "Severance Payment Period"), with the first two (2) of such monthly installments being paid sixty (60) days after the date of termination and the remaining monthly installments being paid monthly thereafter until fully paid, and the severance payments described in Section 4(c)(i)(B) shall be paid in a lump sum sixty (60) days after the date of termination; provided, however, that all of such severance payments shall be subject to the requirements of Section 4(c)(iii) and Section 9 below.

(ii) Provision of Group Health and Certain Other Benefits. In addition, during a period of _____ months following the termination of Employee's employment as a result of an Involuntary Termination at any time within a Change of Control Protection Period, (A) the Company shall make available and pay for the full cost of the coverage (plus an additional amount to pay for the taxes on such payments, if any, plus any taxes on such additional amount, such amount to be paid no later than ten (10) days prior to the date such taxes are due) of the Employee and Employee's spouse and eligible dependents under any group health plans of the Company on the date of such termination of employment at the same level of health (i.e., medical, vision and dental) coverage and benefits as in effect for the Employee or such covered dependents on the date immediately preceding the date of the Employee's termination; provided, however, that (1) the Employee and Employee's spouse and eligible dependents each constitutes a qualified beneficiary, as defined in Section 4980B(g)(1) of the Internal Revenue Code of 1986, as amended; and (2) the Employee elects continuation coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), within the time period prescribed pursuant to COBRA; and (B) if Employee is, at the time of such termination, an eligible participant in the Company's mortgage differential program, the Company shall continue to make mortgage assistance payments to Employee pursuant to such program as in effect at the time of such termination. Notwithstanding the foregoing, the payments by the Company for such group health coverage and/or mortgage assistance, as applicable, shall cease prior to the expiration of the _____ month period in this Section 4(c)(ii) upon the employment of the Employment by another employer. Furthermore, if, at the time of the termination of Employee's employment as a result of an Involuntary Termination at any time within a Change of Control Protection Period, Employee is the obligor of a "forgivable" loan (i.e., a loan which by its terms is to be considered forgiven by the Company and paid by the obligor in circumstances other than actual repayment) from the Company, then, notwithstanding any provisions of such loan to the contrary, such loan shall remain outstanding, and the forgiveness thereof shall continue, for a period of _____ months following such termination in accordance with the terms of such loan in effect at the time of such termination; *provided, however,* that at the end of such period of _____ months, the outstanding balance of such loan shall be immediately due and payable, together with any accrued and unpaid interest thereon.

(iii) Section 409A of the Code. Notwithstanding any provision to the contrary in this Agreement, if the Employee is deemed on the date of his or her "separation from service" (within the meaning of Treas. Reg. Section 1.409A-1(h)) with the Company to be a "specified employee" (within the meaning of Treas. Reg. Section 1.409A-1(i)), then with regard to any payment or benefit (including, without limitation, any mortgage assistance payment or loan forgiveness referred to above) that is considered deferred compensation under Section 409A payable on account of a "separation from service" that is required to be delayed pursuant to Section 409A(a)(2)(B) of the Code (after taking into account any applicable exceptions to such requirement), such payment or benefit shall be made or provided on the date that is the earlier of (i) the expiration of the six (6)-month period measured from the date of the Employee's "separation from service," or (ii) the date of the Employee's death (the "Delay Period"). Upon the expiration of the Delay Period, all payments and benefits delayed pursuant to this Section 4(c) (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid or reimbursed to the Employee in a lump sum and any remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein. Notwithstanding any provision of this Agreement to the contrary, for purposes of any provision of this Agreement providing for the payment of any amounts or benefits upon or following a termination of employment, references to the Employee's "termination of employment" (and corollary terms) with the Company shall be construed to refer to Employee's "separation from service" (within the meaning of Treas. Reg. Section 1.409A-1(h)) with the Company.

(iv) Voluntary Resignation or Termination for Cause. If the Employee's employment with the Company terminates as a result of the Employee's voluntary resignation which is not an Involuntary Termination or if the Employee is terminated for Cause at any time after a Change of Control, then the Employee shall not be entitled to receive severance or other benefits hereunder, but may be eligible for those benefits (if any) as may then be established under the Company's then existing severance and benefits plans and policies at the time of such termination.

(d) Disability or Death. If the Employee's employment with the Company terminates due to the Employee's death or disability following a Change of Control, then the Employee shall not be entitled to receive severance or other benefits hereunder, except for those (if any) as may be then established under the Company's then existing severance and benefits plans and policies at the time of such disability or death. In the event of the Employee's death or disability after the termination of the Employee's employment with the Company as a result of an Involuntary Termination within a Change of Control Protection Period, the Employee's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees shall be entitled to receive severance or other benefits hereunder.

(e) Accrued Wages and Vacation; Expenses. Without regard to the reason for, or the timing of, the Employee's termination of employment (and without duplication of any similar benefits under any employment agreement with the Company or any of its affiliates): (i) the Company shall pay the Employee any unpaid base salary due for periods prior to the date of termination; (ii) the Company shall pay the Employee all of the Employee's accrued and unused vacation through the date of termination; and (iii) following submission of proper expense reports by the Employee, the Company shall reimburse the Employee for all expenses reasonably and necessarily incurred by the Employee in connection with the business of the Company prior to the date of termination. These payments shall be made promptly upon termination, within the period of time mandated by law, and in no event later than ten (10) days after the date of termination.

5. Conditional Nature of Severance Payments.

(a) Non-Compete. The Employee shall not, to the detriment of the Company or any of its affiliates, disclose or reveal to any unauthorized person any trade secret or other confidential information relating to the Company or its affiliates or to any businesses operated by them, and the Employee confirms that such information constitutes the exclusive property of the Company. The Employee shall not otherwise act or conduct her/himself to the material detriment of the Company or its affiliates, or in a manner which is inimical or contrary to the interests thereof, and, for a period of twenty-four (24) months following the termination of Employee's employment as a result of an Involuntary Termination at any time within a Change of Control Protection Period, shall not, directly or indirectly, engage in or render any service (whether to a person, firm or business) in direct competition with the Company; provided, however, that the Employee's ownership of less than five percent (5%) of the outstanding stock of a corporation shall not itself be deemed to constitute such competition. The Employee recognizes that the possible restrictions on her/his activities which may occur as a result of her/his performance of her/his obligations under this Section 5(a) are required for the reasonable protection of the Company and its investments. For purposes hereof, "in direct competition" means engaged in the research, development and/or production of biological materials intended for use as therapeutic, prophylactic or diagnostic products in one or more of the same indications, and that utilize one or more of the same scientific bases (e.g., in the case of a therapeutic antibody, targets the same signal initiating pathway), as a product or product candidate the research, development and/or production of which is an active part of the Company's business plan at the time of Employee's termination.

(b) Non-Disparagement. The Employee and the Company agree to refrain from any defamation, libel or slander of the other and its respective officers, directors, employees, representatives, investors, shareholders, administrators, affiliates, divisions, subsidiaries, predecessor and successor corporations and assigns or tortious interference with the contracts and relationships of the other and its respective officers, directors, employees, representatives, investors, shareholders, administrators, affiliates, divisions, subsidiaries, predecessor and successor corporations and assigns.

(c) Understanding of Covenants. The Employee represents that the Employee (i) is familiar with the foregoing covenants not to compete and not to disparage, and (ii) is fully aware of the Employee's obligations hereunder, including, without limitation, the reasonableness of the length of time, scope and geographic coverage of the covenant not to compete.

6. Golden Parachute Excise Tax. In the event that the benefits provided for in this Agreement or otherwise payable to the Employee constitute "parachute payments" within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code") that are subject to the excise tax imposed by Section 4999 of the Code (the "Excise Tax"), then the Employee shall receive (i) a one-time payment from the Company sufficient to pay such excise tax (the "Excise Tax Gross-Up"), and (ii) an additional one-time payment from the Company sufficient to pay the additional excise tax and federal, state and local income and employment taxes arising from the Excise Tax Gross-Up made by the Company to the Employee pursuant to this Section 6 (the "Additional Gross-Up"). Unless the Company and the Employee otherwise agree in writing, the determination of the Employee's excise tax liability and the amount required to be paid under this Section 6 shall be made in writing in good faith by the accounting firm serving as the Company's independent public accountants immediately prior to the Change of Control (the "Accountants"). The initial Excise Tax Gross-Up and Additional Gross-Up payments hereunder, if any, shall either be (x) paid to the Employee no later than ten (10) days prior to the due date for the payment of any excise tax, or (y) paid to the Internal Revenue Service on behalf of the Employee no later than the due date for the payment of any excise tax. In the event that the Excise Tax incurred by the Employee is determined by the Internal Revenue Service to be greater or lesser than the amount so determined by the Accountants, the Company and the Employee agree to promptly (but in no event later than the end of the calendar year in which the applicable taxes are paid to (or received from) the Internal Revenue Service) make such additional payment, including interest and any tax penalties, to the other party as the Accountants reasonably determine is appropriate. For purposes of making the calculations required by this Section 6, the Accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on interpretations concerning the application of the Code for which there is a "substantial authority" tax reporting position. The Company and the Employee shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section 6. The Company shall bear all costs the Accountants may reasonably incur in connection with any calculations contemplated by this Section 6.

7. Successors.

(a) Company's Successors. Any successor to the Company (whether direct or indirect and whether by purchase, lease, merger, amalgamation, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets shall assume the Company's obligations under this Agreement and agree expressly to perform the Company's obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. For all purposes under this Agreement, the term "Company" shall include any successor to the Company's business and/or assets which executes and delivers the assumption agreement described in this subsection (a) or which becomes bound by the terms of this Agreement by operation of law.

(b) Employee's Successors. Without the written consent of the Company, the Employee shall not assign or transfer this Agreement or any right or obligation under this Agreement to any other person or entity. Notwithstanding the foregoing, the terms of this Agreement and all rights of the Employee hereunder shall inure to the benefit of, and be enforceable by, the Employee's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

8. Notices.

(a) General. Notices and all other communications contemplated by this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or when mailed by U.S. registered or certified mail, return receipt requested and postage prepaid. In the case of the Employee, mailed notices shall be addressed to the Employee at the home address that the Employee most recently communicated to the Company in writing. In the case of the Company, mailed notices shall be addressed to its corporate headquarters, and all notices shall be directed to the attention of its Secretary.

(b) Notice of Termination. Any termination by the Company for Cause or by the Employee as a result of a voluntary resignation or an Involuntary Termination shall be communicated by a notice of termination to the other party hereto given in accordance with this Section 8. Such notice shall indicate the specific termination provision in this Agreement relied upon, shall set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination under the provision so indicated. The failure by the Employee to include in the notice any fact or circumstance which contributes to a showing of Involuntary Termination shall not waive any right of the Employee hereunder or preclude the Employee from asserting such fact or circumstance in enforcing the Employee's rights hereunder.

9. Execution of Release Agreement Upon Termination. As a condition of entering into this Agreement and receiving the benefits under Section 4, the Employee agrees to execute, on or before the date that is fifty (50) days following the date of termination, and not revoke a release of claims agreement substantially in the form attached hereto as Exhibit A upon the termination of the Employee's employment with the Company. Such release shall not, however, apply to the rights and claims of the Employee under this Agreement, any indemnification agreement between the Employee and the Company (or its successor or acquirer), the bye-laws of the Company (or its successor or acquirer), the share award agreements between the Employee and the Company (or its successor or acquirer), or any employee benefit plan of which the Employee is a participant and under which all benefits due under such plan have not yet been paid or provided.

10. Arbitration.

(a) Any dispute or controversy arising out of, relating to, or in connection with this Agreement, or the interpretation, validity, construction, performance, breach, or termination thereof, shall be settled by binding arbitration to be held in San Francisco or Alameda County, California, in accordance with the National Rules for the Resolution of Employment Disputes then in effect of the American Arbitration Association (the "Rules"). The cost of the arbitration shall be borne in full by the Company (or its successor or acquirer) but each of the Employee and the Company (or its successor or acquirer) shall bear his, her or its own legal fees and other cost in such arbitration subject to a possible award of attorneys fees and costs by the arbitrator as provided in the arbitration ruling. The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction.

(b) The arbitrator(s) shall apply California law to the merits of any dispute or claim, without reference to conflicts of law rules. The arbitration proceedings shall be governed by federal arbitration law and by the Rules, without reference to state arbitration law. The Employee hereby consents to the personal jurisdiction of the state and federal courts located in California for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the parties are participants.

(c) The Employee understands that nothing in this Section 10 modifies the Employee's at-will employment status. Either the Employee or the Company can terminate the employment relationship at any time, with or without cause.

(d) THE EMPLOYEE HAS READ AND UNDERSTANDS THIS SECTION, WHICH DISCUSSES ARBITRATION. THE EMPLOYEE UNDERSTANDS THAT SUBMITTING ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF TO BINDING ARBITRATION TO THE EXTENT PERMITTED BY LAW, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF THE EMPLOYEE'S RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ALL ASPECTS OF THE EMPLOYER/EMPLOYEE RELATIONSHIP, INCLUDING BUT NOT LIMITED TO, THE FOLLOWING CLAIMS:

(i) ANY AND ALL CLAIMS FOR WRONGFUL DISCHARGE OF EMPLOYMENT; BREACH OF CONTRACT, BOTH EXPRESS AND IMPLIED; BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING, BOTH EXPRESS AND IMPLIED; NEGLIGENT OR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; NEGLIGENT OR INTENTIONAL MISREPRESENTATION; NEGLIGENT OR INTENTIONAL INTERFERENCE WITH CONTRACT OR PROSPECTIVE ECONOMIC ADVANTAGE; AND DEFAMATION.

(ii) ANY AND ALL CLAIMS FOR VIOLATION OF ANY FEDERAL STATE OR MUNICIPAL STATUTE, INCLUDING, BUT NOT LIMITED TO, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE CIVIL RIGHTS ACT OF 1991, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE AMERICANS WITH DISABILITIES ACT OF 1990, THE FAIR LABOR STANDARDS ACT, THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT, AND LABOR CODE SECTION 201, *et seq*;

(iii) ANY AND ALL CLAIMS ARISING OUT OF ANY OTHER LAWS AND REGULATIONS RELATING TO EMPLOYMENT OR EMPLOYMENT DISCRIMINATION.

11. Miscellaneous Provisions.

(a) Mitigation. The Employee shall not be required to mitigate the amount of any payment contemplated by this Agreement, nor shall any such payment be reduced by any earnings that the Employee may receive from any other source. However, the Employee shall not be entitled to receive the health coverage and benefits contemplated by this Agreement in the event that the Employee receives similar health coverage and benefits as a result of new employment during the Compensation Continuation Period.

(b) Waiver. No provision of this Agreement may be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by the Employee and by an authorized officer of the Company (other than the Employee). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(c) Integration. This Agreement represents the entire agreement and understanding between the parties with respect to the subject matter herein but shall not supersede any employment agreement between the Company or any of its affiliates and the Employee, any indemnification agreement between the Employee and the Company (or its successor or acquirer), the share award agreements between the Employee and the Company (or its successor or acquirer), or any employee benefit plan of which the Employee is a participant and under which all benefits due under such plan have not yet been paid or provided.

(d) Choice of Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the internal substantive laws, but not the conflicts of law rules, of the State of California.

(e) Severability. The invalidity or unenforceability of any provision or provisions of this Agreement shall not affect the validity or enforceability of any other provision hereof, which shall remain in full force and effect.

(f) Tax Withholdings. All payments made pursuant to this Agreement shall be subject to withholding of applicable income and employment taxes.

(g) Compliance with Section 409A of the Code.

(i) It is intended that this Agreement will comply with Section 409A of the Code and any regulations and guidelines promulgated thereunder (collectively, "Section 409A"), to the extent the Agreement is subject thereto, and the Agreement shall be interpreted on a basis consistent with such intent. If an amendment of the Agreement is necessary in order for it to comply with Section 409A of the Code, the parties hereto will negotiate in good faith to amend the Agreement in a manner that preserves the original intent of the parties to the extent reasonably possible. No action or failure to act pursuant to this Section 11(g) shall subject the Company to any claim, liability, or expense, and the Company shall not have any obligation to indemnify or otherwise protect the Employee from the obligation to pay any taxes, interest or penalties pursuant to Section 409A of the Code.

(ii) With respect to any reimbursement or in-kind benefit arrangements of the Company and its subsidiaries that constitute deferred compensation for purposes of Section 409A, except as otherwise permitted by Section 409A, the following conditions shall be applicable: (A) the amount eligible for reimbursement, or in-kind benefits provided, under any such arrangement in one calendar year may not affect the amount eligible for reimbursement, or in-kind benefits to be provided, under such arrangement in any other calendar year (except that the health and dental plans may impose a limit on the amount that may be reimbursed or paid), (B) any reimbursement must be made on or before the last day of the calendar year following the calendar year in which the expense was incurred, and (C) the right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit. Whenever a payment under this Agreement specifies a payment period with reference to a number of days (e.g., "payment shall be made within thirty (30) days after termination of employment"), the actual date of payment within the specified period shall be within the sole discretion of the Company. Whenever payments under this Agreement are to be made in installments, each such installment shall be deemed to be a separate payment for purposes of Section 409A.

(h) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year first above written.

COMPANY:

XOMA LTD.

By: _____ :
Name:
[Independent Director or CEO]

EMPLOYEE:

_____
Name

EXHIBIT A

FORM RELEASE OF CLAIMS AGREEMENT

This Release of Claims Agreement (this "Agreement") is made and entered into by and between XOMA Ltd. (the "Company") and _____ (the "Employee").

WHEREAS, the Employee was employed by the Company; and

WHEREAS, the Company and the Employee have entered into a Change of Control Severance Agreement effective as of _____, 2007 (the "Severance Agreement").

NOW THEREFORE, in consideration of the mutual promises made herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Employee (collectively referred to as the "Parties") desiring to be legally bound do hereby agree as follows:

1. Termination. The Employee's employment with the Company terminated on _____, 20__.

2. Consideration. Subject to and in consideration of the Employee's release of claims as provided herein, the Company has agreed to pay the Employee certain benefits and the Employee has agreed to provide certain benefits to the Company, both as set forth in the Severance Agreement.

3. Release of Claims. The Employee agrees that the foregoing consideration represents settlement in full of all currently outstanding obligations owed to the Employee by the Company. The Employee, on the Employee's own behalf and the Employee's respective heirs, family members, executors and assigns, hereby fully and forever releases the Company and its past, present and future officers, agents, directors, employees, investors, shareholders, administrators, affiliates, divisions, subsidiaries, parents, predecessor and successor corporations, and assigns, from, and agrees not to sue or otherwise institute or cause to be instituted any legal or administrative proceedings concerning any claim, duty, obligation or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that the Employee may possess arising from any omissions, acts or facts that have occurred up until and including the Effective Date (as defined below) of this Agreement including, without limitation:

(a) any and all claims relating to or arising from the Employee's employment relationship with the Company and the termination of that relationship;

(b) any and all claims relating to, or arising from, the Employee's right to purchase, or actual purchase of shares of the Company, including, without limitation, any claims for fraud, misrepresentation, breach of fiduciary duty, breach of duty under applicable state corporate law and securities fraud under any state or federal law;

(c) any and all claims for wrongful discharge of employment, termination in violation of public policy, discrimination, breach of contract (both express and implied), breach of a covenant of good faith and fair dealing (both express and implied), promissory estoppel, negligent or intentional infliction of emotional distress, negligent or intentional misrepresentation, negligent or intentional interference with contract or prospective economic advantage, unfair business practices, defamation, libel, slander, negligence, personal injury, assault, battery, invasion of privacy, false imprisonment and conversion;

(d) any and all claims for violation of any federal, state or municipal statute, including, but not limited to, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Fair Labor Standards Act, the Employee Retirement Income Security Act of 1974, The Worker Adjustment and Retraining Notification Act, the California Fair Employment and Housing Act, and Labor Code Section 201, *et seq.* and Section 970, *et seq.* and all amendments to each such Act as well as the regulations issued thereunder;

(e) any and all claims for violation of the federal or any state constitution;

(f) any and all claims arising out of any other laws and regulations relating to employment or employment discrimination; and

(g) any and all claims for attorneys' fees and costs.

The Employee agrees that the release set forth in this Section 3 shall be and remain in effect in all respects as a complete general release as to the matters released. Notwithstanding the foregoing, this release does not extend to any obligations now or subsequently incurred under this Agreement, the Severance Agreement, the Indemnification Agreement between the Employee and the Company (or its successor or acquirer), the outstanding share award agreements between the Employee and the Company (or its successor or acquirer), or any employee benefit plan of which the Employee is a participant and under which all benefits due under such plan have not yet been paid or provided.

4. Acknowledgment of Waiver of Claims under ADEA. The Employee acknowledges that the Employee is waiving and releasing any rights the Employee may have under the Age Discrimination in Employment Act of 1967 ("ADEA") and that this waiver and release is knowing and voluntary. The Employee and the Company agree that this waiver and release does not apply to any rights or claims that may arise under the ADEA after the Effective Date of this Agreement. The Employee acknowledges that the consideration given for this waiver and release agreement is in addition to anything of value to which the Employee was already entitled. The Employee further acknowledges that the Employee has been advised by this writing that (a) the Employee should consult with an attorney prior to executing this Agreement; (b) the Employee has at least twenty-one (21) days within which to consider this Agreement; (c) the Employee has seven (7) days following the execution of this Agreement by the Parties to revoke the Agreement; and (d) this Agreement shall not be effective until the revocation period has expired. Any revocation should be in writing and delivered to the Company by the close of business on the seventh (7th) day from the date that the Employee signs this Agreement.

5. Civil Code Section 1542. The Employee represents that the Employee is not aware of any claims against the Company other than the claims that are released by this Agreement. The Employee acknowledges that the Employee has been advised by legal counsel and is familiar with the provisions of California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HER OR HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HER OR HIM MUST HAVE MATERIALLY AFFECTED HER OR HIS SETTLEMENT WITH THE DEBTOR.

The Employee, being aware of said code section, agrees to expressly waive any rights the Employee may have thereunder, as well as under any other statute or common law principles of similar effect.

6. No Pending or Future Lawsuits. The Employee represents that the Employee has no lawsuits, claims or actions pending in the Employee's name, or on behalf of any other person or entity, against the Company or any other person or entity referred to herein. The Employee also represents that the Employee does not intend to bring any claims on the Employee's own behalf or on behalf of any other person or entity against the Company or any other person or entity referred to herein except, if necessary, with respect to the agreements listed in the last sentence of Section 3 of this Agreement.

7. Confidentiality. The Employee agrees to use the Employee's best efforts to maintain in confidence the existence of this Agreement, the contents and terms of this Agreement, and the consideration for this Agreement (hereinafter collectively referred to as "Release Information"). The Employee agrees to take every reasonable precaution to prevent disclosure of any Release Information to third parties and agrees that there will be no publicity, directly or indirectly, concerning any Release Information. The Employee agrees to take every precaution to disclose Release Information only to those attorneys, accountants, governmental entities and family members who have a reasonable need to know of such Release Information.

8. No Adverse Cooperation. The Employee agrees the Employee will not act in any manner that might damage the business of the Company. The Employee agrees that the Employee will not counsel or assist any attorneys or their clients in the presentation or prosecution of any disputes, differences, grievances, claims, charges or complaints by any third party against the Company and/or any officer, director, employee, agent, representative, shareholder or attorney of the Company, unless compelled under a subpoena or other court order to do so.

9. Costs. The Parties shall each bear their own costs, expert fees, attorneys' fees and other fees incurred in connection with this Agreement.

10. Authority. The Company represents and warrants that the undersigned has the authority to act on behalf of the Company and to bind the Company and all who may claim through it to the terms and conditions of this Agreement. The Employee represents and warrants that the Employee has the capacity to act on the Employee's own behalf and on behalf of all who might claim through the Employee to bind them to the terms and conditions of this Agreement.

11. No Representations. The Employee represents that the Employee has had the opportunity to consult with an attorney, and has carefully read and understands the scope and effect of the provisions of this Agreement. Neither party has relied upon any representations or statements made by the other party hereto which are not specifically set forth in this Agreement.

12. Severability. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision.

13. Entire Agreement. This Agreement and the Severance Agreement and the agreements and plans referenced therein represent the entire agreement and understanding between the Company and the Employee concerning the Employee's separation from the Company, and supersede and replace any and all prior agreements and understandings concerning the Employee's relationship with the Company and the Employee's compensation by the Company. This Agreement may only be amended in writing signed by the Employee and an executive officer of the Company.

14. Governing Law. This Agreement shall be governed by the internal substantive laws, but not the choice of law rules, of the State of California.

15. Effective Date. This Agreement is effective eight (8) days after it has been signed by the Parties (the "Effective Date") unless it is revoked by the Employee within seven (7) days of the execution of this Agreement by the Employee.

16. Counterparts. This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned.

17. Voluntary Execution of Agreement. This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the Parties hereto, with the full intent of releasing all claims. The Parties acknowledge that:

(a) they have read this Agreement;

(b) they have been represented in the preparation, negotiation and execution of this Agreement by legal counsel of their own choice or that they have voluntarily declined to seek such counsel;

(c) they understand the terms and consequences of this Agreement and of the releases it contains; and

(d) they are fully aware of the legal and binding effect of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

XOMA LTD.

By: _____

Title: _____

Date: _____

EMPLOYEE

_____

Name

Date: _____

Terms of Individual Change of Control Severance Agreements With Named Executive Officers
(to be read in conjunction with Form of Change of Control Severance Agreement)

Name	Paragraph 1(d)	Paragraph 4(c)(i)		Paragraph 4(c)(ii)
Steven B. Engle	24 months	2.0	24 months	24 months
Patrick J. Scannon, MD, PhD	18 months	1.5	18 months	18 months
Fred Kurland	18 months	1.5	18 months	18 months
Christopher J. Margolin	18 months	1.5	18 months	18 months
Charles C. Wells	18 months	1.5	18 months	18 months

Exhibit 10.25A

[*] indicates that a confidential portion of the text of this agreement has been omitted.

GSSM LICENSE AGREEMENT

This GSSM License Agreement (this "Agreement"), effective as of May 2, 2008 (the "Effective Date"), is entered into by and between XOMA Ireland Limited, a company with limited liability organized under the laws of the Republic of Ireland having offices at Shannon Airport House, Shannon, County Clare, Ireland ("XOMA"), and Verenium Corporation, a Delaware corporation, with offices at 4955 Directors Place, San Diego, California, 92121-1609 ("Verenium").

BACKGROUND

A. Verenium and XOMA are parties to the Existing Agreement (as defined below);

B. Under the Existing Agreement, Verenium has completed two (2) XOMA Projects (as defined below), and the Existing Agreement contemplates that Verenium would undertake up to two additional XOMA Projects (the "Remaining XOMA Projects") upon notice from XOMA as provided in the Existing Agreement; and

C. Verenium is the owner of the GSSM Technologies (as defined below), and XOMA wishes to acquire, and Verenium is willing to grant to XOMA, a co-exclusive license under the GSSM Technologies on the terms and conditions set forth below, in order to permit XOMA, its Development Partners and Collaborators (as such terms are defined below) to engage in certain research, development and commercial activities in return for Verenium being released from its obligations in Section 4.3 and elsewhere under the Existing Agreement to initiate and undertake a scientific collaboration with XOMA with respect to any Remaining XOMA Projects and for certain payments by XOMA to Verenium, as further described below.

NOW, THEREFORE, in consideration of the promises and the mutual covenants hereinafter recited, the parties agree as follows:

ARTICLE 1

DEFINITIONS

In this Agreement, the following terms shall have the meanings set forth in this Article.

1.1 "Affiliate" means any company, corporation or other entity which is directly or indirectly controlling, controlled by or under common control with a party hereto. For purposes of this Agreement, with respect to any company, corporation or other entity, " control" (including, with correlative meanings, the terms "controlled" and "controlling") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the subject company, corporation or other entity, whether through the ownership of voting securities, by agreement or otherwise.

1.2 "Collaborator" means any Third Party or Affiliate of a party with whom or on whose behalf a party engages in Research and Development, manufacture, use, offer for use, sale, importation and exportation of any Immunoglobulin or Product.

1.3 "Confidential Information" means any proprietary or confidential information or material disclosed by a party to the other party pursuant to this Agreement or the Existing Agreement, which is (i) disclosed in tangible form hereunder and is designated thereon as "Confidential" at the time it is delivered to the receiving party, or (ii) disclosed orally hereunder and identified as confidential or proprietary when disclosed and such disclosure of confidential information is confirmed in writing within thirty (30) days by the disclosing party.

1.4 "Development Partner" means a Third Party from whom a party either in-licenses a target for development and/or commercialization or with whom a party shares the economic risk of development or commercialization of a target or product, including, without limitation, an Immunoglobulin or a Product.

1.5 "Existing Agreement" means the License Agreement, effective as of December 23, 2003, between the parties, as amended in accordance with its terms.

1.6 "Field" means use of an Immunoglobulin or product containing or comprising any Immunoglobulin for the diagnosis, treatment, prevention or prophylaxis of any human or animal condition or disease, and all Research and Development activities relating thereto. The term "Field" shall exclude all other uses, including, but not limited to, (a) animal feed applications for improved feed conversion and/or animal nutrition; (b) identification, selection or expression of proteins, reagents, and/or enzymes or compositions of matter solely for industrial uses, including without limitation in the chemical industry and/or any industrial manufacturing processes; (c) plant science or agricultural applications; and (d) the hydrolytic conversion of plant-based materials to fermentable sugars and/or other chemicals for use in fuel production, and all Research and Development activities relating to any of the foregoing.

1.7 "First Commercial Sale" means the initial transfer by a Selling Party (either directly or through a Third Party, including without limitation any joint venture or similar arrangement in which the Selling Party is a participant) of a Product for value and not for demonstration, pre-clinical or clinical testing or promotional purposes.

1.8 "GSSM Technologies" means (a) the inventions patentable under applicable patent law that are claimed in the Verenium Patent Rights and (b) the Verenium Know-How.

1.9 "Immunoglobulin" means any molecule that has an amino acid sequence by virtue of which it specifically interacts with an antigen and/or haptogen and wherein that amino acid sequence consists essentially of a functionally operating region of an antibody variable region or functional equivalent thereof, including without limitation any naturally occurring or recombinant form of such a molecule. Without limiting the foregoing, included in the definition of Immunoglobulin shall be full immunoglobulin molecules (e.g., IgG, IgM, IgE, IgA and IgD molecules), ScFv, Fv and Fab molecules, as well as other formats such as diabodies, nanobodies and unibodies.

1.10 "Improved Immunoglobulin" means any Immunoglobulin discovered, isolated, optimized, developed or commercialized using any technique, method, information or material within the GSSM Technologies, together with all inventions or improvements embodied in such Immunoglobulin.

1.11 "Net Sales" means, solely with respect to sales by a Selling Party (either directly or through a Third Party, including without limitation any joint venture or similar arrangement in which the Selling Party is a participant), the gross amount invoiced by the Selling Party (or such joint venture or similar arrangement) to an independent Third Party less the following items:

(a) Trade, cash and quantity discounts actually allowed and taken directly with respect to such sales;

(b) Excises, sales taxes or other taxes imposed upon and paid directly with respect to such sales (excluding national, state or local taxes based income);

(c) Amounts repaid or credited by reason of rejections, defects, recalls or returns or because of rebates or retroactive price reduction; and

(d) Freight, transportation and insurance.

1.12 "New Inventions" means inventions or improvements first conceived of or reduced to practice by or on behalf of XOMA or Verenium arising out of use of the GSSM Technologies, Verenium Patent Rights or Verenium Know-How during the term of this Agreement.

1.13 "Product" means any composition of matter or article of manufacture, including without limitation any diagnostic, prophylactic or therapeutic product, which contains or comprises any Improved Immunoglobulin.

1.14 "Research and Development" means creation, identification, analysis, research, characterization or development of actual or potential products (including, without limitation antibody array or chip). Included within the definition of "Research and Development", without limiting such definition, shall be the identification, selection, isolation, purification, characterization, study and/or testing of an Immunoglobulin and all *in vitro* screening or assays customarily performed in pre-clinical and clinical research and uses associated with obtaining FDA or equivalent agency regulatory approval.

1.15 "Selling Party" means, as applicable, XOMA or any of its Affiliates, Development Partners, Collaborators or any licensee of any Product from any of the foregoing.

1.16 "Third Party" means any person or entity other than Verenium or XOMA or any of their respective Affiliates.

1.17 "Valid Claim" means a claim of an issued and unexpired patent included within the Verenium Patent Rights which has not been held invalid in a final decision of a court of competent jurisdiction from which no appeal may be taken, and which has not been disclaimed or admitted to be invalid or unenforceable through reissue or otherwise.

1.18 "Verenium Know-How" means the information, techniques, data, materials and chemicals controlled by Verenium that are necessary to practice the inventions claimed in the Verenium Patent Rights to discover, isolate, optimize, develop or commercialize Immunoglobulins in the Field. The Verenium Know-How is listed on Schedule 1.18.

1.19 "Verenium Patent Rights" means the inventions patentable under applicable patent law that are claimed in the patent applications and patents listed on Schedule 1.19 hereto and all divisions, continuations, continuations-in-part, applications claiming priority thereto, and substitutions thereof; all foreign patent applications corresponding to the preceding applications; all U.S. and foreign patents issuing on any of the preceding applications, including extensions, reissues and re-examinations; and any patents or patent applications, whether now existing or obtained in the future, owned or controlled by Verenium containing a claim that is dominating over the foregoing patent rights (i.e., is necessarily infringed by the practicing of a claim in one of the foregoing patents or applications).

1.20 "XOMA Projects" means up to four (4) different projects conducted or to be conducted by Verenium for XOMA pursuant to the Existing Agreement as described in further detail in Section 4.3 of the Existing Agreement.

The above definitions are intended to encompass the defined terms in both the singular and plural forms.

ARTICLE 2

LICENSE GRANT

2.1 License Grant; Agreements. Subject to the other terms and conditions of this Agreement, Verenium grants to XOMA a world-wide, co-exclusive license under the Verenium Know-How and Verenium Patent Rights to use and practice the GSSM Technologies, on its own behalf and on behalf of any Affiliate, Development Partner or Collaborator, to discover, isolate, optimize, develop or commercialize any Immunoglobulin (including without limitation an Improved Immunoglobulin) or Product in the Field. For the purposes of this Agreement, the term "co-exclusive" shall mean that, within the Field, only Verenium and XOMA (and their respective Affiliates) may use and practice the GSSM Technologies, on their own behalf and on behalf of their respective Development Partners and Collaborators, for the discovery, isolation, optimization, development and commercialization of any Immunoglobulin or Product in the Field. Verenium retains the right under the Verenium Know-How and Verenium Patent Rights to use and practice the GSSM Technologies, on its own behalf and on behalf of its Affiliates, Development Partners and Collaborators, to discover, isolate, optimize, develop or commercialize any Immunoglobulin or Product in the Field, but Verenium shall not grant any further licenses to any Third Party under the Verenium Know-How or Verenium Patent Rights to use or practice the GSSM Technologies to discover, isolate, optimize, develop or commercialize any Immunoglobulin or Product in the Field, *provided, however*, that notwithstanding any other provision of this Agreement, Verenium shall be entitled to (a) transfer Improved Immunoglobulins and nucleic acids coding for Improved Immunoglobulins as is reasonably necessary to permit any Third Party working as a subcontractor or service provider for Verenium or its Affiliates, Development Partners or Collaborators to undertake any activities which Verenium would otherwise be permitted to undertake; and (b) transfer Improved Immunoglobulins and nucleic acids coding for Improved Immunoglobulins as is reasonably necessary to permit Verenium or any of its Affiliates, Development Partners or Collaborators to make, have made, use, sell, offer to sell, import or export any Product. For the sake of clarity, Verenium may use and practice the GSSM Technologies under the rights retained in the immediately preceding sentence of this Section 2.1 on behalf of any of its Development Partners or Collaborators only in respect of or in connection with the activities that such Development Partner or Collaborator is engaged in that are the basis for meeting the definition of Development Partner or Collaborator and not any other activities. Without limiting the foregoing, Verenium retains for itself all rights under the Verenium Know-How and Verenium Patent Rights that are not expressly licensed to XOMA under this Section 2.1. Except as specifically set forth in this Agreement, no license or other intellectual property interest is granted, by implication or otherwise, in any information by Verenium under this Agreement or under any patents or patent applications owned or controlled by Verenium.

2.2 Verenium Transfer to XOMA. Within thirty (30) days of the Effective Date, Verenium shall transfer to XOMA, at a mutually agreed place and time and at XOMA's expense, the Verenium Know-How listed on Schedule 1.18. XOMA shall be entitled to ten (10) person-days of Verenium scientific staff time (one (1) to four (4) of which person-days shall be at XOMA's facilities) during the three (3) month period following such transfer of Verenium Know-How to XOMA (which period may be extended by mutual written consent of the parties, which consent shall not be unreasonably withheld). Thereafter, XOMA will be able to consult with Verenium scientific staff at a cost of $2,500/person-day (based on an eight hour day) beyond the ten (10) person-days, to be paid by XOMA to Verenium upon receipt of an invoice therefor. Verenium confirms that the Verenium Know-How listed on Schedule 1.18 constitutes all of the most recent materials (excluding generally available laboratory materials) used by it to practice the inventions claimed in the Verenium Patent Rights to discover, isolate, optimize, develop or commercialize Immunoglobulins in the Field. From time to time, but no more often than once every year, XOMA shall have the right to request in writing, and Verenium shall provide (at XOMA's expense), any updates or improvements that fall within the Verenium Know-How.

2.3 Limitations on Sublicense. For the sake of clarity, the license granted in Section 2.1 is personal to XOMA and is to be used solely by XOMA on behalf of itself and its Affiliates or by XOMA on behalf of its Development Partners or Collaborators, and XOMA shall not grant any sublicenses under the license granted in Section 2.1, *provided, however*, that notwithstanding any other provision of this Agreement, XOMA shall be entitled to (a) transfer Improved Immunoglobulins and nucleic acids coding for Improved Immunoglobulins as is reasonably necessary to permit any Third Party working as a subcontractor or service provider for XOMA or its Development Partners or Collaborators to undertake any activities which XOMA would otherwise be permitted to undertake pursuant to this Agreement; and (b) transfer Improved Immunoglobulins and nucleic acids coding for Improved Immunoglobulins as is reasonably necessary to permit XOMA or any of its Affiliates, Development Partners or Collaborators to make, have made, use, sell, offer to sell, import or export any Product as to which the obligations of Article 3 are satisfied. For the sake of clarity, XOMA may use and practice the GSSM Technologies under the license granted in Section 2.1 on behalf of any of its Development Partners or Collaborators only in respect of or in connection with the activities that such Development Partner or Collaborator is engaged in that are the basis for meeting the definition of Development Partner or Collaborator and not any other activities.

2.4 Ownership; Patent Rights; Enforcement.

(a) Verenium shall retain ownership of the Verenium Patent Rights. As between the parties, (i) XOMA shall own all rights in and to any New Inventions first conceived of or reduced to practice by or on behalf of XOMA that (A) are Improved Immunoglobulins or methods of use of Improved Immunoglobulins, or (B) are applicable only to Immunoglobulins, including without limitation methods of building Immunoglobulin libraries, screening Immunoglobulins, improved Immunoglobulin vectors, and antibody structure/function relationships and uses, and shall have the right to secure patent protection therefor, and (ii) Verenium shall own all rights in and to any New Inventions first conceived of or reduced to practice by or on behalf of Verenium that (A) are Improved Immunoglobulins or methods of use of Improved Immunoglobulins, or (B) are applicable only to Immunoglobulins, such as methods of screening Immunoglobulins, improved Immunoglobulin vectors, and antibody structure/function relationships and uses, and shall have the right to secure patent protection therefor.

(b) With regard to all New Inventions other than those described in Section 2.4(a) ("Verenium-Owned New Inventions"):

(i) each party shall provide the other party written notice of all such New Inventions first conceived of or reduced to practice by or on behalf of such party reasonably promptly after the applicable conception or reduction to practice; provided, however, that Verenium shall not be required to notify XOMA of any such New Inventions of Verenium other than those that are necessary or useful to practice the inventions claimed in the Verenium Patent Rights to discover, isolate, optimize, develop or commercialize Immunoglobulins in the Field; and

(ii) all Verenium-Owned New Inventions shall be owned solely by Verenium and Verenium shall have the right to secure patent protection therefor, XOMA hereby assigns and agrees to take such other actions (at Verenium's expense) as may be necessary or appropriate to effect the ownership of Verenium-Owned New Inventions by Verenium, and the Verenium-Owned New Inventions shall be listed on Schedule 1.19, included in the definition of Verenium Patent Rights and subject to the license granted under Section 2.1.

(c) Verenium shall continue to file for, prosecute to issuance, maintain and extend the applicable life of the Verenium Patent Rights in accordance with its then most current corporate practices and policies and will provide XOMA with notice of, and where feasible copies of relevant documentation relating to, all significant filings and other developments in connection therewith. If Verenium elects not to file, maintain, prosecute or extend any Verenium Patent Right, it shall provide XOMA with reasonable prior written notice of such intention. At Verenium's sole election, depending upon applicable factors such as rights retained by Verenium and rights granted by Verenium to Third Parties thereunder, Verenium may permit XOMA, at the sole option and expense of XOMA, to file, maintain, prosecute or extend such patent application, patent, or other intellectual property right, which rights shall continue to be included in the Verenium Patent Rights or, at the sole discretion of Verenium, may be assigned to XOMA, subject to a license back to Verenium of rights under such patent application, patent, or other intellectual property right as appropriate outside of the scope of the rights granted to XOMA in Section 2.1.

(d) Verenium shall promptly notify XOMA of any actual or threatened proceeding relating to the Verenium Patent Rights and/or each party shall promptly notify the other party of any infringement of the Verenium Patent Rights or unauthorized use or misappropriation of the Verenium Know-How by Third Parties of which it becomes aware. At its sole option and expense, Verenium shall have the sole right to bring and/or control, by counsel of its own choice any action or proceeding relating to the Verenium Patent Rights, including the negotiation of any agreements relating thereto, subject to this Section 2.4(d). With respect to any such action or proceeding relating to the Verenium Patent Rights that involves use of the GSSM Technologies to discover, isolate, optimize, develop or commercialize any Immunoglobulin or product comprised of or containing any Immunoglobulin in the Field, XOMA shall have the right, at its own expense, to be represented in any such action by counsel of its own choice, and Verenium and its counsel will reasonably cooperate with XOMA and its counsel in strategizing, preparing, and presenting any such action or proceeding. If Verenium notifies XOMA that it does not intend to bring an action or proceeding to defend against any infringement of the Verenium Patent Rights or unauthorized use or misappropriation of the Verenium Know-How that involves use of the GSSM Technologies to discover, isolate, optimize, develop or commercialize any Immunoglobulin or product comprised of or containing any Immunoglobulin in the Field, or if Verenium does not indicate to XOMA its intention to bring any such action within a reasonable time after written notice from XOMA of XOMA's reasonable request that Verenium do so, the parties will meet to discuss an appropriate course of action. If Verenium and XOMA cannot agree on the appropriate course of action within a reasonable time, then the provisions of Section 3.2 and Section 3.4 (with respect to the first event and payment listed thereunder only) shall be of no further force or effect with respect to any payment thereunder not yet made.

ARTICLE 3

CONSIDERATION

3.1 Technology Access Fee. XOMA shall pay to Verenium a non-refundable, non-creditable technology access fee of Seven Hundred Fifty Thousand Dollars (US$750,000) in two (2) installments of Three Hundred Twelve Thousand Five Hundred Dollars (US$312,500) each upon the first day of the first and second full calendar quarters immediately following the Effective Date and two (2) installments of Sixty-Two Thousand Five Hundred Dollars (US$62,500) each upon the first day of the third and fourth full calendar quarters immediately following the Effective Date.

3 . 2 Annual Maintenance Fee. XOMA shall pay to Verenium a non-refundable, non-creditable annual maintenance fee of **[*]** Dollars (US$**[*]**) on each of the first **[*]** anniversaries of the Effective Date and, for **[*]** successive anniversaries, an annual maintenance fee of **[*]** Dollars (US$**[*]**) commencing the **[*]** anniversary of the Effective Date.

3 . 3 Development Partner/Collaborator Access Fee. Commencing as of the Effective Date, if XOMA uses the GSSM Technologies in any transaction with a Development Partner or Collaborator, for the first **[*]** of such transactions only, XOMA shall pay to Verenium a non-refundable, non-creditable access fee of **[*]** Dollars (US$**[*]**) within thirty (30) days of the use of such GSSM Technologies. For the avoidance of doubt, XOMA shall not be obligated pursuant to this Section 3.3 to pay to Verenium any amount in excess of **[*]** Dollars (US$**[*]**).

3 . 4 Milestone Payments. Within thirty (30) days following, as applicable (a) the achievement by XOMA or an Affiliate of XOMA, or (b) receipt by XOMA of notice from the relevant Development Partner or Collaborator of XOMA or licensee of any Product from any of the foregoing (or XOMA otherwise becoming aware) of achievement by such Development Partner, Collaborator or licensee, in each case of the following milestones with respect to each Product, XOMA shall pay to Verenium the applicable non-refundable, non-creditable payments below:

Event	**Payment**
Initiation (i.e., dosing of a first human patient) of a first Phase I (or equivalent) trial	US$250,000
Approval of NDA , BLA or equivalent	US$750,000

3.5 Royalties. With respect to any Product sold by or on behalf of XOMA, or any of its Affiliates, Development Partners or Collaborators or licensee of any of the foregoing, there shall be due to Verenium a royalty in cash equal to **[*]** percent (**[*]**%) of the Net Sales of such Product in each calendar quarter, commencing with the first calendar quarter ending after the Effective Date. Royalties due under this Article 3 shall be payable on a country-by-country and Product-by-Product basis from the First Commercial Sale of such Product until the expiration of the last-to-expire Verenium Patent Right in such country with respect to which a Valid Claim covers the manufacture, use, sale, offer for sale, import or export of such Product or the **[*]** anniversary of such First Commercial Sale, whichever is later. In the event that XOMA, a Development Partner or Collaborator or a licensee must obtain a license to any issued patent from one or more Third Parties in order to practice the GSSM Technologies in the manner authorized by this Agreement, and after good faith consultation with Verenium and the provision of an opinion of reputable patent counsel supporting the need to obtain such a patent license from such Third Party, then XOMA shall be entitled to a credit equal to **[*]** percent (**[*]**%) of the amount by which the total royalties on Net Sales of the applicable Product that is actually paid under the terms of bona fide and arm's length patent license(s) from such Third Party or Third Parties exceeds **[*]** percent (**[*]**%) of Net Sales of such Product; *provided*, *however*, that in no event shall the total royalty amount due to Verenium under this Article 3 with respect to such Product be reduced by more than **[*]** percent (**[*]**%) of the amount set forth in the first sentence of this Section 3.5 in any calendar quarter.

3.6 Payments to Verenium; Currency. The parties hereby acknowledge that the value contributed by Verenium to any Product developed and/or commercialized by or on behalf of XOMA, or any of its Affiliates, Development Partners or Collaborators or licensee of any of the foregoing is the right to use and practice the GSSM Technologies, Verenium Patent Rights and Verenium Know-How provided pursuant to the license granted under Section 2.1 and the transfer pursuant to Section 2.2 and that all of the payments in this Article 3 will be payable by XOMA in accordance with the terms and conditions hereof regardless of whether or not the development, manufacture, use, sale, offer for sale, import or export of such Product is covered by any Verenium Patent Rights. All payments due hereunder shall be paid by wire transfer in United States dollars in immediately available funds to an account designated by Verenium. Payments required pursuant to Section 3.4 hereof shall be due and payable to Verenium when the corresponding milestones are achieved and shall be paid within thirty (30) days following, as applicable (a) the achievement by XOMA or an Affiliate of XOMA, or (b) receipt by XOMA of notice from the relevant Development Partner or Collaborator of XOMA or licensee of any Product from any of the foregoing (or XOMA otherwise becoming aware) of achievement by such Development Partner, Collaborator or licensee, of such milestone. Payments required pursuant to Section 3.5 hereof shall be due and payable to Verenium when the corresponding Net Sales are received by XOMA (or any joint venture or similar arrangement in which XOMA is a participant) or, where XOMA is not the Selling Party, when the corresponding Net Sales calculations are received by XOMA from such Selling Party and, in each case, shall be paid within thirty (30) days thereof. If any currency conversion shall be required in connection with the payment of any royalties hereunder, such conversion shall be made by using the exchange rate for the purchase of U.S. dollars quoted in the U.S. version of *The Wall Street Journal* on the last business day of the calendar quarter to which such payments relate.

3.7 Payment Reports to Verenium. XOMA shall make a written report to Verenium within thirty (30) days following, as applicable (a) the achievement by XOMA or an Affiliate of XOMA, or (b) receipt by XOMA of notice from the relevant Development Partner or Collaborator of XOMA or licensee of any Product from any of the foregoing (or XOMA otherwise becoming aware) of achievement by such Development Partner, Collaborator or licensee, of each of the milestones set forth in Section 3.4 with respect to each Product, stating in each such report the Product to which such milestone relates and the specific milestone achieved, including the relevant agency or other regulatory body. After the First Commercial Sale of a Product on which royalties are required to be paid hereunder, XOMA shall make quarterly written reports to Verenium within thirty (30) days after the end of each calendar quarter or, where XOMA is not the Selling Party, within thirty (30) days after the corresponding Net Sales calculations are received by XOMA from such Selling Party, stating in each such report, by country, the number, description, and aggregate Net Sales of each Product sold during the calendar quarter. XOMA shall treat all reports delivered pursuant to this Section 3.7 as Confidential Information of Verenium.

3 . 8 Payment Records and Inspection. XOMA shall keep, and shall use commercially reasonable efforts to require all other Selling Parties to keep, complete, true and accurate books of account and records for the purpose of determining the amounts payable under this Agreement. Such books and records shall be kept at the principal place of business of XOMA for at least **[*]** following the end of the calendar quarter to which they pertain. Upon the written request of Verenium and not more than once in each calendar year, XOMA shall permit an independent consultant appointed by Verenium and reasonably acceptable to XOMA to have access during normal business hours to such of the records of XOMA as may be reasonably necessary to verify the accuracy of the royalty reports hereunder for any year ending not more than **[*]** prior to the date of such request, unless a discrepancy is found. The consultant shall disclose to Verenium only the results and conclusions of its review and the specific details concerning any discrepancies. No other information shall be shared by the consultant without the prior consent of XOMA unless disclosure is required by law, regulation or judicial order. Inspections conducted under this Section 3.8 shall be at the expense of Verenium, unless an underpayment exceeding **[*]** percent (**[*]**%) of the amount stated for the full period covered by the inspection is identified, in which case all out-of-pocket costs relating to the inspection will be paid promptly by XOMA. Any underpayments or unpaid amounts discovered by such inspections or otherwise will be paid promptly by XOMA, with interest from the date(s) such amount(s) were due at a rate equal to the lesser of the prime rate reported by the Bank of America plus two percent (2%) or the highest interest rate permitted under applicable law.

3.9 Certain Changes to the Existing Agreement. The Existing Agreement is hereby modified as follows (it being understood that, in all other respects, the Existing Agreement remains in full force and effect):

(a) The royalty applicable to the XOMA Development Product (as defined in the Existing Agreement) arising from the first XOMA Project completed by Verenium (i.e. **[*]** antibody) shall be **[*]** percent (**[*]**%) of Net Sales, instead of the **[*]** percent (**[*]**%) set forth in Section 4.3(j) of the Existing Agreement; and

(b) Upon the Effective Date, any and all obligations of Verenium to initiate or conduct any XOMA Projects as set forth in Section 4.3 and elsewhere in the Existing Agreement are terminated.

ARTICLE 4

CONFIDENTIALITY

4.1 Confidential Information. Except as expressly provided herein, the parties agree that, for the term of this Agreement and for five (5) years thereafter, the receiving party shall keep completely confidential and shall not publish or otherwise disclose and shall not use for any purpose except for the purposes contemplated by this Agreement any Confidential Information furnished to it by the disclosing party hereto, except to the extent that it can be established by the receiving party by written proof that such Confidential Information:

(a) was already known to the receiving party, other than under an obligation of confidentiality, at the time of disclosure;

(b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the receiving party;

(c) became generally available to the public or otherwise part of the public domain after its disclosure other than through any act or omission of the receiving party in breach of this Agreement;

(d) was subsequently lawfully disclosed to the receiving party by a person other than a party hereto; or

(e) was independently developed by Verenium or XOMA, as the case may be, without reference or access to the Confidential Information of the other party.

4.2 Permitted Use and Disclosures. Each party hereto may use or disclose information disclosed to it by the other party to the extent such use or disclosure is reasonably necessary in complying with applicable law or government regulations; *provided, however,* that if a party is required to make any such disclosure of another party's Confidential Information, it will give reasonable advance notice to the latter party of such disclosure and, will use its reasonable efforts to secure confidential treatment of such information prior to its disclosure (whether through protective orders or otherwise). In the event XOMA intends to publish or present data or other information that constitutes or includes Confidential Information of Verenium, XOMA shall provide Verenium with notice thereof and a draft of the relevant manuscript or presentation reasonably in advance of such publication or presentation, and XOMA may make such publication or presentation with Verenium's prior written consent, which consent shall not be unreasonably withheld or delayed.

4.3 Confidential Terms. Except as expressly provided herein, each party agrees not to disclose any terms of this Agreement to any Third Party without the consent of the other party; *provided,* that disclosures may be made without such consent as required by securities or other applicable laws, or to a party's accountants, attorneys and other professional advisors; *provided, further,* that disclosure of the terms of this Agreement may be made by a party without such consent of the other party to actual or potential Development Partners, Collaborators, acquirers or investors who agree to be bound by the confidentiality provisions of this Agreement or are otherwise subject to requirements of confidentiality at least as stringent as those contained herein.

4.4 Agreement Announcement. The parties hereby agree to the release of a press release in a form to be agreed between them within a reasonable period of time following full execution of this Agreement, that the fact of the consummation of this Agreement as well as such terms as are expressly described in such press release (but not its financial or other terms) shall be deemed to be in the public domain following such release, and that once any information has been approved by the parties for disclosure, no further consent or approval shall be required under this Article 4 with respect to disclosure of such information.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties. (a) Verenium represents and warrants to XOMA that: (i) it is the sole and exclusive owner or exclusive licensee of all right, title and interest in the Verenium Patent Rights and Verenium Know-How as of the Effective Date; *provided, however,* that XOMA acknowledges that the vector described in item 1 on Schedule 1.18 includes a promoter owned by a Third Party and XOMA shall be responsible for obtaining the necessary license from such Third Party for use of such promoter; (ii) Verenium has the legal right, authority and power to enter into this Agreement; (iii) this Agreement shall constitute a valid and binding obligation of Verenium enforceable in accordance with its terms; and (iv) the performance of obligations under this Agreement by Verenium shall not result in a breach of any agreements, contracts or other arrangements to which it is a party.

(b) XOMA represents and warrants to Verenium that: (i) XOMA has the legal right, authority and power to enter into this Agreement; (ii) this Agreement shall constitute a valid and binding obligation of XOMA enforceable in accordance with its terms; and (iii) the performance of obligations under this Agreement by XOMA shall not result in a breach of any agreements, contracts or other arrangements to which it is a party.

5.2 Disclaimer. Nothing in this Agreement is or shall be construed as:

(a) A warranty or representation by Verenium as to the validity or scope of any claim or patent within the Verenium Patent Rights;

(b) A warranty or representation that anything discovered, developed, made, used, sold, or otherwise disposed of under any license granted in this Agreement is or will be free from infringement of any patent rights or other intellectual property right of any Third Party;

(c) An obligation to bring or prosecute actions or suits against Third Parties for infringement of any of the Verenium Patent Rights;

(d) An obligation to maintain any patent or to continue to prosecute any patent application included within the Verenium Patent Rights in any country; or

(e) Granting by implication, estoppel, or otherwise any licenses or rights under patents or other rights of Verenium or Third Parties, regardless of whether such patents or other rights are dominant or subordinate to any patent within the Verenium Patent Rights.

5 . 3 No Other Warranties. EXCEPT AS OTHERWISE SET FORTH IN SECTION 5.1 ABOVE, NEITHER PARTY HERETO MAKES ANY WARRANTIES WITH RESPECT TO ANY OF THE PATENT RIGHTS, MATERIALS OR KNOW-HOW LICENSED HEREUNDER, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF VALIDITY OF SUCH PATENT RIGHTS, MATERIALS OR KNOW-HOW, OR OF NON-INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

ARTICLE 6

INDEMNIFICATION

6 . 1 Indemnification. (a) Verenium agrees to indemnify, defend and hold XOMA and its directors, officers, employees and agents (the "XOMA Indemnified Parties") harmless from and against any and all liabilities, losses and expenses (including without limitation attorneys and professional fees and other costs of litigation), resulting from any claims, demands or causes of action by any Third Party (each, a "XOMA Liability") arising out of (i) the exercise of any right granted to Verenium pursuant to this Agreement, or (ii) any breach of this Agreement by Verenium, except to the extent, in each case, that such XOMA Liability is caused by the negligence or willful misconduct of XOMA. For the avoidance of doubt, the obligations of this Section 6.1(a) shall not apply to any XOMA Liability unrelated to this Agreement.

(b) XOMA agrees to indemnify, defend and hold Verenium and its directors, officers, employees and agents (the "Verenium Indemnified Parties" and, together with the XOMA Indemnified Parties, each an "Indemnified Party") harmless from and against any and all liabilities, losses and expenses (including without limitation attorneys and professional fees and other costs of litigation), resulting from any claims, demands or causes of action by any Third Party (each, a "Verenium Liability") arising out of (i) the discovery, isolation or optimization of any Immunoglobulin (including without limitation an Improved Immunoglobulin) or Product by or on behalf of XOMA or development, possession, manufacture, use, sale or other disposition of any Immunoglobulin (including without limitation an Improved Immunoglobulin) or Product or the provision of any service or goods relating thereto by XOMA, or any of its Affiliates, Development Partners, Collaborators or any customer, vendor or other representative of any thereof, whether based on breach of warranty, negligence, product liability or otherwise, (ii) the exercise of any right granted to XOMA or any of its Affiliates, Development Partners or Collaborators pursuant to this Agreement, or (iii) any breach of this Agreement by XOMA, except to the extent, in each case, that such Verenium Liability is caused by the negligence or willful misconduct of Verenium. For the avoidance of doubt, the obligations of this Section 6.1(b) shall not apply to any Verenium Liability unrelated to this Agreement.

6 . 2 Procedure. To receive the benefit of indemnification under Section 6.1, an Indemnified Party must (i) promptly notify the other party in writing of a claim, demand or cause of action; *provided*, that failure to give such notice shall not relieve the other party of its indemnification obligations except where, and solely to the extent that, such failure actually and materially prejudices the rights of the other party; (ii) provide reasonable cooperation (at the other party's expense); and (iii) tender to the other party (and its insurer) full authority to defend or settle the claim or suit; *provided* that no settlement requiring any admission by the Indemnified Party or that imposes any obligation on the Indemnified Party shall be made without the Indemnified Party's consent. The other party shall not have any obligation to indemnify any Indemnified Party in connection with any settlement made without the other party's written consent. Each Indemnified Party has the right to participate at its own expense in the claim or suit and in selecting counsel therefor. Each Indemnified Party shall cooperate with the other party (and its insurer), as reasonably requested.

ARTICLE 7

TERM AND TERMINATION

7.1 Term. Subject to Sections 7.4 and 7.5 hereof, the term of this Agreement will commence on the Effective Date and shall remain in full force and effect until the expiration of all payment obligations under Article 3, unless earlier terminated pursuant to Section 7.2 or 7.3;*provided, however*, that, to the extent any of the Verenium Know-How is not included in the Verenium Patent Rights and all Verenium Patent Rights have expired, upon such expiration and absent any earlier termination pursuant to Section 7.2 or 7.3, XOMA shall have a royalty-free, fully paid up right and license to continue to use the Verenium Know-How as permitted by Article 2.

7.2 Termination for Material Breach. This Agreement may be terminated by the non-breaching party upon any material breach of this Agreement by the other party, effective five (5) days after giving notice to the breaching party of such termination in the case of a payment breach and sixty (60) days after giving written notice to the breaching party of such termination in the case of any other breach, which notice shall describe such breach in reasonable detail. The foregoing notwithstanding, if such breach is cured or shown to be non-existent within the aforesaid five (5) or sixty (60) day period, the notice shall be deemed automatically withdrawn and of no effect and the notifying party shall provide written notice to the breaching party of the withdrawal.

7.3 Termination for Insolvency. If voluntary or involuntary proceedings by or against either party are instituted in bankruptcy under any insolvency law, or a receiver or custodian is appointed for either party, or proceedings are instituted by or against either party for corporate reorganization or the dissolution of such party, which proceedings, if involuntary, shall not have been dismissed within sixty (60) days after the date of filing, or if either party makes an assignment for the benefit of creditors, or substantially all of the assets of either party are seized or attached and not released within sixty (60) days thereafter, the other party may immediately terminate this Agreement effective upon notice of such termination.

7.4 Effect of Termination. Termination of this Agreement shall not release any party hereto from any liability which, at the time of such termination, has already accrued to the other party or which is attributable to a period prior to such termination nor preclude either party from pursuing any rights and remedies it may have hereunder or at law or in equity with respect to any breach of this Agreement. It is understood and agreed that monetary damages may not be a sufficient remedy for any breach of this Agreement and that the non-breaching party may be entitled to injunctive relief as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for any such breach of this Agreement, but shall be in addition to all other remedies available at law or in equity. Upon any termination of this Agreement, Verenium and XOMA shall promptly destroy (and certify such destruction) or return to the other party all Confidential Information received from such other party (except that each party may retain one copy for its files solely for the purpose of determining its rights and obligations hereunder).

7.5 Survival. Sections 2.4(a) and (b), 3.8 (for the period specified therein), 3.9, 7.4 and 7.5, and Articles 1, 4, 5, 6 and 8, shall survive any termination hereof.

ARTICLE 8

MISCELLANEOUS PROVISIONS

8 . 1 Governing Laws. This Agreement and any dispute, including without limitation any arbitration, arising from the performance or breach hereof shall be governed by and construed and enforced in accordance with the laws of the state of California, without reference to conflicts of laws principles.

8 . 2 Assignment. Neither party may transfer or assign this Agreement, directly or indirectly, or any of its rights hereunder without the prior written consent of the other party, except that (a) XOMA may transfer or assign this Agreement, directly or indirectly, to any Affiliate of XOMA (provided that XOMA Ltd. guarantees the performance of this Agreement by such Affiliate) or to a Third Party in connection with the transfer or sale of all or substantially all of XOMA's business or assets relating to antibody discovery and optimization and the provision of related services, whether through sale of stock, sale of assets, amalgamation, merger, consolidation or comparable transaction, and (b) Verenium may transfer or assign this Agreement, directly or indirectly, to any Affiliate of Verenium (provided that Verenium hereby guarantees the performance of this Agreement by such Affiliate) or to a Third Party in connection with the transfer or sale of all or substantially all of Verenium's business or assets relating to GSSM Technologies to such Third Party, whether through sale of stock, sale of assets, amalgamation, merger, consolidation or comparable transaction. Any such attempted transfer or assignment in violation of this Section 8.2 shall be void. In the event of a permitted change in control, the original party's (or its successor's) obligations hereunder shall continue. This Agreement shall be binding upon and inure to the benefit of the parties and their permitted successors and assigns.

8 . 3 Waiver. No waiver of any rights shall be effective unless consented to in writing by the party to be charged and the waiver of any breach or default shall not constitute a waiver of any other right hereunder or any subsequent breach or default.

8 . 4 Severability. In the event that any provisions of this Agreement are determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect without said provision.

8 . 5 Notices. All notices, requests and other communications hereunder shall be in writing and shall be delivered or sent in each case to the respective address specified below, or such other address as may be specified in writing to the other party hereto, and shall be effective on receipt:

Verenium:
Verenium Corporation
4955 Directors Place
San Diego, CA 92121-1609
Attn: Intellectual Property Department

XOMA:
XOMA Ireland Limited
Shannon Airport House
Shannon, County Clare
Ireland
Attn: Company Secretary

with a copy (which shall not constitute notice) to:

Cahill Gordon & Reindel llp
80 Pine Street
New York, New York 10005
Attn: Geoffrey E. Liebmann

8.6 Independent Contractors. Both parties are independent contractors under this Agreement. Nothing contained in this Agreement is intended nor is to be construed so as to constitute Verenium or Verenium as partners or joint venturers with respect to this Agreement. Except as expressly provided herein, neither party shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any other contract, agreement, or undertaking with any third party.

8.7 Compliance with Laws. In exercising their rights under this license, the parties shall comply in all material respects with the requirements of any and all applicable laws, regulations, rules and orders of any governmental body having jurisdiction over the exercise of rights under this Agreement.

8.8 Bankruptcy. All rights and licenses granted under or pursuant to this Agreement by one party to the other are, for all purposes of Section 365(n) of Title XI of the United States Code ("Title XI"), licenses of rights to "intellectual property" as defined in Title XI. During the term of this Agreement each party shall create and maintain current copies to the extent practicable of all such intellectual property. If a bankruptcy proceeding is commenced by or against one party under Title XI, the other party shall be entitled to a copy of any and all such intellectual property and all embodiments of such intellectual property, and the same, if not in the possession of such other party, shall be promptly delivered to it (a) upon such party's written request following the commencement of such bankruptcy proceeding, unless the party subject to such bankruptcy proceeding, or its trustee or receiver, elects within thirty (30) days to continue to perform all of its obligations under this Agreement, or (b) if not delivered as provided under clause (a) above, upon such other party's request following the rejection of this Agreement by or on behalf of the party subject to such bankruptcy proceeding. If a party has taken possession of all applicable embodiments of the intellectual property of the other party pursuant to this Section 8.8 and the trustee in bankruptcy of the other party does not reject this Agreement, the party in possession of such intellectual property shall return such embodiments upon request. If a party seeks or involuntarily is placed under Title XI and the trustee rejects this Agreement as contemplated under 11 U.S.C. 365(n)(1), the other party hereby elects, pursuant to Section 365(n) of Title XI, to retain all rights granted to it under this Agreement to the extent permitted by law.

8.9 Use of Name. Neither party shall use the name or trademarks of the other party, except to the extent that a party is permitted to use the Confidential Information of the other party pursuant to Article 4, without the prior written consent of such other party.

8.10 Further Actions. Each party agrees to execute, acknowledge and deliver such further instruments, and do such other acts, as may be necessary and appropriate in order to carry out the purposes and intent of this Agreement.

8.11 Entire Agreement; Amendment. This Agreement constitutes the entire and exclusive Agreement between the parties with respect to the subject matter hereof and supersedes and cancels all previous discussions, agreements, commitments and writings in respect thereof; *provided, however,* that the Existing Agreement as amended by Section 3.9, shall remain in full force and effect in accordance with its terms. No amendment or addition to this Agreement shall be effective unless reduced to writing and executed by the authorized representatives of the parties.

8.12 Arbitration. (a) Solely with respect to any dispute between the parties to this Agreement (other than any dispute which arises out of or relates to infringement, validity and/or enforceability of the Verenium Patent Rights) upon ten (10) days written notice, any party involved in the dispute may initiate arbitration by giving notice to that effect to the other party or parties involved in the dispute and by filing the notice with the American Arbitration Association or its successor organization ("AAA") in accordance with its Commercial Arbitration Rules. Such dispute shall then be settled by arbitration in California, in accordance with the Commercial Arbitration Rules of the AAA or other rules agreed to by the parties involved in the dispute, by a panel of three neutral arbitrators, who shall be selected by the parties involved in the dispute using the procedures for arbitrator selection of the AAA.

(b) The panel shall render its decision and award, including a statement of reasons upon which such award is based, within thirty (30) days after the arbitration hearing. The decision of the panel shall be determined by majority vote among the arbitrators, shall be in writing and shall be binding upon the parties involved in the dispute, final and non-appealable. Judgment upon the award rendered by the panel may be entered in any court having jurisdiction thereof in accordance with Section 8.13(a).

(c) All expenses of any arbitration pursuant to this Section 8.12, including fees and expenses of the parties' attorneys, fees and expenses of the arbitrators, and fees and expenses of any witness or the cost of any proof produced at the request of the arbitrators, shall be paid by the non-prevailing party.

8 . 1 3 Venue; Jurisdiction. (a) Any action or proceeding brought by either party seeking to enforce any provision of, or based on any right arising out of, this Agreement must be brought against any of the parties in the courts of the State of California. Each party (i) hereby irrevocably submits to the jurisdiction of the state courts of the State of California and to the jurisdiction of any United States District Court in the State of California, for the purpose of any suit, action, or other proceeding arising out of or based upon this Agreement or the subject matter hereof brought by any party or its successors or assigns, (ii) hereby waives, and agrees not to assert, by way of motion, as a defense, or otherwise, in any such suit, action, or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action, or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court, and (iii) hereby waives and agrees not to seek any review by any court of any other jurisdiction that may be called upon to grant an enforcement of the judgment of any such California state or federal court.

(b) Process in any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement may be served on any party anywhere in the world. Each party consents to service of process by registered mail at the address to which notices are to be given pursuant to Section 8.5. Nothing herein shall affect the right of a party to serve process in any other manner permitted by applicable law. Each party further agrees that final judgment against it in any such action or proceeding arising out of or relating to this Agreement shall be conclusive and may be enforced in any other jurisdiction within or outside the United States of America by suit on the judgment, a certified or exemplified copy of which shall be conclusive evidence of the fact and of the amount of its liability.

(c) Each party agrees that it shall not, and that it shall instruct those in its control not to, take any action to frustrate or prevent the enforcement of any writ, decree, final judgment, award (arbitral or otherwise) or order entered against it with respect to this Agreement or the Verenium Patent Rights and shall agree to be bound thereby as if issued or executed by a competent judicial tribunal having personal jurisdiction situated in its country of residence or domicile.

8 . 1 4 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Verenium and XOMA have executed this Agreement in duplicate originals by duly authorized officers.

VERENIUM CORPORATION

By: _____

Gerald M. Haines II
Executive Vice President & CLO

XOMA IRELAND LIMITED

By: _____

Alan Kane, Director
duly authorized for and on behalf of
XOMA Ireland Limited in the presence
of:

_____

SCHEDULE 1.18

Verenium Know-How*

[*]

* [*]

SCHEDULE 1.19

Verenium Patent Rights -- Patents, Etc.

[*]

[*] indicates that a confidential portion of the text of this agreement has been omitted.

COLLABORATION AND LICENSE AGREEMENT

This Collaboration and License Agreement (the "**Agreement**") is made and entered into as of December 30, 2010 (the '**Effective Date**") by and between **XOMA Ireland Limited**, a company with limited liability organized under the laws of the Republic of Ireland, having a place of business at 26 Upper Pembroke Street, Dublin 2, Ireland ("**XOMA**") on the first part, and **Les Laboratoires Servier**, a corporation organized and existing under the laws of France, having offices at 22 rue Garnier, 92200 Neuilly-sur-Seine, France and **Institut de Recherches Servier**, a corporation organized and existing under the laws of France, having offices at 3 rue de la République, 92150 Suresnes, France (these two entities jointly referred to as "**Servier**") on the second part. XOMA and Servier are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**".

Recitals

A. Servier is a pharmaceutical company committed to researching, developing, manufacturing and marketing novel products of high therapeutic value for human medicine.

B. XOMA owns and controls certain intellectual property related to and has conducted clinical trials with respect to its proprietary IL-1β antibody designated as XOMA 052.

C. Servier and XOMA desire to establish a collaboration for the continued development, regulatory approval and commercialization of products containing XOMA 052, with XOMA retaining certain exclusive development and commercialization rights in the U.S. and in Japan and Servier having exclusive development and commercialization rights in the rest of the world, in accordance with the terms and conditions set forth herein.

Now, Therefore, in consideration of the foregoing premises and the mutual promises, covenants and conditions contained in this Agreement, the Parties agree as follows:

1. Definitions

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

1.1 "**Acquiror**" has the meaning set forth in Section 15.5.

1.2 **"Affiliate"** means, with respect to a particular Party, a person, corporation, partnership, or other entity that controls, is controlled by or is under common control with such Party. For the purposes of the definition in this Section 1.2, the word "**control**" (including, with correlative meaning, the terms "**controlled by**" or "**under the common control with**") means the actual power, either directly or indirectly through one (1) or more intermediaries, to direct or cause the direction of the management and policies of such entity by the ownership of at least fifty percent (50%) of the voting stock of such entity.

1.3 **"Alliance Manager"** has the meaning set forth in Section 2.7.

1.4 **"Behçet's Disease"** means a rare inflammatory disorder, also referred to as Behçet's Syndrome, involving the small blood vessels.

1.5 **"Behçet's Pivotal Trial"** means an adequate and well-controlled study (as defined in 21 CFR § 314.126) or foreign equivalent thereof to be conducted with the Product for use in the treatment of Behçet's Uveitis, as further detailed in the Behçet's Uveitis Development Plan.

1.6 **"Behçet's Uveitis"** means inflammation of the uvea, resulting from Behçet's Disease.

1.7 **"Behçet's Uveitis Development Plan"** has the meaning set forth in Section 3.3(a).

1.8 **"Biosimilar Product"** means, with respect to the Product in a given country of the Licensed Territory or Retained Territory, any pharmaceutical biologic product that (a) is similar to the Product; (b) has the same route of administration as the Product; (c) obtained regulatory approval under a biosimilar application submitted in accordance with the then-current rules and regulations in such country that referred to or relied on data submitted by Servier, or one of its Affiliates or sublicensees, in an application for Regulatory Approval for the Product in such country; and (d) is sold in the same country as the Product by a Third Party that is not a sublicensee of Servier or its Affiliates and did not purchase such product in a chain of distribution that included any of Servier or its Affiliates or sublicensees.

1.9 "**BLA**" means a Biologic License Application, as defined in the United States Public Health Service Act, as amended, and applicable regulations promulgated thereunder by the FDA, or any equivalent application that replaces such application in the U.S.

1.10 **"Bulk Drug Substance"** means Licensed Antibody in bulk form.

1.11 "**Cardiometabolic Field**" means the prevention or treatment of Cardiometabolic Indications.

1.12 "**Cardiometabolic Indications**" means: (i) **[*]**; (ii) Type 2 diabetes (diabetes mellitus type 2); and (iii) **[*]**.

1.13 "**Cardiometabolic Indications Option**" has the meaning set forth in Section 3.5.

1.14 "**Claims**" has the meaning set forth in Section 13.1.

1.15 "**CMC Activities**" means the Manufacturing and other activities necessary or useful for generating the CMC Information required for Regulatory Approval of the Licensed Product, including Manufacture of validation and/or clinical trial materials, that are necessary or useful to obtain or maintain Regulatory Approval of a Product.

1.16 **"CMC Costs"** means all costs incurred by or on behalf of either Party that are **[*]**. CMC Costs shall include **[*]**. For clarity, **[*]**.

1.17 **"CMC Information"** means Information related to the chemistry, manufacturing and controls of the Bulk Drug Substance or Licensed Product, as specified by FDA or other applicable Regulatory Authority.

1.18 **"Commercialization Plan"** has the meaning set forth in Section 5.4.

1.19 **"Commercialize"** means to promote, market, distribute, sell (and offer for sale or contract to sell) or provide product support for a Product. For clarity, **"Commercializing"** and **"Commercialization"** have a correlative meaning.

1.20 **"Committee"** means the JEC, JSC, JDC and/or JMC, or any other committee established by the Parties pursuant to Section 2.1, as the case may be

1.21 **"Competing Product"** means any pharmaceutical product other than the Product, which binds to, and inhibits or modulates, IL-1 as its primary mode of action.

1.22 **"Confidential Information"** of a Party means any and all Information of such Party that is disclosed to the other Party under this Agreement, whether in oral, written, graphic, or electronic form. All Information disclosed by either Party or its Affiliates pursuant to the Mutual Confidentiality Agreement between Servier and **[*]** dated 01/11/2010 (the "**Confidentiality Agreement**") shall be deemed to be such Party's Confidential Information disclosed hereunder.

1.23 **"Controlled"** means, with respect to any compound, material, Information or intellectual property right, that the applicable Party owns or has a license to such compound, material, Information or intellectual property right and has the ability to grant to the other Party access, a license or a sublicense (as applicable) to such compound, material, Information or intellectual property right as provided for herein without violating the terms of any agreement or other arrangements with any Third Party existing at the time such Party would be first required hereunder to grant the other Party such access, license or sublicense.

1.24 "**Current Good Manufacturing Practice**" or "**cGMP**" means the then-current standards for the manufacture of pharmaceutical products, pursuant to (a) the FD&C Act (21 U.S.C. 321 et seq.); (b) relevant United States regulations in Title 21 of the United States Code of Federal Regulations (including Parts 11, 210, and 211); (c) EC Directive 2003/94 EC of October 8, 2003; (d) the EC Guide to Good Manufacturing Practice for Medicinal Intermediate Products; (e) the International Conference on Harmonization (ICH) ICH Q7A Good Manufacturing Practice Guidance for Active Pharmaceutical Ingredients; (f) any Japanese laws, rules, guidelines, or regulations corresponding to the subject matter of the foregoing; and (g) all additional Regulatory Authority documents or regulations that replace, amend, modify, supplant or complement any of the foregoing.

1.25 **"CV Indication"** means the first cardiovascular indication to be determined by the JSC and approved by the JEC.

1.26 **"CV Indication Development Plan"** has the meaning set forth in Section 3.4(a).

1.27 **"Develop"** or **"Development"** means, with respect to a Product, all activities relating to preparing and conducting non-clinical studies and other analyses, clinical studies, and regulatory activities (*e.g.*, preparation of regulatory applications).

1.28 **"Development Budget"** has the meaning set forth in Section 3.2(a).

1.29 **"Development Costs"** means all costs incurred by or on behalf of either Party **[*]**. Development Costs shall specifically exclude any costs **[*]**. Development Costs shall include **[*]**.

1.30 **"Diligent Efforts"** means, with respect to a Party's obligations under this Agreement, the carrying out of such obligations or tasks with a level of efforts and resources consistent with the level of efforts and resources each Party usually dedicates to, and consistent with the commercially reasonable practices of a similarly situated company in the pharmaceutical industry (in the case of Servier) or biotechnology industry (in the case of XOMA) for, the research, development or commercialization of a similarly situated pharmaceutical product as the Product and at a similar stage of development or commercialization, taking into account efficacy, safety, patent and regulatory exclusivity, anticipated or approved labeling, present and future market potential, competitive market conditions, the profitability of the Product in light of pricing and reimbursement issues, and all other relevant factors. Diligent Efforts shall be determined on a market-by-market or country by country basis, and indication-by-indication basis, and it is anticipated that the level of efforts required shall be different for different markets and indications and shall change over time, reflecting changes in the status of the Product and markets involved. It is also anticipated that the application of Diligent Efforts may result, in the case of Servier, in its determination not to seek Regulatory Approval for and/or Commercialize the Product in one or more countries of the Licensed Territory that are other than the Significant Markets.

1.31 **"Dollars"** or **"$"** means the legal tender of the United States of America.

1.32 "**Early Option Exercise**" has the meaning set forth in Section 3.5(a).

1.33 "**Early Option Exercise Date**" has the meaning set forth in Section 3.5(a).

1.34 **"Effective Date"** has the meaning set forth in the first paragraph of this Agreement.

1.35 "**EMA**" means the European Medicines Agency or any successor entity.

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

1.37 "**Executive Officers**" means the Chief Executive Officer of XOMA and the Chief Executive Officer of Servier (or their respective designees).

1.38 **"FDA"** means the United States Food and Drug Administration, and any successor thereto.

1.39 **"First Commercial Sale"** means, with respect to a Product in a particular country, the first commercial sale of such Product in such country after all needed Regulatory Approvals have been obtained in such country. Sale of a Product by Servier to an Affiliate or a sublicensee shall not constitute a First Commercial Sale; in addition, in no event shall any sales for pre-marketing, testing, or sampling be deemed a First Commercial Sale.

1.40 **"Flash 2b Report"** means the flash report of the results of the Phase 2b Study containing information with respect to whether the primary and secondary endpoints were met, expected to be produced within seven (7) days of the database lock for such study.

1.41 **"Full Data Set"** means the full data set from the Phase 2b Study, including safety information (but which is not the final report of such study), expected to be produced within **[*]** days of the database lock for such study.

1.42 **"Global Research and Development Plan"** has the meaning set forth in Section 3.2(a).

1.43 **"Governmental Authority"** means any multi-national, federal, state, local, municipal, provincial or other government authority of any nature (including any governmental division, prefecture, subdivision, department, agency, bureau, branch, office, commission, council, court or other tribunal).

1.44 "**IFRS**" means International Financial Reporting Standards, as they exist from time to time, consistently applied.

1.45 **"IL-1β**" means a cytokine protein with a human proprotein form represented by the sequence of amino acids 1-269 of GenBank Accession Number NP_000567.1 and a human mature protein form represented by the sequence of amino acids 117-269 of GenBank Accession Number NP_000567.1.

1.46 **"IND"** means an Investigational New Drug Application submitted to the FDA for approval to commence human clinical trials, or the foreign equivalent of such application in a country other than the U.S.

1.47 "**Indemnified Party**" has the meaning set forth in Section 13.3.

1.48 "**Indemnifying Party**" has the meaning set forth in Section 13.3.

1.49 **"Information"** means all information, techniques, technology, practices, trade secrets, inventions (whether patentable or not), methods, knowledge, know-how, skill, experience, data, results (including pharmacological, toxicological and clinical test data and results), analytical and quality control data, results or descriptions, software and algorithms.

1.50 "**Initial Behçet's Development Plan**" has the meaning set forth in Section 3.3(a).

1.51 "**Initial T2D Development Plan**" has the meaning set forth in Section 3.4(a).

1.52 **"Initiation"** of a clinical trial means the first dosing of the first subject in such clinical trial.

1.53 **"Joint Executive Committee"** or **"JEC"** has the meaning set forth in Section 2.2(a).

1.54 **"Joint Inventions"** has the meaning set forth in Section 9.1.

1.55 **"Joint Invention Patents"** has the meaning set forth in Section 9.1.

1.56 **"Joint Manufacturing Committee"** or **"JMC"** has the meaning set forth in Section 2.5(a).

1.57 **"Joint Research and Development Committee"** or **"JDC"** has the meaning set forth in Section 2.4(a).

1.58 **"Joint Steering Committee"** or **"JSC"** has the meaning set forth in Section 2.3(a).

1.59 "**Late Option Exercise**" has the meaning set forth in Section 3.5(b).

1.60 "**Late Option Exercise Date**" has the meaning set forth in Section 3.5(b).

1.61 **"Laws"** means all laws, statutes, rules, regulations, ordinances and other pronouncements having the effect of law of any federal, national, multinational, state, provincial, county, city or other political subdivision, domestic or foreign.

1.62 "**Lead Cardiometabolic Indications**" means Type 2 diabetes and **[*]**.

1.63 "**Licensed Antibody**" means: XOMA 052 (gevokizumab), an IgG2 humanized monoclonal antibody that binds to IL-lb, as well as any fragment, derivative, modification or subunit of such antibody.

1.64 **"Licensed Product"** means any therapeutic or prophylactic product that comprises or incorporates the Licensed Antibody as an active pharmaceutical ingredient alone or in combination with one or more other active agents.

1.65 **"Licensed Territory"** means all countries in the world other than the Retained Territory.

1.66 "**Major Cardiometabolic Indications**" means any of the following: (a) Type 2 diabetes (diabetes mellitus type 2); or (b) any of the following indications that Servier determines, in good faith and in consultation with XOMA, have projected annual peak sales in the Licensed Territory of the applicable Product of at least **[*]**.

1.67 **"Major European Countries"** means France, Germany, Italy, Spain and the United Kingdom.

1.68 **"Major Markets"** means the U.S., each of the Major European Countries, and Japan.

1.69 **"Manufacturing"** means all activities related to the production, manufacture, processing, filling, finishing, packaging, labeling, inspection, receiving, holding and shipping of Bulk Drug Substance, Licensed Antibody, Products, or any raw materials or packaging materials with respect thereto, or any intermediate of any of the foregoing, including process and cost optimization, process development, qualification and validation, equipment and facility qualification and validation, commercial manufacture, stability and release testing, quality assurance and quality control. For clarity, **"Manufacture"** and **"Manufactured"** have correlative meanings.

1.70 **"Manufacturing Plan"** has the meaning set forth in Section 6.2.

1.71 **"Marketing Authorization Application"** or "**MAA**" means: (a) in the United States, a BLA, and (b) in any other country or regulatory jurisdiction, an equivalent application for regulatory approval required before commercial sale or use of a Product (or with respect to a subsequent indication) in such country or regulatory jurisdiction.

1.72 "**Material Impact**" means, with respect to a Party, a material adverse impact on the regulatory status or the commercial sales of the Product in such Party's applicable territory.

1.73 **"Materials"** means all compositions of matter, cells, cell lines, assays, samples, animal models and physical, biological or chemical material, but excluding Bulk Drug Substance or Product transferred in accordance with Article 6.

1.74 "**MHLW**" means the Japanese Ministry of Health, Labour and Welfare or any successor entity.

1.75 **"Net Sales"** Except as provided below with respect to clinical trial samples, in the case of sales by or for the benefit of Servier, its Affiliates, and its sublicensees (the "Seller") to independent, unrelated persons ("Buyers") in bona fide arm's length transactions, "Net Sales" means the gross amount billed or invoiced by Seller with respect to the Product, less the following deductions, in each case to the extent actually allowed and taken by such Buyers and not otherwise recovered by or reimbursed to Seller in connection with such Product ("**Permitted Deductions**"): **[*]**. "Net Sales" shall not include any consideration received with respect to a sale, use or other disposition of any Product in a country as part of a clinical trial necessary to obtain Regulatory Approval in such country. All of the foregoing elements of Net Sales calculations shall be determined in accordance with IFRS or successor standards and guidelines thereto. In the case of transfers of Product between any of Servier, its sublicensees, and affiliates of any of the foregoing, for subsequent sale, rental, lease or other transfer of such Products to third parties, Net Sales shall be the gross invoice or contract price charged to the third party customer for that Product, less the deductions set forth in clauses (i) through (viii) above.

In the event that a Product consists of a combination of the Licensed Antibody with one or more other active agents, Net Sales, for the purpose of determining royalty payments, shall be discussed and agreed to by the Parties taking into account the relative value of the Licensed Antibody and of the other active agents.

1.76 **"New Servier Patents"** means any Patent Controlled by Servier or its Affiliates at any time during the Term that (a) is useful for the Development, Manufacture or Commercialization of the Licensed Antibody or Product in the Territory, (b) is not a Servier Collaboration Patent, and (c) provided that, to the extent Servier has paid or is required to pay any royalties or other amounts to any Third Party for use or assignment to it of any such Patent, XOMA has agreed prior to its acceptance of a license to such Patent to pay its portion of such fees or royalties. For clarity, the use of "Affiliate" in this definition shall exclude any Third Party that becomes an Affiliate of Servier.

1.77 **"Patent"** means all: (a) unexpired letters patent (including inventor's certificates) which have not been held invalid or unenforceable by a court of competent jurisdiction from which no appeal can be taken or has been taken within the required time period (and which have not been admitted to be invalid or unenforceable through reissue, disclaimer or otherwise, or been abandoned in accordance with or as permitted by the terms of this Agreement or by mutual written agreement), including any substitution, extension, registration, confirmation, reissue, re-examination, supplementary protection certificates, confirmation patents, patent of additions, renewal or any like filing thereof; (b) pending applications for letters patent which have not been canceled, withdrawn from consideration, finally determined to be unallowable by the applicable governmental authority or court for whatever reason (and from which no appeal is or can be taken), and/or abandoned in accordance with or as permitted by the terms of this Agreement or by mutual written consent, including any continuation, division or continuation-in-part thereof and any provisional applications; and (c) any international counterparts to (a) and (b) above.

1.78 **"Permitted Deductions"** has the meaning set forth in Section 1.73.

1.79 "**Phase 2 Clinical Trial**" means a study of the Product in human patients to determine initial efficacy, pharmacological effect, or dose range and/or regimen finding before embarking on any Phase 3 Clinical Trial, as further defined in 21 C.F.R. 312.21(b), as amended from time to time, or the corresponding foreign regulations.

1.80 **"Phase 2a Study"** means that certain Phase 2a clinical trial being conducted by XOMA or its Affiliates as of the Effective Date and referred to as X052118, with respect to the Product in Type 2 diabetes.

1.81 "**Phase 2 Results Package**" means all of the following: (a) the interim top line data summary from the Phase 2a Study, (b) the Flash 2b Report, and (c) all then-existing safety data related to the Product.

1.82 "**Phase 2b Study**" means that certain Phase 2b clinical trial being conducted by XOMA or its Affiliates as of the Effective Date and referred to as X052078, with respect to the Product in Type 2 diabetes.

1.83 **"Phase 3 Clinical Trial**" means a pivotal study (whether or not denominated a "Phase 3" clinical study under applicable regulations) in human patients with a defined dose or a set of defined doses of a Product designed to ascertain efficacy and safety of such Product for the purpose of enabling the preparation and submission of Marketing Authorization Applications to the competent Regulatory Authorities in a country of the Licensed Territory or Retained Territory, as further defined in 21 C.F.R. 312.21(c), as amended from time to time, or the corresponding foreign regulations.

1.84 **"Pre-Exercise Period"** means the period running from the Effective Date until the later of (i) Early Option Exercise, (ii) Late Option Exercise or (iii) expiration of the Cardiometabolic Indications Option unexercised.

1.85 "**Product**" means any Licensed Product in final form.

1.86 **"Product Infringement"** has the meaning set forth in Section 9.4(a).

1.87 **"Product Marks"** has the meaning set forth in Section 5.5.

1.88 **"Product Specifications"** means the specifications for Bulk Drug Substance, attached hereto as Exhibit 1.88, which shall be updated (a) as required in connection with obtaining Regulatory Approval or continuing compliance with regulatory requirements and (b) as agreed upon in writing from time to time by Servier and XOMA.

1.89 "**Quality Agreement**" has the meaning set forth in Section 6.10.

1.90 **"Regulatory Approval"** means any and all approvals (including supplements, amendments, pre- and post-approvals, but excluding pricing and reimbursement approvals), licenses, registrations or authorizations of any national, supra-national (e.g., the European Commission or the Council of the EU), regional, state or local regulatory agency, department, bureau, commission, council or other governmental entity, that are necessary for the manufacture, distribution, use or sale of a Product in a regulatory jurisdiction.

1.91 **"Regulatory Authority"** means the applicable national (e.g., the FDA), supra-national (e.g., the EMA), regional, state or local regulatory agency, department, bureau, commission, council or other governmental entity that, in each case, governs the Regulatory Approval of a Product in such applicable regulatory jurisdiction.

1.92 **"Regulatory Materials"** means regulatory applications, submissions, notifications, registrations, Regulatory Approvals and/or other filings made to or with, or other approvals granted by, a Regulatory Authority that are necessary or reasonably desirable in order to Develop, Manufacture, market, sell or otherwise Commercialize a Product in a particular country or regulatory jurisdiction.

1.93 "**Remaining Field**" means the prevention or treatment of all human diseases or conditions (including uveitis and Behçet's Uveitis), other than those human diseases and conditions comprising the Cardiometabolic Field.

1.94 **"Retained Territory"** means (a) the U.S. and (b) Japan, including its territories and possessions.

1.95 **"Retained Territory License Agreement"** has the meaning set forth in Section 3.1(b).

1.96 **"Servier Collaboration Patent(s)"** means any Sole Invention Patent(s) owned by Servier or its Affiliates pursuant to Section 9.1.

1.97 **"Servier Indemnitees"** has the meaning set forth in Section 13.2.

1.98 **"Servier Know-How"** means all Information and Materials that are Controlled by Servier or its Affiliates as of the Effective Date or during the Term and are necessary or useful for the Development, Manufacture or Commercialization of the Bulk Drug Substance or Product and provided that, to the extent Servier has paid or is required to pay any royalties or other amounts to any Third Party for use or assignment to it of any such Information and/or Materials, XOMA has agreed prior to its acceptance of a license to such Information and/or Materials, to pay its portion of such fees or royalties. For clarity, the use of "Affiliate" in this definition shall exclude any Third Party that becomes an Affiliate of Servier.

1.99 **"Servier Patents"** means any (a) New Servier Patents and (b) Servier Collaboration Patents.

1.100 **"Servier Technology"** means the Servier Patents and Servier Know-How and Servier's interest in the Joint Invention Patents.

1.101 "**Servier Withholding Tax Action**" has the meaning set forth in Section 8.14(c).

1.102 **"Significant Markets"** means **[*]**.

1.103 **"Sole Inventions"** has the meaning set forth in Section 9.1.

1.104 **"Sole Invention Patents"** has the meaning set forth in Section 9.1.

1.105 **"Specific Diligent Efforts"** means, **[*]**.

1.106 **"Successful EOP2 Meeting"** means an FDA End of Phase 2 meeting at which, **[*]**.

1.107 **"Supply Agreement"** has the meaning set forth in Section 6.5(b).

1.108 **"T2D Development Plan"** has the meaning set forth in Section 3.4(a).

1.109 **"T2D Phase 2 Studies**" means collectively the Phase 2a Study and the Phase 2b Study.

1.110 **"Term"** has the meaning set forth in Section 11.1.

1.111 **"Territory-Specific Work"** means any clinical or non-clinical study performed by a Party that is required only by Regulatory Authorities in that Party's territory (i.e., the Licensed Territory with respect to Servier, or the Retained Territory with respect to XOMA), and not by the Regulatory Authorities in the other Party's territory.

1.112 **"Third Party"** means any person or entity other than: (a) XOMA; (b) Servier; or (c) an Affiliate of either Party.

1.113 **"Third Party Partner"** has the definition set forth in Section 3.1(b).

1.114 "**Unsponsored Work**" has the meaning set forth in Section 3.8(b).

1.115 "**U.S.**" means the United States of America, including all possessions and territories thereof.

1.116 **"XOMA Background Patents"** means those Patents listed on Exhibit 1.116 as of the Effective Date.

1.117 **"XOMA Collaboration Patent(s)"** means any Sole Invention Patent(s) owned by XOMA or its Affiliates pursuant to Section 9.1.

1.118 **"XOMA Indemnitees"** has the meaning set forth in Section 13.1.

1.119 **"XOMA Know-How"** means all Information and Materials that are Controlled by XOMA or its Affiliates as of the Effective Date or during the Term and are necessary or useful for the Development, Manufacture or Commercialization of a Licensed Product or Manufacture of Bulk Drug Substance, including the Know-How listed on Exhibit 1.119 attached hereto. For clarity, the use of "Affiliate" in this definition shall exclude any Third Party that becomes an Affiliate of XOMA.

1.120 "**XOMA Manufacturing Costs**" means **[*]**. XOMA Manufacturing Costs shall not include **[*]**. For purposes of this definition, **[*]**.

1.121 **"XOMA Patents"** means the XOMA Background Patents and the XOMA Collaboration Patents.

1.122 **"XOMA Technology"** means the XOMA Patents and XOMA Know-How and XOMA's interest in the Joint Invention Patents.

2. Collaboration; Committees

2.1 Collaboration Overview. The Parties desire and intend to collaborate with respect to the Development, Manufacture and Commercialization of Products as and to the extent set forth in this Agreement, focusing initially on the Development of the Product for Behçet's Uveitis and the Lead Cardiometabolic Indications, with XOMA retaining rights to the Product with respect to the Remaining Field in the Retained Territory, Servier being granted exclusive rights to the Product with respect to all indications (i.e., the Remaining Field and the Cardiometabolic Field) in the Licensed Territory and the Cardiometabolic Indications in the Retained Territory, and XOMA having an option to re-acquire such rights in the Retained Territory as set forth in this Agreement (the "**Collaboration**"). The Parties intend that their respective organizations will work together to facilitate the success, effectiveness and quality of the Collaboration to maximize the commercial opportunity for the Product to the benefit of both Parties, all in accordance with the terms and conditions of this Agreement. The Parties shall establish the committees as described in this Article 2 and may from time-to-time establish other committees or sub-committees to report to the Joint Steering Committee in order to effectively implement the Collaboration as jointly agreed by the Parties.

2.2 Joint Executive Committee.

(a) Establishment. Within thirty (30) days after the Effective Date, the Parties shall establish a joint executive committee (the "**Joint Executive Committee**" or **"JEC"**), all in accordance with this Section 2.2. Each Party shall initially appoint at least three (3) representatives to the JEC. The JEC membership and procedures are further described in Section 2.8.

(b) Specific Responsibilities of the JEC. The JEC shall in particular, in accordance with the decision-making principles set forth in Section 2.9, manage the overall Collaboration (including but not limited to the intellectual property strategy, resources allocation and major changes to the Collaboration requiring amendments to the Agreement) and resolve any disputed matter of the JSC.

2.3 Joint Steering Committee.

(a) Establishment. Within thirty (30) days after the Effective Date, the Parties shall establish a joint steering committee (the "**Joint Steering Committee**" or **"JSC"**) to monitor and oversee their activities under this Agreement, all in accordance with this Section 2.3. Each Party shall initially appoint at least three (3) representatives to the JSC. The JSC membership and procedures are further described in Section 2.8.

(b) Specific Responsibilities of the JSC. The JSC shall in particular, in accordance with the decision-making principles set forth in Section 2.9:

(i) coordinate the activities of the Parties under this Agreement, including facilitating communications between the Parties with respect to the Development, Manufacture and Commercialization of Licensed Antibody, Bulk Drug Substance, and Product;

(ii) provide a forum for discussion of the Development, Manufacture, and Commercialization of the Product;

(iii) review and approve the T2D Development Plan and the Behçet's Uveitis Development Plan and any other Global Research and Development Plans and associated Development Budgets and any annual or interim updates and proposed amendments thereto;

(iv) review and approve the Manufacturing Plan and associated budget and any annual or interim updates and proposed amendments thereto;

(v) review and discuss Servier's Commercialization Plan and related activities with respect to the Product throughout the Licensed Territory and (if applicable) the Retained Territory, including pre-launch and go-to-market strategies;

(vi) direct and oversee the JDC, JMC and any other operating committee established by the JSC, on all significant issues that fall within the purview of such committees;

(vii) attempt to resolve issues presented to it by, and disputes within, the other Committees, including the JDC and JMC, in accordance with Section 2.9; and

(viii) perform such other duties as are expressly assigned to the JSC in this Agreement, and perform such other functions as appropriate to further the purposes of this Agreement as may be allocated to it by written agreement of the Parties.

2.4 Joint Research and Development Committee.

(a) Establishment. Within thirty (30) days after the Effective Date, the Parties shall establish a joint research and development committee (the "**Joint Research and Development Committee**" or "**JDC**") to monitor and coordinate the Development of Products under this Agreement. Each Party shall initially appoint at least three (3) representatives to the JDC. The JDC membership and procedures are further described in Section 2.8.

(b) Specific Responsibilities of the JDC. The JDC shall in particular, in accordance with the decision-making principles set forth in Section 2.9:

(i) coordinate the activities of the Parties under and oversee the implementation of the T2D Development Plan, the Behçet's Development Plan, **[*]**, and any other Global Research and Development Plans agreed to by the Parties;

(ii) prepare annual and interim updates to the Global Research and Development Plans;

(iii) provide a forum for and facilitate communications between the Parties with respect to the Development of the Product, including any additional indications proposed by either Party to be jointly pursued;

(iv) monitor and coordinate all regulatory actions, communications and submissions for Products under each Global Research and Development Plan;

(v) perform such other functions as may be appropriate to further the purposes of this Agreement with respect to the Development of Products, as directed by the JSC or the JEC; and

(vi) review proposed Unsponsored Work and Territory-Specific Work.

2.5 Joint Manufacturing Committee.

(a) Establishment. Within thirty (30) days after the Effective Date, the Parties shall establish a joint manufacturing committee (the "**Joint Manufacturing Committee**" or "**JMC**") to monitor and oversee the CMC Activities and other activities related to the Manufacture of Bulk Drug Substance and the Product, for Development and Commercial use under this Agreement. Each Party shall initially appoint at least three (3) representatives to the JMC. The JMC membership and procedures are further described in Section 2.8.

(b) Specific Responsibilities of the JMC. The JMC shall in particular, in accordance with the decision-making principles set forth in Section 2.9:

(i) discuss, approve and oversee implementation of and progress against the Global Research and Development Plans as they relate to CMC Activities;

(ii) review the Manufacturing Plan and associated budget and propose updates and amendments thereto to the JSC, for approval;

(iii) coordinate and facilitate cooperation and flow of Information between the Parties with respect to the Manufacture and supply of Bulk Drug Substance and the Product for clinical and commercial use in accordance with Article 6;

(iv) coordinate and facilitate the transfer from XOMA to Servier of the XOMA Know-How as and to the extent provided in Article 6; and

(v) perform such other functions as may be appropriate to further the purposes of this Agreement with respect to the Manufacture of Bulk Drug Substance or the Product, as directed by the JSC or the JEC.

2.6 Program Director. Within thirty (30) days after the Effective Date, each Party shall appoint and notify the other Party of the identity of a representative having the appropriate qualifications, including a general understanding of pharmaceutical development, to act as its program director under this Agreement (the "**Program Director**"). The Program Directors shall serve as the primary contact points between the Parties for the purpose of providing each Party with information on the progress of each Party's development activities under this Agreement on a day to day basis. The Program Directors shall also be primarily responsible for facilitating the flow of information and otherwise promoting communication, coordination and collaboration between the Parties. The Program Directors shall attend all JSC and JDC meetings, and shall have the right to attend all other Committee meetings except the JEC meetings, and shall support the co-chairpersons of each Committee in the discharge of their responsibilities. A Program Director may also bring any matter in relation to the Development to the attention of any Committee if such Program Director reasonably believes that such matter warrants such attention. Each Party may replace its Program Director at any time upon written notice to the other Party.

2.7 Alliance Manager. Within thirty (30) days after the Effective Date, each Party shall appoint and notify the other Party of the identity of a representative having the appropriate qualifications, including a general understanding of pharmaceutical development and commercialization issues, to act as its alliance manager under this Agreement (the "**Alliance Manager**"). The Alliance Managers shall serve as the primary business contact points between the Parties for the purpose of providing each Party with information on the progress of each Party's business related activities under this Agreement and for any activities not falling within the scope of responsibility of the Program Director. The Alliance Managers shall also be primarily responsible for facilitating the flow of information and otherwise promoting communication, coordination and collaboration between the Parties. The Alliance Managers shall attend all JSC and JDC meetings, and shall have the right to attend all other Committee meetings other than JEC meetings. An Alliance Manager may also bring any matter to the attention of any Committee if such Alliance Manager reasonably believes that such matter warrants such attention. Each Party may replace its Alliance Manager at any time upon written notice to the other Party.

2.8 General Committee Membership and Procedures.

(a) Membership. Each of Servier and XOMA shall designate representatives with appropriate expertise to serve as members of each Committee, and each representative may serve on more than one Committee as appropriate in view of the individual's expertise. Each Party may replace its Committee representatives at any time upon written notice to the other Party. Each Committee shall have co-chairpersons. Servier and XOMA shall each select from their representatives a co-chairperson for each of the Committees, and each Party may change its designated co-chairpersons from time to time upon written notice to the other Party. The co-chairpersons of each Committee shall be responsible for calling meetings and preparing and circulating meeting agendas and minutes, but the co-chairpersons shall have no additional powers or rights beyond those held by other Committee members.

(b) Meetings. Each Committee shall hold meetings at such times as it elects to do so, provided that unless the Parties otherwise agree in writing to a different frequency for such meetings, each Committee shall meet at least twice each calendar year, and provided further that the Parties shall, to the extent practicable, schedule meetings of different Committees on the same day and in the same location. Either Party may also call a special meeting of a Committee (by videoconference or teleconference) by at least ten (10) business days prior written notice to the other Party in the event such Party reasonably believes that a significant matter must be addressed prior to the next regularly scheduled meeting, and such Party shall provide the applicable Committee no later than ten (10) business days prior to the special meeting with materials reasonably adequate to enable an informed decision. No later than ten (10) business days prior to any Committee meeting, the co-chairpersons of such Committee shall prepare and circulate an agenda for such meeting; provided, however, that either Party may propose additional topics to be included on such agenda, either prior to or in the course of such meeting. Each Committee may invite non-members (including consultants and advisors of a Party who are under an obligation of confidentiality consistent with this Agreement) to participate in its meetings, provided that such non-member participants shall have no voting authority at such meetings. Each Committee may meet in person, by videoconference or by teleconference, provided however, at least one (1) meeting of each Committee per calendar year shall be in person unless the Parties mutually agree in writing to waive such requirement in lieu of a videoconference or teleconference. In-person Committee meetings shall be held alternately in Berkeley, California, U.S. and Paris, France. Each Party shall bear the expense of its respective Committee members' participation in Committee meetings. Committee meetings shall be effective only if at least one (1) representative of each Party is present or participating in such meeting. The co-chairpersons of a Committee shall be responsible for preparing reasonably detailed written minutes of all meetings of such Committee that reflect, without limitation, all material decisions made at such meetings. The co-chairpersons shall send draft meeting minutes to each member of such Committee for review and approval promptly after each Committee meeting. Such minutes shall be deemed approved unless one or more members of such Committee objects to the accuracy of such minutes within thirty (30) days of receipt.

2.9 Decision Making.

(a) Within JSC and Operating Committees. All decisions within the JSC, JDC, JMC or any other operating Committee other than the JEC shall be made by consensus, with the co-chairperson from each Party having each one (1) vote. If a dispute arises which cannot be resolved within any Committee other than the JSC and the JEC, the representatives of either Party may cause such dispute to be referred to the JSC for resolution. If after reasonable discussion and good faith consideration of the other Party's views on a particular matter before the JSC, including any disputes referred to the JSC by another Committee, the JSC is still unable to reach a unanimous decision on such matter for a period of **[*]** days, then either Party may cause such dispute to be referred to the JEC for resolution as provided in Section 2.9(b) below.

(b) Within the JEC. Upon being referred a disputed matter from the JSC under Section 2.9(a), or arising within the JSC, the JEC shall consider such matter and discuss it in good faith, and shall strive to seek consensus in its actions and decision making process. If after reasonable discussion and good faith consideration of the other Party's views on a particular matter before the JEC, including any disputes referred to the JEC by another Committee, the JEC is still unable after a period of **[*]** days to reach a unanimous decision on such matter, then either Party may upon notice to the other Party, refer such matter to the Executive Officers of the Parties for attempted resolution by good faith negotiations within **[*]** days after such notice is received, including at least one (1) in person meeting of the Executive Officers within**[*]** days after such notice is received. If the Executive Officers are not able to resolve such disputed matter within **[*]** days and either Party wishes to pursue the matter, then:

(i) **[*]**; and

(ii) **[*]**.

(c) Exceptions. Notwithstanding the preceding Sections 2.9(b)(i) and (ii):

(i) Neither Party shall have the unilateral right to decide any dispute with respect to the Development of the Product, whether pursuant to a Global Research and Development Plan, or any Unsponsored Work, where the other Party believes in good faith that such a decision would have a substantial likelihood of having a Material Impact; provided, however, that where such a decision involves the safety of the Product in the deciding Party's territory (including, by way of example, the content of the safety section of the Product label, whether a recall should be conducted in such deciding Party's territory, or whether a particular clinical study should be terminated in its territory for safety reasons), the deciding Party shall nonetheless have the final say with respect to such safety matter, notwithstanding that the other Party has asserted that the effect thereof has a substantial likelihood of having a Material Impact.

(ii) Neither Party shall be permitted to use its final say to (A) increase the total aggregate Development Budget for a given year with respect to the Development activities included in a Global Research and Development Plan, or the total aggregate budget for the Manufacturing Plan for a given year with respect to CMC Activities, in each case by more than **[*]** percent (**[*]**%) of the initial total aggregate budgeted amount for such year included in such plan, or (B) change the trial design of any global clinical trial included in any Global Research and Development Plan (including endpoints, sample size, inclusion and exclusion criteria).

(d) Limitations of Committee Authority. Each Committee shall have solely the powers expressly assigned to it in this Article 2 and elsewhere in this Agreement or as otherwise agreed to by the Parties in writing. A Committee shall not have any power to amend, modify, or waive compliance with the terms of this Agreement. It is expressly understood and agreed that the control of decision-making authority by XOMA or Servier, as applicable, pursuant to this Section 2.9, so as to resolve a disagreement or deadlock on a Committee or between the Executive Officers for any matter will not authorize either Party to unilaterally modify or amend, or waive its own compliance with, the terms of this Agreement.

(e) Good Faith. In conducting themselves on Committees, and in exercising their rights under this Section 2.9, all representatives of both Parties shall consider, reasonably and in good faith, all input received from the other Party, and shall use reasonable efforts to reach consensus on all matters before them. Each Party's Committee members shall perform its responsibilities and exercise any decision making authority based on the principles of commercially reasonable Development of Products, consistent with good pharmaceutical practices and commercially reasonable consideration of the optimal balance of maximizing long-term profits derived from the sale of Products in the context of the estimated costs for Development of such Products and other relevant considerations. Notwithstanding anything to the contrary in this Agreement, neither Party nor any of its Affiliates shall be required to take, or shall be penalized for not taking, any action that is not in compliance with such Party's ethical business practices and policies or that such Party reasonably believes is not in compliance with applicable Laws.

2.10 Discontinuation of Participation on a Committee.

(a) Each Committee, including the JSC and the JEC, shall continue to exist until the first to occur of (i) the Parties mutually agreeing to disband the Committee, or (ii) either Party providing to the other written notice of its intention to disband and no longer participate in such Committee.

(b) Once the JSC and the JEC are disbanded in accordance with Section 2.10(a), such Committee shall have no further obligations under this Agreement and, thereafter, the Program Directors will be the contact persons for the exchange of information under this Agreement, and decisions of such Committee shall be decisions as between the Parties, subject to the final decision making authority under Section 2.9 and the other terms of this Agreement.

3. Development of Products

3.1 General.

(a) Overview. The Parties desire and intend to collaborate in planning and conducting Development of the Product for each of Behçet's Uveitis and the Lead Cardiometabolic Indications, and potentially other indications, as and to the extent provided in this Agreement, and pursuant to a separate Global Research and Development Plan for each indication, it being understood that each Party may act either itself or through one or more licensees, sublicensees or subcontractors in its respective territory as permitted under this Agreement. The Parties intend to coordinate and harmonize their collaborative Development activities where practical, including nonclinical and clinical studies, and manufacturing scale-up, to minimize Development Costs and maximize Development efficiencies in both the Licensed Territory and the Retained Territory. Unless otherwise specified in a Global Research and Development Plan, each Party shall be responsible and have the final decision-making authority for all Development activities (as and to the extent not prohibited under and subject to Section 2.9) conducted in its own territory (i.e., the Licensed Territory for Servier and the Retained Territory for XOMA), including those portions of global or U.S. or EU clinical trials conducted in such territory and set forth in a Global Research and Development Plan. With respect to indications other than the Lead Cardiometabolic Indications and Behçet's Uveitis, the Parties may agree to pursue such indications singly or jointly, as provided in Section 3.8.

(b) Third Party Partner. Servier acknowledges and understands that XOMA intends to enter into, in its sole discretion, one or more license or partnership agreements with one or more Third Parties under which XOMA grants any such Third Party exclusive license rights to Develop and or Commercialize the Products in one or more Cardiometabolic Indications (subject to XOMA having exercised its Cardiometabolic Indications Option) and/or one or more indications in the Remaining Field, in some or all of the Retained Territory (each such Third Party, a "**Third Party Partner"** and each such agreement, a **"Retained Territory License Agreement"**). Servier agrees that, if XOMA enters into such a Retained Territory License Agreement with a Third Party Partner, then such Third Party Partner shall have all rights to participate in the Development of Products in the Retained Territory that XOMA at such time enjoys (as and to the extent limited by such Retained Territory License Agreement), and that, subject to Servier's consent not to be unreasonably withheld, but which will be considered only after having received a copy of the Retained Territory License Agreement (redacted with respect to those portions of such agreement that are not relevant to the deliberation and work of such Committees or do not otherwise impact governance of the overall relationship), XOMA has the right to offer to such Third Party Partner the right to participate in the Committees established under this Agreement, and in the Development and regulatory collaboration of the Parties under this Agreement, in order to facilitate the effective and efficient communications regarding and Development of Products throughout both the Retained Territory and the Licensed Territory. Servier thus agrees that, on written notice by XOMA to Servier after XOMA's entry into a Retained Territory License Agreement with a Third Party Partner, subject to the terms of any such Retained Territory License Agreement:

(i) Subject to the aforementioned Servier consent, such Third Party Partner shall have the right to have a reasonable number of its representatives attend and participate at all Committee meetings, and the vote of any such representatives shall be included within the vote of XOMA;

(ii) Subject to the aforementioned Servier consent, XOMA shall have the right to designate one or more representatives of such Third Party Partner to act as XOMA's representatives (in replacement thereof) on any particular Committee (including the JSC but not the JEC);

(iii) Subject to the aforementioned Servier consent, Servier shall cooperate fully with such Third Party Partner with respect to the Development of Products, to the extent that Servier has the obligation under this Agreement to cooperate with XOMA as to such activities;

(iv) To the extent XOMA and/or such Third Party Partner(s) desire to conduct additional human clinical studies with respect to the Product for use in seeking Regulatory Approval for, or Commercializing the Product in the Retained Territory, any such studies or trials would be subject to Section 3.8, and, to the extent Servier on the one hand, and XOMA and its Third Party Partner, on the other hand, do not agree to pursue jointly any such study as provided in Section 3.8, such study shall be "Unsponsored Work" as provided thereunder and any data with respect to the Product generated thereunder (the "**Third Party Data**"), shall be available for use by Servier in the Licensed Territory to the extent provided in Section 3.8; and

(v) XOMA shall have the right to disclose to such Third Party Partner all Information regarding Products and all Regulatory Materials disclosed by Servier to XOMA under this Agreement, for use by the Third Party Partner in its Development and Commercialization of Products in the Retained Territory, consistent with Section 4.4(a) and Article 10.

3.2 Global Research and Development Plans.

(a) The Development of the Product under this Agreement for each of the Lead Cardiometabolic Indications and Behçet's Uveitis, and any other indication the Parties agree to pursue jointly, shall be conducted pursuant to a reasonably comprehensive written research and development plan (each, a **"Global Research and Development Plan"**), which shall include a detailed budget for all Development activities set forth in such plan (each, a **"Development Budget"**), and which shall include the resource allocations for the Parties based upon the general principle that the allocation shall endeavor to take advantage of the respective resources, capabilities and expertise of XOMA and Servier, respectively. The Global Research and Development Plan also shall set forth the specific activities to be conducted by each Party and the estimated timeline for Development of the Product in order to obtain the data that the Parties intend will be useful, by both Parties, to obtain Regulatory Approvals of the Product in the U.S. and the EU. The Global Research and Development Plan shall also specify the plans and estimated timeline for preparing the necessary Regulatory Materials for obtaining Regulatory Approval in such countries. Servier shall be the sponsor of all clinical studies conducted in the Licensed Territory and shall be solely responsible for Development activities and for obtaining Regulatory Approval for the Product in the Licensed Territory, and XOMA shall be the sponsor of all clinical studies conducted in the Retained Territory and shall be solely responsible for Development activities and for obtaining Regulatory Approval for the Product in the Retained Territory.

(b) **Amendments**. Beginning with the first full calendar year following the Effective Date, on an annual basis (no later than **[*]**), or more often as the JDC deems appropriate, the JDC shall review, consult with the JMC as appropriate, and, as required, prepare an update and amendment to each then-current Global Research and Development Plan, for approval by the JSC. Each such updated and amended Global Research and Development Plan shall reflect any changes, additions, re-prioritization of studies and/or indications within, and/or reallocation of resources with respect to, the Development of the Product for the Lead Cardiometabolic Indications and Behçet's Uveitis, and any additional indications agreed to pursuant to Section 3.8(a), as applicable. Once approved by the JSC, an amended Global Research and Development Plan shall become effective and supersede the previous Global Research and Development Plan as of the date of such approval.

3.3 Development of Product for Behçet's Uveitis.

(a) Initial Plan for Behçet's Uveitis. An initial Global Research and Development Plan for Behçet's Uveitis, which contains the initial design of Behçet's Pivotal Trial(s) and the preliminary Development Budget for continued Development of the Product for Behçet's Uveitis **[*]**, is attached to this Agreement as Exhibit 3.3(a) (the "**Initial Behçet's Development Plan**"). The Parties shall update such plan as needed in accordance with Section 3.2(b) (such updated plan, the **"Behçet's Uveitis Development Plan"**).

(b) Responsibilities. Following the Effective Date, the Parties shall commence and conduct the Behçet's Pivotal Trial(s) and other required studies in accordance with the timeframes and allocation of responsibilities set forth in the Behçet's Uveitis Development Plan. **[*]** XOMA shall be responsible for conducting CMC Activities and providing certain clinical trial materials as set forth in Sections 6.4 and 6.5 with respect to the Behçet's Pivotal Trial(s) and any other related trial.

(c) Development Costs and CMC Costs. Servier shall be responsible for (i) all Development Costs under the Development Budget for the Behçet's Uveitis Development Plan, up to **[*]** Dollars ($**[*]**), and (ii) all CMC Costs for all CMC Activities associated with studies contemplated under such plan, up to **[*]** Dollars ($**[*]**). Any amounts incurred in accordance with the Development Budget and Behçet's Uveitis Development Plan in excess of the above maxima shall be shared equally by the Parties; provided such amounts are not greater than **[*]**% of the budgeted amounts set forth in the Development Budget for such plan, unless the Parties agree in writing to share amounts in excess of **[*]**% of the budgeted amounts, which agreement shall not be unreasonably withheld. XOMA shall be reimbursed amounts expended under this Section 3.3(c) and the Parties shall reconcile their expenses incurred under this Section 3.3(c), all as provided in Section 3.6.

(d) For clarity, XOMA's exercise or failure to exercise the Cardiometabolic Indications Option shall have no effect on this Section 3.3 and the Parties' obligations and responsibilities hereunder with respect to Development of the Product for Behçet's Uveitis.

3.4 Development of Product for Lead Cardiometabolic Indications.

(a) Initial Plan for Lead Cardiometabolic Indications. An initial Global Research and Development Plan for Type 2 diabetes, which contains the initial plan, including study outlines and estimated timelines, and the preliminary Development Budget for the Development of the Product for Type 2 diabetes **[*]**, will be established by the Parties within **[*]** days following the Effective Date and will be attached to this Agreement by reference as Exhibit 3.4(a) (the "**Initial T2D Development Plan**"). The Parties shall update such plan as needed in accordance with Section 3.2(b) (such updated plan, the **"T2D Development Plan"**). The initial Global Research and Development Plan for the Development of the Product for **[*]** will be prepared within **[*]** days of the determination by the JSC/JEC of **[*]**.

(b) Review of Phase 2 Results in Type 2 Diabetes.

(i) XOMA will discuss with Servier the data analysis plan prior to database lock for the Phase 2b Study. Promptly after, but no later than **[*]** days from XOMA's receipt of the Flash 2b Report from the Phase 2b Study, XOMA shall supply the Phase 2 Results Package to Servier. XOMA shall thereafter provide the Full Data Set to Servier, for its review, as soon thereafter as it becomes available, but in no event later than **[*]** days from such data becoming available. After receipt by Servier of the Phase 2 Results Package and the Full Data Set from XOMA, the Parties shall evaluate such results, **[*]**.

(ii) If Servier does not desire to pursue Development, or does not agree on the path for such Development **[*]**, and XOMA does or has a different plan for pursuing such Development or Regulatory Approval in the Retained Territory, XOMA shall, notwithstanding its not having exercised the Cardiometabolic Indications Option at such time, have all rights **[*]**, and, subject to prior approval by Servier (such approval not to be unreasonably withheld) **[*]**. However, in such case, XOMA would not have the right **[*]** unless and until it exercised the Cardiometabolic Indications Option pursuant to Section 3.5, and would do so at its or its Third Party Partner's cost and expense, as Unsponsored Work, in accordance with Section 3.8(b), unless the Parties otherwise agree. If instead Servier does desire to pursue Development, or a different path for such Development, and XOMA does not, Servier shall nonetheless have all rights to proceed with such continued Development, and XOMA's rights under the Cardiometabolic Indications Option shall remain in place as such Development progresses.

(c) Responsibilities and Costs During Pre-Exercise Period. XOMA shall be responsible for completing the conduct of the T2D Phase 2 Studies in accordance with the T2D Development Plan, and Servier shall be responsible for conducting or requesting that XOMA conduct, and for all Development Costs associated with, all other Development activities for the Products, including as required additional Phase 2 Clinical Trials, during the Pre-Exercise Period, subject to repayment of a portion of such costs under Section 8.5 following XOMA's exercise of the Cardiometabolic Indications Option. Following **[*]**, should the data warrant, **[*]**. XOMA would be responsible for conducting CMC Activities and providing certain clinical trial materials as set forth in Sections 6.4 and 6.5 with respect to the Lead Cardiometabolic Indications, and Servier shall be responsible for all CMC Costs associated therewith, subject to repayment of a portion of such costs under Section 8.5 following XOMA's exercise of the Cardiometabolic Indications Option. Reimbursement of XOMA's Development Costs and CMC Costs under this Section 3.4(c) shall be in accordance with Section 3.6.

(d) Responsibilities and Costs Post Early Option Exercise. If XOMA exercises the Early Option Exercise, and except in the case where XOMA pursued Development of the Product in Type 2 diabetes independently as provided in Section 3.4(b)(ii), then either:

(i) if the Early Option Exercise is triggered by **[*]** Servier has determined to move into Phase 3 Clinical Trials in the Licensed Territory, XOMA (or its licensee) shall be responsible for conducting in the Retained Territory Phase 3 Clinical Trials of the Product in Type 2 diabetes that are designed to meet the requirements of both the FDA and EMA for Regulatory Approval in the U.S. and EU, respectively, and Servier shall be responsible for conducting in the Licensed Territory such Phase 3 Clinical Trials of the Product, all in accordance with the then-current T2D Development Plan; or

(ii) if the Early Option Exercise instead was triggered by **[*]** Servier has determined to move into Phase 3 Clinical Trials **[*]** in the Licensed Territory, then XOMA (or its licensee) shall be responsible for conducting in the Retained Territory Phase 3 Clinical Trials of the Product **[*]** that are designed to meet the requirements of both the FDA and EMA for Regulatory Approval in the U.S. and EU, respectively, and Servier shall be responsible for conducting in the Licensed Territory such Phase 3 Clinical Trials of the Product, all in accordance with **[*]** Development Plan (clause (i) or (ii), as the case may be, the **"Joint Phase 3 Program"**); and

(iii) If XOMA exercises under clause (i) above, Servier would also be responsible for any then-ongoing clinical trials of the Product **[*]**, and if XOMA exercises under clause (ii) above, Servier would also be responsible for any then-ongoing clinical trials of the Product in Type 2 diabetes, all in accordance with the then-current T2D Development Plan and **[*]** Development Plan.

Servier shall be solely responsible for all Development Costs, in the first instance, incurred after the date of Early Option Exercise to conduct any Joint Phase 3 Program, as set forth in the Development Budget for the T2D or **[*]** Development Plan, as the case may be, provided that Servier shall have the right to **[*]**. Notwithstanding the foregoing, following Early Option Exercise of the Cardiometabolic Indications Option, if XOMA enters into a Retained Territory License Agreement for one or more Cardiometabolic Indications, **[*]**, and XOMA thereafter shall be responsible for its **[*]** percent (**[*]**%) share on an ongoing basis, and shall **[*]** commencing with the effective date of the Retained Territory License Agreement. In addition, following such exercise, the Parties will share the CMC Costs incurred following the date of such exercise, for such Development in the Lead Cardiometabolic Indications, in accordance with the Manufacturing Plan, with XOMA responsible for **[*]** percent (**[*]**%) of such costs and Servier responsible for **[*]** percent (**[*]**%) of such costs.

(e) Responsibilities if No Early Option Exercise. If XOMA does not effect an Early Option Exercise, until any Late Option Exercise, Servier shall be responsible itself for conducting all Phase 3 Clinical Trials of the Product in the Lead Cardiometabolic Indications and shall not be required to include in such trials any patients residing in the Retained Territory, but shall nonetheless ensure that the study design, endpoints and protocols for such Phase 3 Clinical Trials meet EMA and FDA (except for any studies or requirements that are required only by FDA and not also by EMA) requirements for Regulatory Approval of the Product in the Lead Cardiometabolic Indications. Servier shall be solely responsible for all Development Costs incurred to conduct all such Phase 3 Clinical Trials of the Product in the Lead Cardiometabolic Indications as set forth in the T2D and **[*]** Development Plans, subject to repayment of a portion of such costs under Section 8.4 in the event XOMA exercises its Late Option Exercise of the Cardiometabolic Indications Option.

(f) Responsibilities If No Option Exercise. Where XOMA does *not* exercise even its Late Option Exercise, Servier (or its sublicensees) shall remain solely responsible for all Development Costs and CMC Costs incurred in connection with the further Development of the Product in the Lead Cardiometabolic Indications and any other Cardiometabolic Indications, and shall continue to provide for review and approval by the JSC of updated T2D and **[*]** Development Plans to so reflect such Development, for both the Licensed Territory and the Retained Territory.

3.5 Cardiometabolic Indications Option. Subject to the terms and conditions of this Agreement, Servier hereby grants to XOMA an option to re-acquire all rights (including the right to Develop and Commercialize) to the Product for use in the Cardiometabolic Field, in the Retained Territory (the "**Cardiometabolic Indications Option**") as set forth in this Section 3.5. XOMA may exercise such option by written notice to Servier and payment of the Option Exercise Fee set forth in Section 8.4, within the applicable time periods set forth below:

(a) Early Option Exercise. XOMA shall have the right to first exercise the Cardiometabolic Indications Option (the **"Early Option Exercise"**) at any time following the Effective Date until the date which is no later than **[*]** days following the earlier of (i) the first **[*]** or (ii) the first **[*]** ("**Early Option Exercise Date**"); or

(b) Late Option Exercise. To the extent XOMA does not affect an Early Option Exercise, it shall nonetheless have the right to exercise the Cardiometabolic Indications Option (the **"Late Option Exercise"**) after the Early Option Exercise Date, but no later than **[*]** days after the earlier of (i) **[*]** required for the submission of the MAA for Type 2 diabetes or (ii) **[*]** required for the submission of the MAA for **[*]**, but in any event prior to submission of any MAA for the Product for Type 2 diabetes or for **[*]** (**"Late Option Exercise Date**").

(c) Effect of Exercise. Any exercise by XOMA of the Cardiometabolic Indications Option would result in (i) termination of the license granted to Servier under Section 7.1(a)(ii)(B) effective as of such time as the payment of the Option Exercise Fee is received, (ii) reversion to XOMA of the right to use the XOMA Technology to Develop and Commercialize the Product, and Manufacture Product for use in the the Cardiometabolic Indications in the Retained Territory, and (iii) an obligation to reimburse Servier the relevant percentages of its Development Costs and CMC Costs as are set forth in Section 8.5.

3.6 Reconciliation and Reimbursement.

(a) With respect to Development Costs or CMC Costs incurred by XOMA during the prior calendar quarter and which are to be reimbursed as provided under Section 3.3(c) or 3.4(c), (d) or (e), such reimbursement shall be done on the basis of documented employee hours worked, multiplied by fully burdened FTE rates (on the basis of rates indicated in Exhibit 3.6(a), such rates not to be increased beyond the inflation rate in California as measured by the Consumer Price Index) and documented incurred out of pocket material and Third Party services costs comprising such Development Costs or CMC Costs, as the case may be. XOMA shall invoice Servier for such amounts on a calendar quarterly basis, and Servier shall pay each such invoice within **[*]** days after receipt thereof.

(b) With respect to Development Costs or CMC Costs incurred by the Parties at such time as they are sharing such costs, as provided in Section 3.3(c) and Section 3.4(d), within **[*]** days after the end of each calendar **[*]**, each Party shall provide the other Party with a detailed, activity-based statement of such Development Costs or CMC Costs (the **"Cost Report"**) (or in each case an estimate of any portions thereof where actuals are not known as of such time) as well as details of any adjustments to be made to the amounts submitted in the previous calendar quarter, in a format to be agreed-upon by the Parties; provided that neither Party's Development Costs or CMC Costs incurred in connection with the Development of the Product or CMC Activities undertaken in connection therewith which are greater than **[*]**% of the amount budgeted therefor shall be subject to cost sharing as provided herein unless the other Party has agreed to such overage, such agreement not to be unreasonably withheld. Within **[*]** days after the end of the calendar quarter, Servier shall provide XOMA with a written report (the **"Reconciliation Report"**) setting forth in a format to be agreed-upon by the Parties, the calculations of each Party's share of such Development Costs or CMC Costs. Such Reconciliation Report shall include for such calendar quarter the (i) total Development Costs and total CMC Costs incurred by each Party, and each Party's respective share thereof, and (ii) the net payment due from one Party to the other Party in accordance with this Section 3.6(b). Any net payment owed from one Party to the other Party shall be paid within **[*]** days following such reconciliation (i.e. within **[*]** days after the end of the calendar quarter) provided that if a Party disputes an amount provided in such Reconciliation Report then such disputed amount shall be reviewed by the JDC (with respect to Joint Development Cost), or JMC (with respect to a CMC Cost), as applicable, and any net payment owed with respect to the undisputed amounts shall be paid within a **[*]** day period. If requested by a Party, any invoices or other supporting documentation for any payments to a Third Party shall be promptly provided.

3.7 Unsponsored Work and Territory-Specific Work. The costs for all Unsponsored Work (defined below), and Territory-Specific Work, shall be borne solely by the Party undertaking such activities.

3.8 Additional Studies or Indications.

(a) Either Party shall have the right, through the JDC, to propose that one or more additional human clinical studies (beyond what is then included in the applicable Global Research and Development Plan) be conducted for a Lead Cardiometabolic Indication or that one or more additional indications in the Cardiometabolic Field (other than a Lead Cardiometabolic Indication) or the Remaining Field (other than Behçet's Uveitis) be pursued for Development of the Product, and shall provide the JDC with any supporting data or publications supporting any such proposal. In such event, the JDC shall consider such proposal and evaluate the supporting data and Information in good faith. If both Parties' JDC representatives agree to conduct such proposed Development, the JDC shall prepare an amendment to the applicable Global Research and Development Plan to include the proposed studies, for approval by the JSC, and the Parties shall have the diligence obligations with respect to such additional studies or indications as provided in Sections 3.9 and 5.6. The Parties shall share all costs and expenses incurred to conduct such activities in accordance with the applicable budget and in the proportions set forth in Sections 3.3(c), 3.4(d), and Section 8.5, as the case may be.

(b) If the non-proposing Party (i) does not believe that such additional human clinical studies are necessary for Regulatory Approval of the Product in the applicable Lead Cardiometabolic Indication, or is not interested in pursuing a proposed new indication, (ii) does not wish to fund such proposed activities, and (iii) does not reasonably believe that such proposed activities are substantially likely to create a Material Impact, then the proposing Party shall have the right to perform the proposed activities (the "**Unsponsored Work**") at its own expense. The proposing Party shall deliver to the JDC all proposed plans for such Unsponsored Work in advance of commencing such activities and deliver an update on such Unsponsored Work at each meeting of the JDC. Promptly following completion of the Unsponsored Work, the proposing Party shall deliver to the JDC the top-line data summary and shall disclose all other Information resulting from such Unsponsored Work to the other Party pursuant to Section 4.4. Notwithstanding anything to the contrary in this Agreement, the non-proposing Party shall have access to and the right to use all Information resulting from the Unsponsored Work solely as necessary to comply with the regulatory requirements in its territory in particular with respect to safety reporting and a Party's license rights to such Information shall be limited solely to such purpose. If, following completion of any Unsponsored Work, the non-proposing Party wishes to have the right to use the resulting Information (beyond the rights pursuant to the immediately preceding sentence of this Section 3.7(b)), it may do so upon reimbursing the proposing Party for **[*]** percent (**[*]**%) of its reasonable documented costs and expenses of the Unsponsored Work. Once the non-proposing Party has reimbursed such amounts, the Information from such Unsponsored Work shall be included in the proposing Party's licensed know-how, the activities shall no longer be considered Unsponsored Work, and the applicable indication shall be subject to milestone payments as and to the extent specified under Article 8. If however, the non-proposing Party does in good faith believe the proposed activities are substantially likely to create a Material Impact, the Parties shall submit the matter for resolution in accordance with Sections 2.9(b) or 2.9 (c); provided that if, pursuant to 2.9 (b), the Executive Officers are not able to resolve the matter within the applicable **[*]**-day period, then either Party may submit the matter for non-binding mediation under Section 14.2 followed by binding arbitration under Section 14.3, if applicable.

3.9 Development Diligence; Standards of Conduct. Each Party shall use Diligent Efforts to carry out the activities assigned to it under the Global Research and Development Plans. Each Party shall conduct its activities under the Global Research and Development Plans in a good scientific manner and in compliance in all material respects with all applicable Laws. Servier will use Diligent Efforts to Develop and obtain Regulatory Approval for the Product in the Lead Cardiometabolic Indications, Behçet's Uveitis and any additional indications agreed pursuant to Section 3.8(a) in the Licensed Territory and, following the Pre-Exercise Period, if XOMA has not exercised the Cardiometabolic Indications Option, for the Lead Cardiometabolic Indications and any additional Cardiometabolic Indications agreed pursuant to Section 3.8(a) in theRetained Territory, itself or through one or more sublicensees. The Parties agree that as and to the extent Development of the Product is terminated for any indication, they will discuss in good faith another indication to pursue, either jointly or independently as Unsponsored Work.

3.10 Opt-Out Rights of Either Party in Cardiometabolic Field. If XOMA exercises the Cardiometabolic Indications Option under Section 3.5, and thereafter the Parties are conducting a Joint Phase 3 Program or otherwise jointly conducting and funding one or more studies with respect to the Product in a given Cardiometabolic Indication, then on an indication-by-indication basis, upon **[*]** days written notice, either Party shall have the right to "opt-out" of its obligations to jointly conduct such program for such indication; provided, however, that regardless of such election to so opt-out, the opting-out Party would nonetheless be responsible for its allocated percentage of all Development Costs and CMC Costs allocable to any then-ongoing studies or trials with respect to such Indication, and would have all rights under Section 4.4 to reference and use the data and other results of any such trials or studies, it being understood that any studies or trials initiated and conducted thereafter by the non-opting-out Party would be Unsponsored Work as to which the opting-out Party has only those rights as specified in Section 3.8(b).

3.11 Development Records and Reports. Each Party shall maintain complete and accurate records (in the form of technical notebooks and/or electronic files where appropriate) of all work conducted by it or on its behalf under the Global Research and Development Plans and all Information resulting from such work. Such records, including any electronic files where such Information may also be contained, shall fully and properly reflect all work done and results achieved in the performance of the Global Research and Development Plans in sufficient detail and in good scientific manner appropriate for patent and regulatory purposes. Each Party shall have the right to review and copy such records maintained by the other Party at reasonable times, but no less than **[*]** in any one calendar year, and to obtain access to originals (including the databases) to the extent needed for patent or regulatory purposes or for other legal proceedings. Each Party shall provide the other party and the JDC with regular reports detailing its Development activities under the Development Plan and the results of such activities at each regularly scheduled JDC meeting, at a level of detail reasonably sufficient to enable the other Party to determine the reporting Party's compliance with its Diligent Efforts obligations under Section 3.9. The Parties may agree to set up an electronic data room in order to manage the exchange of information in a secure manner.

3.12 Subcontracts. Each Party may perform any of its Development obligations under this Agreement through one or more subcontractors and consultants upon written notice to the JDC, provided that (a) such Party remains responsible for the work allocated to, and payment to, such subcontractors and consultants as it selects to the same extent it would if it had done such work itself; (b) the subcontractors and consultants undertake in writing obligations of confidentiality and non-use regarding Confidential Information that are substantially the same as those undertaken by the Parties pursuant to Article 10 hereof; and (c) the subcontractors and consultants agree in writing to assign all intellectual property developed in the course of performing any such work under the Global Research and Development Plans to the Party retaining such subcontractors or consultants.

3.13 Personnel. All employees, agents and subcontractors of each Party and its Affiliates conducting activities under this Agreement shall, prior to commencing any such activities, be under written obligation to assign any inventions and related intellectual property rights to the Party by whom they are employed or for whom they are providing services (or its designated Affiliate). The Parties acknowledge and agree that this Agreement shall be deemed to be a joint research agreement under 35 U.S.C. §103(c).

4. Regulatory Matters

4.1 Lead Regulatory Party. In general, XOMA shall be the lead Party for, and have the final say with respect to, subject to Section 2.9, regulatory activities regarding the Product in the Retained Territory for the Remaining Field and, if XOMA exercises the Cardiometabolic Indications Option, for the Cardiometabolic Indications. Servier (or its designee for the Retained Territory) shall be the lead Party for, and have the final say with respect to, subject to Section 2.9, all regulatory activities regarding the Product in the Licensed Territory for all indications and in the Retained Territory for the Cardiometabolic Indications if XOMA does not exercise the Cardiometabolic Indications Option before expiration thereof. Except for those clinical studies commenced prior to the Effective Date and unless otherwise agreed by the Parties, Servier shall be the sponsor of all clinical studies of the Product performed in the Licensed Territory, and XOMA (or its licensee) shall be the sponsor of all clinical studies performed in the Retained Territory; provided that if XOMA does not exercise the Cardiometabolic Indications Option before expiration thereof, Servier's designee shall be the sponsor of all clinical studies performed in the Retained Territory for the Product in any Cardiometabolic Indication. To the extent a Party for a given clinical trial requires that the other Party conduct some part of such trial or interact with Regulatory Authorities in such other Party's territory, such other Party will reasonably consider such request and should the latter accept it, it shall be the sponsor of such component of such trial in its territory.

4.2 Ownership of Regulatory Dossier. Servier will own all Regulatory Materials for the Product in the Licensed Territory, and XOMA will own all Regulatory Materials for the Product in the Retained Territory, for all indications. Following the Pre-Exercise Period, where XOMA has not exercised the Cardiometabolic Indications Option, and upon the sublicense by Servier, if any, of the rights to the Product in such indications in the Retained Territory to a Third Party, XOMA shall be obligated at such time to assign over to such Third Party, upon request, any such Regulatory Materials for the Product for the Cardiometabolic Indications. XOMA will also manage and control the drug master file for the Licensed Antibody, to which Servier shall have full access and the right to reference for the exercise of its licenses to the Product.

4.3 Regulatory Rights, Diligence and Responsibilities. Servier shall use Diligent Efforts to prepare and file all necessary Regulatory Materials for the Product with Regulatory Authorities and to seek Regulatory Approval for the Product in the Lead Cardiometabolic Indications and in Behçet's Uveitis in the Major European Countries, and shall be responsible for preparing and filing all necessary Regulatory Materials for the Product with Regulatory Authorities and seeking Regulatory Approval for the Product in all other indications in the Licensed Territory, in each case as relevant, in accordance with the Global Research and Development Plans. XOMA shall be responsible for preparing and filing all necessary Regulatory Materials for the Product with Regulatory Authorities and seeking Regulatory Approval for the Product in the Retained Territory in all indications other than the Cardiometabolic Indications and, upon exercise of the Cardiometabolic Indications Option, in the Cardiometabolic Indications in the Retained Territory, in accordance with the Global Research and Development Plans. Each Party shall keep the other Party informed of regulatory developments relating to the Product in its respective territory through regular reports at the JDC meetings. Each Party shall send Regulatory Materials (in the case of Servier for the EMA) in draft form to the other Party and give the latter a reasonable period of time (not exceeding **[*]** days) to comment on such drafts of Regulatory Materials. Each Party shall notify the other Party of any Regulatory Materials (other than routine correspondence) submitted to or received from any Regulatory Authorities respectively in the Retained Territory for XOMA and in the Major European Countries for Servier and shall provide the other Party with copies thereof. Each Party shall provide the other Party with reasonable advance notice of all meetings, conferences, and discussions scheduled with any Regulatory Authority (in the case of Servier for the EMA) concerning the Product, and shall consider in good faith any input from the other Party in preparing for such meetings, conferences or discussion. Unless prohibited by applicable Laws, XOMA shall have the right to attend any such meetings, conferences or discussions of Servier with EMA. If XOMA elects not to or cannot attend such meetings, conferences or discussions, Servier shall provide written summaries of such meetings, conferences or discussions in English as soon as practicable after the conclusion thereof. Following the last Phase 2 Clinical Trial for Type 2 diabetes, as determined by the JDC, XOMA agrees to schedule and attend an End of Phase 2 Meeting with the FDA with respect to the anticipated Phase 3 clinical program for Type 2 diabetes, should the data warrant. Servier will have the option, but not the obligation, to have representatives of Servier present at such meeting.

4.4 Rights of Reference; Use of Data.

(a) Promptly after the Effective Date, XOMA shall work with Servier to facilitate the timely transfer of the XOMA Know-How related to the Product (other than the XOMA Know-How related to Manufacturing, which is covered by Section 6.8). Such transfer shall occur in a manner and following a reasonable schedule to be established by the JSC. XOMA shall provide access to Servier to copies of relevant material, Information, reports and data, including pre-clinical data, clinical data, and any data that have been provided to Regulatory Authorities for the purpose of obtaining Regulatory Approval. Except with respect to Unsponsored Work, each Party shall make available to the other Party all data and results generated under any Global Research and Development Plan and, for use in complying with safety reporting obligations in its territory, all data generated under any Unsponsored Work or Territory-Specific Work; and each Party shall have the right to cross reference, file or incorporate by reference any Regulatory Materials filed by the other Party (or for which the other Party has a right of reference and a right to transfer such right of reference to such first Party) for the Product in order to support regulatory filings that such Party is permitted to make under this Agreement for the Product and to enable such Party to fulfill its obligations and exploit it rights under this Agreement to Develop, Manufacture (subject to Article 6), or Commercialize the Product. Each Party shall, on written request by the other Party (or its Affiliate or licensee), provide to the requesting Party and to any specified Regulatory Authority a letter, in the form reasonably required by the requesting Party, acknowledging that the requesting Party has the right of reference to any such Regulatory Materials for all purposes consistent with the Development and Commercialization of Product in the applicable country. Further, each Party shall ensure that any other party to which such Party assigns any such Regulatory Materials agrees in writing that the other Party has the above rights of reference, and to provide to such other Party (or its Affiliate or licensee) and to any specified Regulatory Authority a letter, in the form reasonably required by the requesting Party, acknowledging that the requesting Party has the right of reference to any such Regulatory Materials for all such purposes.

(b) During the Term, on a regular basis, each Party shall present reports at JDC meetings on its activities under the Global Research and Development Plans and all regulatory activities with respect to Products in its territory, at a level of detail to be agreed by the JDC; provided, however, that any such presentation shall include at least a summary of the resulting data from all studies conducted by a Party with respect to the Product.

(c) All preclinical, non-clinical, analytical, manufacturing, and clinical data and associated reports disclosed by one Party to the other under this Agreement, other than Unsponsored Work or Territory-Specific Work, may be used by the receiving Party subject to the terms of this Agreement solely for the purpose of Developing, seeking and obtaining Regulatory Approval and Commercializing the Product in its respective territory and field. Each Party shall have the right to share any and all such data and other Regulatory Materials received from the other Party with its Affiliates and any Third Party sublicensees or licensees in its respective territory solely for the purpose of Developing, seeking and obtaining Regulatory Approval and Commercializing the Product in its respective territory and field. Access to and use of such pre-clinical and clinical data are given by each Party to the other Party without cost (except as otherwise provided herein) on an "as is" basis without any warranty of any kind. Each receiving Party accepts all risk and liability in relation to the use of the data received from the other Party and shall indemnify and hold harmless the Party providing such data from any Third Party's claim(s) based upon such data as provided in Article 13.

4.5 Recalls. Any decision to initiate a recall or withdrawal of a Product shall be made by Servier in the Licensed Territory and by XOMA in the Retained Territory; provided that Parties shall discuss in good faith and coordinate their efforts with respect to any such recalls. After the Pre-Exercise Period, if XOMA does not exercise the Cardiometabolic Indications Option, Servier (or its sublicensee) shall have the right to initiate a recall or withdrawal of a Product for the Cardiometabolic Field in the Retained Territory. In the event of any recall or withdrawal, such Party shall take any and all necessary action to implement such recall or withdrawal in accordance with applicable Laws, with assistance from the other Party as reasonably requested by the deciding Party. The costs of any such recall or withdrawal shall be borne solely by the deciding Party in the applicable territory and field.

5. Commercialization

5.1 Overview. Servier shall have sole control and responsibility for the Commercialization of Products in the Licensed Territory and shall bear all costs and expenses associated with the Commercialization of Products in the Licensed Territory; and XOMA shall have sole control and responsibility for the Commercialization of Products in the Retained Territory and shall bear all costs and expenses associated with the Commercialization of Products in the Retained Territory; provided, however that following the Pre-Exercise Period, if XOMA does not exercise the Cardiometabolic Indications Option, then Servier shall have sole control and responsibility, itself or through a Third Party sublicensee, for the Commercialization of Products in the Retained Territory in the Cardiometabolic Field, subject to compliance with this Agreement, and shall bear all costs and expenses associated therewith. The Party with responsibility for Commercialization in a territory and field shall be referred to as the "**Commercializing Party**" for such territory and field.

5.2 Sales and Distribution. It is understood that as between the Parties, the Commercializing Party shall be solely responsible for handling all returns, order processing, invoicing and collection, distribution, and receivables for Products in the applicable territory and indication.

5.3 Ex-Territory Sales. Neither Party shall engage in any advertising or promotional activities relating to the Product directed primarily to customers or other buyers or users of the Product located outside its territory or accept orders for Products from or sell Products into such other Party's territory for its own account or for the Commercializing Party's account, and if such other Party receives any order for Products in the Commercializing Party's territory, it shall refer such orders to the Commercializing Party for acceptance or rejection.

5.4 Commercialization Plan for Licensed Territory. Servier shall pursue Commercialization of the Product in the Licensed Territory, in accordance with its normal business practices for its internal products at a similar stage. Servier shall deliver an initial Commercialization plan to XOMA no later than **[*]** months prior to the anticipated date of the first filing of the first MAA for the Product in the Licensed Territory (the "**Commercialization Plan**"). After the establishment of the initial Commercialization Plan, Servier shall prepare updates and amendments to such Commercialization Plan at least annually and deliver such updated Commercialization Plan to XOMA no later thanOctober 31st of each calendar year.

5.5 Trademarks. Servier shall have the right to brand the Products in the Licensed Territory using trademarks and trade names it determines appropriate for the Products, which may vary by country or within a country (**"Product Marks"**). Each Party shall not, and shall ensure that its Affiliates and sublicensees will not, make any use of the trademarks or house marks of the other Party or its Affiliates or licensees (including their corporate names) or any trademark confusingly similar thereto. Servier shall own all rights in the Product Marks and shall register and maintain the Product Marks in the Retained Territory (if XOMA does not exercise the Cardiometabolic Indications Option) and other countries it determines reasonably necessary at its own cost and expense. XOMA shall have the right to brand the Products in the Retained Territory in the Remaining Field, and, in the event that XOMA exercises the Cardiometabolic Indications Option, in the Cardiometabolic Indications, using trademarks and trade names it determines appropriate for the Products at XOMA's cost and expense. Following the Pre-Exercise Period, if XOMA does not exercise the Cardiometabolic Indications Option, Servier shall have the right to convey to any sublicensee in the Retained Territory the right to brand the Products for the Cardiometabolic Indications, subject to coordination with and the approval of XOMA, not to be unreasonably withheld, to ensure that no confusion arise in the Retained Territory with respect to Products for use in the Remaining Field and those for use in the Cardiometabolic Indications.

5.6 Commercial Diligence. During the Term, Servier shall use Diligent Efforts to Commercialize the Products throughout the Licensed Territory **[*]**, including in **[*]** of the Major European Countries, in the Cardiometabolic Field and in the Remaining Field. Without limiting the generality of the foregoing, Servier **[*]**, including in **[*]** of the Major European Countries, in Behçet's Uveitis, in each Lead Cardiometabolic Indication pursuant to Section 3.8(a). After the Pre-Exercise Period, if XOMA does not exercise the Cardiometabolic Indications Option, Servier shall include in any sublicense agreement with respect to the Retained Territory, that such sublicensee **[*]** to Commercialize the Product in the U.S. and Japan in each Lead Cardiometabolic Indication and each additional Cardiometabolic Indication agreed pursuant to Section 3.8(a), in each case provided that it receives Regulatory Approval in such countries. To the extent Servier determines not to apply for Regulatory Approval, for and/or launch the Product **[*]**, it shall promptly notify XOMA and terminate this Agreement with respect to such Significant Markets in accordance with Section 11.2.

5.7 Standards of Conduct. Each Party shall in all respects comply with all applicable Laws and applicable guidelines concerning the advertising, sales and marketing of prescription drug products in Commercializing Products under this Agreement, including without limitation the Foreign Corrupt Practices Act of 1977, as amended (**"FCPA"**) and any applicable local anti-bribery laws.

5.8 Limitations and Protections in Retained Territory in Event of No Option Exercise. Following the Pre-Exercise Period and where XOMA does not exercise or allows to lapse the Cardiometabolic Indications Option, the following shall apply thereafter:

(a) Limitations on Development.

(i) Except as expressly approved in advance in writing by the Parties, neither Servier, nor any of its Affiliates or sublicensees shall, directly or through any Third Party, sponsor, conduct or cause to be conducted, otherwise assist in, supply any Licensed Antibody or Product for use in connection with, fund or otherwise support any human clinical trial (including without limitation any investigator sponsored studies) using such Licensed Antibody or Product for any indication or use in the Remaining Field, in the Retained Territory.

(ii) Except as expressly approved in advance in writing by the Parties, neither XOMA, nor any of its Affiliates, licensees or sublicensees shall, directly or through any Third Party, sponsor, conduct or cause to be conducted, otherwise assist in, supply any Licensed Antibody or Product for use in connection with, fund or otherwise support any human clinical trial (including without limitation any investigator sponsored studies) using such Licensed Antibody or Product for any indication or use in the Cardiometabolic Field, in the Retained Territory.

(b) Limitations on Commercialization Activities

(i) Subject to any applicable law, Servier and its sublicensees (and their respective Affiliates) shall not knowingly promote or sell (or encourage or facilitate the sale of) (a) any Product for use in the Remaining Field in the Retained Territory. Servier and its sublicensees (and their respective Affiliates) shall not provide funding to or otherwise support continuing education programs for sales representatives and/or medical professionals in which information is provided about the use of any Product for use in the Remaining Field in the Retained Territory.

(ii) Subject to any applicable law, XOMA and its licensees (and their respective Affiliates) shall not knowingly promote or sell (or encourage or facilitate the sale of) any Product for use in the Cardiometabolic Field in the Retained Territory. XOMA and its licensees (and their respective Affiliates) shall not provide funding to or otherwise support continuing education programs for sales representatives and/or medical professionals in which information is provided about the use of any Product for use in the Cardiometabolic Field in the Retained Territory.

(c) **Tracking of Sales of Product.** Should XOMA not exercise the Cardiometabolic Indications Option, the Parties agree to discuss, through the JSC and/or JEC, potential mechanisms to be put in place with respect to the tracking of sales of the Product as between the Cardiometabolic Indications and the Remaining Field in the Retained Territory.

(d) Each of Servier and XOMA shall ensure that any license or sublicense agreement it enters into with respect to the Retained Territory include the foregoing obligations.

6. Manufacturing

6.1 **Overview**. The Manufacture of Product shall be overseen and coordinated by the Joint Manufacturing Committee and conducted pursuant to the Manufacturing Plan. In general and subject to the terms of this Agreement, (a) XOMA shall be primarily responsible for conducting the CMC Activities, (b) XOMA shall be responsible for Manufacturing Bulk Drug Substance for clinical and commercial use for the Licensed Territory and the Retained Territory, (c) Servier shall be responsible for Manufacturing finished Product from such Bulk Drug Substance for sale of Products in the Licensed Territory, and (d) where XOMA does not exercise its Cardiometabolic Indications Option, Servier, or at Servier's choice XOMA (for a period not to exceed **[*]** years from First Commercial Sale in the Retained Territory) or a Third Party designated by Servier, shall be responsible for Manufacturing finished Product from such Bulk Drug Substance for sale of Products in the Cardiometabolic Field in the Retained Territory.

6.2 **Manufacturing Plan.** XOMA shall prepare and propose to the JMC for discussion purposes a detailed plan for CMC Activities, including process development and scale-up, Manufacture of Bulk Drug Substance, Manufacture of finished Product from Bulk Drug Substance, and any other matters related to the Manufacture of the Product, as well as a quarter-by-quarter budget for such activities (including direct costs, external costs, costs of raw materials, capital improvements required in connection therewith, and the like), such a detailed plan will be submitted for approval to the JSC (the **"Manufacturing Plan"**). The Manufacturing Plan will include only those capital expenditures by XOMA that are fully dedicated to the production of Bulk Drug Substance, and will provide allocations of costs for those costs that are shared between Bulk Drug Substance and other products of XOMA. An initial Manufacturing Plan for Development of the Product for Behçet's Uveitis for calendar year 2011 is attached to this Agreement as Exhibit 6.2. The Parties, through the JMC, shall make good faith efforts to review such initial Manufacturing Plan and agree upon any revisions, amendments or additions thereto, for the Product for Behçet's Uveitis and the Lead Cardiometabolic Indications for the subsequent **[*]** years, and have it approved by the JSC within **[*]** days after the Effective Date. On an annual basis, the JMC shall have prepared by XOMA and shall propose any amended or revised Manufacturing Plan for approval by the JSC by no later than **[*]** of each year, the budget for which shall govern the activities to be conducted during the following calendar year to enable appropriate scale up activity and financial planning.

6.3 Future Planning. Promptly after the Effective Date, the Parties through the JMC shall discuss a mutually beneficial arrangement for the harmonized Manufacture of Bulk Drug Substance for Commercialization and Development use by Servier, consistent with the following principles, and amend the Manufacturing Plan to reflect such arrangement:

(a) Maintain quality control standards and uniform specifications for the Bulk Drug Substance and finished Product;

(b) Enable speed to market for initial launch and subsequent indications;

(c) Mitigate risks to ensure the uninterrupted supply of Bulk Drug Substance and finished Product.

(d) Minimize XOMA Manufacturing Costs.

6.4 CMC Activities. XOMA shall be responsible for the performance of CMC Activities for Bulk Drug Substance, including associated regulatory activities, in accordance with the Manufacturing Plan. Prior to XOMA's exercise of the Cardiometabolic Indications Option and thereafter if XOMA does not exercise such option, Servier shall reimburse XOMA for all documented costs incurred by XOMA in performing such activities in accordance with the Manufacturing Plan and the budget contained therein, as provided in Article 3. If XOMA exercises the Cardiometabolic Indications Option, XOMA shall reimburse certain of these costs as provided in Section 8.5, and the Parties shall thereafter share such costs for the Cardiometabolic Field as provided in Section 3.4(d).

6.5 Supply of Bulk Drug Substance. Until such time as Servier may establish a second source of Bulk Drug Substance as contemplated in Section 6.7, Servier, its Affiliates and sublicensees shall purchase exclusively from XOMA, and XOMA shall Manufacture and supply exclusively to Servier or its Affiliates or sublicensees, subject to the terms of this Article 6, and to the terms of the Supply Agreement (as defined below), all Bulk Drug Substance required by Servier, its Affiliates and sublicensees for Development use and for Commercial use.

(a) Clinical Use. Bulk Drug Substance for clinical use by Servier will be supplied either as finished Product in vials or as Bulk Drug Substance, at Servier's option. Manufacture and supply of Bulk Drug Substance will be included within CMC Activities under the Manufacturing Plan, and all related costs will be included in CMC Costs under Section 6.4.

(b) Commercial Use.

(i) XOMA's manufacture and supply of Bulk Drug Substance to Servier for commercial use will be governed by a supply agreement, containing commercially reasonable terms mutually agreed by the Parties, including terms for sales forecasting, inventory builds and safety stock requirements, an initial version of which will be negotiated and entered into within **[*]** days after the Effective Date (the "**Initial Supply Agreement**"). At a time to be determined by the JMC, and reasonably sufficiently in advance of the anticipated First Commercial Sale of a Product, the Parties will amend the Initial Supply Agreement to reflect then-available relevant Information (as amended, the "**Supply Agreement**"). XOMA will supply Bulk Drug Substance to Servier for commercial use at a price equal to **[*]**% of the XOMA Manufacturing Costs for such Bulk Drug Substance.

(ii) For the avoidance of doubt, no cost or expense shall be counted more than once in calculating XOMA's actual Manufacturing costs or the XOMA Manufacturing Costs even if such cost or expense falls into more than one of the cost categories that comprise such cost. The Parties agree that each shall use its good faith efforts to reduce the XOMA Manufacturing Costs, including, where appropriate, the procurement of raw materials by using Servier's internal procurement infrastructure.

(c) Existing Inventory. Servier shall only purchase from XOMA, and XOMA shall sell to Servier, XOMA's existing inventory of phase 2 clinical materials and XOMA's existing inventory of phase 3 clinical materials that are necessary and suitable for the performance of clinical studies by Servier. Servier shall purchase such inventory reasonably in advance of the time Servier intends to use such inventory pursuant to a forecast to be agreed by the Parties.

6.6 Manufacture of Finished Product. For all Product sold by or on behalf of Servier, except for the Products sold in the Retained Territory (which is discussed under Section 6.1), Servier shall be responsible for final Manufacture of the finished Product from Bulk Drug Substance, including fill and finish and packaging, at Servier's expense; provided that upon Servier's request, XOMA shall arrange for a Third Party selected and approved by Servier to conduct final Manufacture of the Product for Servier from Bulk Drug Substance supplied by XOMA, including fill and finish and packaging, at Servier's expense. Where Servier requests that XOMA be responsible for final Manufacture of finished Product from Bulk Drug Substance for sale in the Retained Territory, the Parties shall discuss the terms and conditions of such final Manufacture at such time.

6.7 Manufacturing Facilities. XOMA shall ensure that (a) prior to the first filing of an MAA for the Product with the EMA, there is at least one facility qualified to manufacture Bulk Drug Substance for MAA submission to the EMA and (b) prior to the filing of an MAA for the first Major Cardiometabolic Indication for the Product with the EMA, there is a second facility qualified to manufacture Bulk Drug Substance for MAA submission to the EMA; provided that, where upon timely request by Servier, such second Bulk Drug Substance manufacturing facility is to be located in the EU and owned by Servier or by a Third Party contract manufacturer selected by Servier (the "**Servier Facility**"), the costs and expenses of qualifying and constructing such Servier Facility shall be borne by Servier; and provided further, that where Servier does not so request, XOMA shall establish such second facility outside the EU, at its own expense. In connection with such request by Servier regarding the Servier Facility, the Parties shall discuss in good faith and cooperate with respect to the transfer of XOMA Know-How related to the Manufacture of Bulk Drug Substance and Product to the Servier Facility pursuant to Section 6.8.

6.8 Transfer of XOMA Know-How and Manufacturing Technology.

(a) At Servier's request and expense, and on a schedule determined by the JMC, XOMA shall disclose (and provide copies, as applicable) to either Servier or the Third Party manufacturer selected by Servier under Section 6.7, all XOMA Know-How necessary or useful to enable Servier or such Third Party manufacturer (as appropriate) to Manufacture Bulk Drug Substance. For clarity, nothing in this Section 6.8 with respect to XOMA's obligation to transfer XOMA Know-How to Servier shall limit XOMA's right to use any such XOMA Know-How to fulfill XOMA's obligations to Manufacture and supply Bulk Drug Substance to Servier under this Agreement or the Supply Agreement. In addition, XOMA shall make available to Servier, on a reasonable consultation basis, advice of its technical personnel as may reasonably be requested by Servier in connection with such transfer of XOMA Know-How. **[*]**

(b) Servier and/or its Third Party manufacturer shall use the XOMA Know-How transferred under Section 6.8(a) solely for the purpose of Manufacturing Bulk Drug Substance and finished Products in accordance with the terms and conditions of this Agreement, and for no other purpose.

(c) Servier acknowledges and agrees that XOMA may condition its agreement to transfer any XOMA Know-How to a Third Party manufacturer on the execution of a confidentiality agreement between such Third Party manufacturer and XOMA that contains terms substantially equivalent to those of Article 10.

6.9 Audits.

(a) XOMA shall maintain, for at least **[*]** years from the date of creation, accurate records and accounts of costs of Manufacturing the Bulk Drug Substance in order to allow Servier to determine the accuracy of the calculation of XOMA Manufacturing Costs. Upon the written request of Servier and not more than once in any calendar year, XOMA shall permit an independent certified public accounting firm of internationally recognized standing, selected by Servier and reasonably acceptable to XOMA and under binder of confidentiality, to have access during normal business hours to such of the records of XOMA as may be reasonably necessary to verify the accuracy of such calculations hereunder for any year ending not more than **[*]** months prior to the date of such request. The accounting firm shall disclose to Servier only whether the records are correct or not and the specific details concerning any discrepancies. The findings of such inspection shall be XOMA's Confidential Information for the purposes of Article 10; provided that Servier shall have the right to disclose such findings to any sublicensee or Affiliate in accordance with Article 10.

(b) If such accounting firm concludes that Servier has overpaid for the Bulk Drug Substance supplied during such period, XOMA shall refund Servier the amount overpaid within **[*]** days after the receipt of such accounting firm's written report so concluding. If such accounting firm concludes that additional amounts were owed by Servier for the for the Bulk Drug Substance supplied during such period, Servier shall pay the additional amounts to XOMA within **[*]** days after the receipt of such accounting firm's written report so concluding. Any such audit of records shall be at Servier's expense; *provided* that in the event such audit discloses an overpayment of more than**[*]** percent (**[*]**%) between the amounts paid and the amounts due to XOMA, XOMA shall pay the expense of such audit.

6.10 Quality Agreement. In connection with the negotiation of the Supply Agreement, the Parties also shall enter into a separate quality agreement setting forth the responsibilities of the quality organizations of each Party with respect to the cGMP manufacture of the Product (the "**Quality Agreement**"). In the event of any conflict or inconsistency between the Quality Agreement and this Agreement, the Quality Agreements shall govern with respect to matters related to quality, and this Agreement shall govern with respect to all other matters.

6.11 Safety Data Exchange Agreement. As soon as reasonably practicable after the Effective Date, but in no event later than 90 days thereafter, the pharmacovigilance departments of both Parties shall meet and agree on a safety data exchange agreement ("**Safety Data Exchange Agreement**") which when executed shall be incorporated herein as Exhibit 6.11.

7. Licenses and Related Rights

7.1 Licenses to Servier.

(a) License Grant. Subject to the terms and conditions of this Agreement and the agreements set forth onExhibit 7.1(a), XOMA hereby grants Servier:

(i) a co-exclusive (with XOMA) royalty free license, with the right to sublicense as provided in Section 7.1(c), under the XOMA Technology to (A) Develop Products in the Cardiometabolic Field and in the Remaining Field in the Licensed Territory (subject to the last sentence of Section 4.1., and to Section 3.3.(b) above), and (B) in the Cardiometabolic Field in the Retained Territory, subject to earlier termination in the event of XOMA's exercise of the Cardiometabolic Indications Option, solely in accordance with the Global Research and Development Plans and/or this Agreement;

(ii) an exclusive, royalty-bearing license, with the right to sublicense as provided in Section 7.1(c), under the XOMA Technology to use, sell, offer for sale, distribute, import, export and otherwise Commercialize Products in (A) the Remaining Field and the Cardiometabolic Field in the Licensed Territory during the Term and (B) the Cardiometabolic Field in the Retained Territory, during the Term, but subject to earlier termination in the event of XOMA's exercise of the Cardiometabolic Indications Option; and

(iii) an exclusive, worldwide, royalty-free license under the XOMA Technology, with the right to sublicense as provided in Section 7.1(c), to make and have made finished Product from Bulk Drug Substance supplied by XOMA, (A) for use in the Development or Commercialization of Products in the Remaining Field and the Cardiometabolic Field in the Licensed Territory and (B) for use in the Development or Commercialization of Products in the Cardiometabolic Field in the Retained Territory, until such time as and subject to XOMA's exercise of the Cardiometabolic Indications Option. In addition, XOMA hereby grants to Servier a license to manufacture or have manufactured Bulk Drug Substance (X) solely for use in the Development or Commercialization of Products in and for the Licensed Territory, and (Y) for use in the Development or Commercialization of Products solely in the Cardiometabolic Field in the Retained Territory, until such time as and subject to XOMA's exercise of the Cardiometabolic Indications Option., all as and to the extent provided in Sections 6.7 and 6.8.

(b) XOMA Retained Rights. It is understood that at all times XOMA and its Affiliates retain (i) the exclusive right to Develop and Commercialize the Product in the Remaining Field in the Retained Territory, (ii) the right to practice the XOMA Technology as and to the extent needed in connection with its activities under this Agreement in fulfillment of its obligations hereunder, (iii) the right to Manufacture Bulk Drug Substance in the Licensed Territory and the Retained Territory and (iv) the right to use and practice the XOMA Technology outside the scope of the licenses granted to Servier in Section 7.1(a).

(c) Sublicense Rights.

(i) Servier shall have the right to grant sublicenses of the licenses granted to it under Section 7.1(a)(i)(A), Section 7.1(a)(ii)(A), and Section 7.1(a)(iii)(A) and 7.1(a)(iii)(X) to any of its Affiliates. Servier shall have the right to grant sublicenses of the licenses granted to it under Section 7.1(a)(i)(A), Section 7.1(a)(ii)(A), and Section 7.1(a)(iii)(A) to any Third Parties with the prior written consent of XOMA, not to be unreasonably withheld;

(ii) Servier shall have the right to grant sublicenses of the licenses granted to it under Section 7.1(a)(i)(B), 7.1(a)(ii)(B) and Section 7.1(a)(iii)(B) to any of its Affiliates. Servier shall have the right to grant sublicenses of the licenses granted to it under Section 7.1(a)(i)(B), 7.1(a)(ii)(B), Section 7.1(a)(iii)(B), and 7.1(a)(iii)(Y) to any Third Parties with the prior written consent of XOMA, not to be unreasonably withheld, but only in the event XOMA does not exercise its Cardiometabolic Indications Option; for clarity, where XOMA does not exercise such option at the Early Option Exercise Date, Servier shall have no right to sublicense such rights until after the Late Option Exercise Date;

provided that in the case of Third Parties: (w) Servier shall provide XOMA with prior written notice with respect to any such sublicense, and a redacted copy thereof, (x) Servier shall remain responsible for the compliance with this Agreement by such sublicensee(s), (y) each such sublicense agreement shall be consistent with the terms and conditions of this Agreement, and (z) Servier shall require, in substance, any sublicensee of XOMA Technology in the Cardiometabolic Field in the Retained Territory to defend, indemnify and hold harmless the XOMA Indemnitees from any and all damages or other amounts payable to a Third Party claimant, to the extent resulting from Claims against them that arise from or are based on: (A) the use of XOMA Technology in connection with the Development, Manufacture or Commercialization of the Product by or on behalf of such sublicensee or its affiliates in the Retained Territory; or (B) the use by such sublicensee in the Retained Territory of pre-clinical and clinical data and information supplied by XOMA to Servier under Section 4.4(c) (and sublicensed or transferred to such sublicensee), except in the case of XOMA's fraud, gross negligence or willful misconduct.

7.2 Licenses to XOMA.

(a) License Grant. Subject to the terms and conditions of this Agreement, Servier hereby grants XOMA:

(i) a non-exclusive, royalty-free license, with the right to sublicense as provided in Section 7.2(b), under the Servier Technology to Develop Products in the Cardiometabolic Field (subject to XOMA's exercise of the Cardiometabolic Indications Option) and in the Remaining Field solely in accordance with the Global Research and Development Plans and/or this Agreement;

(ii) a non-exclusive, royalty-free license, with the right to sublicense as provided in Section 7.2(b), under the Servier Technology to use, sell, offer for sale, distribute, import, export and otherwise Commercialize Products in (A) the Remaining Field in the Retained Territory during the Term and (B) upon XOMA's exercise of the Cardiometabolic Indications Option, the Cardiometabolic Field in the Retained Territory; and

(iii) a non-exclusive, worldwide license under the Servier Technology to Manufacture Bulk Drug Substance and Product.

(b) Sublicense Rights. XOMA shall have the right to grant sublicenses of the license granted to it under Section 7.2(a) to any of its Affiliates. XOMA shall have the right to grant sublicenses of the license granted to it under Section 7.2(a) to any Third Parties, with the prior written consent of Servier, which shall not be unreasonably withheld: (i) XOMA shall provide Servier with prior written notice with respect to any such sublicense, (ii) XOMA shall remain responsible for the compliance with this Agreement by such sublicensee(s), and (iii) each such sublicense agreement shall be consistent with the terms and conditions of this Agreement.

(c) Exclusive Rights Option. Should XOMA desire to convert any of the licenses granted under Section 7.2(a) from non-exclusive to exclusive, upon reasonable written notice to Servier, the Parties shall negotiate in good faith the terms upon which Servier will grant such exclusive rights.

7.3 Negative Covenants.

(a) Servier covenants that it will not, and will not permit any of its Affiliates or sublicensees to, use or practice any XOMA Technology outside the scope of the license granted to it under Section 7.1 above. XOMA covenants that it will not, and will not permit any of its Affiliates or sublicensees to, use or practice any Servier Technology outside the scope of the license granted to it under Section 7.2 above.

(b) XOMA agrees that during a period of **[*]** years following the First Commercial Sale of the Product in the Licensed Territory, it shall not, itself or through one or more Affiliates or Third Parties, sell, offer for sale, distribute, promote or market any Competing Product (x) for use in any indication in the Licensed Territory, and (y) in the event of expiration of the Cardiometabolic Indications Option without exercise by XOMA, in the Retained Territory for use in any Cardiometabolic Indication.

(c) Servier agrees that during a period of **[*]** years following the First Commercial Sale of the Product by or on behalf of XOMA in the Retained Territory, it shall not, itself or through one or more Affiliates or Third Parties, sell, offer for sale, distribute, promote or market any Competing Product (x) for use in any indication in the Licensed Territory, (y) for use in any indication in the Retained Territory if XOMA exercises the Cardiometabolic Indications Option, or (z) for use in any indication, other than Cardiometabolic Indications, in the Retained Territory, in the event of expiration of the Cardiometabolic Indications Option without exercise by XOMA.

(d) Sections 7.3(b) and 7.3(c) shall survive termination of this Agreement as follows:

(i) Upon early termination of this Agreement by Servier under Section 11.2 (whether in its entirety or in a given country or region) or by XOMA under Section 11.4 , Section 7.3(c) shall survive (in the terminated country/region(s) or, if the Agreement is terminated in its entirety, in the Licensed Territory and Retained Territory) until the earlier of (A) **[*]** years following the First Commercial Sale of the Product in the Retained Territory by or on behalf of XOMA, or (B)**[*]** years following the effective date of such termination. However, in the event of such termination, XOMA's obligations under Section 7.3(b) shall terminate in the terminated country/region(s) or in the Licensed Territory in its entirety, as applicable.

(ii) Upon termination of this Agreement by Servier under Section 11.3 , Servier's obligations under Sections 7.3(c) and XOMA's obligations under Section 7.3(b) shall terminate in the terminated region(s) or in the Licensed Territory and Retained Territory in their entirety, as applicable.

(iii) Upon termination of this Agreement by Servier under Section 11.4 , XOMA's obligations under Section 7.3(b) shall survive until the earlier of (A) **[*]** years following the First Commercial Sale of the Product in the Licensed Territory, or (B)**[*]** years following the effective date of termination; and Servier's obligations under Section 7.3(c) shall terminate.

(iv) Upon termination of this Agreement by XOMA under Section 11.5 , Servier's obligations under Section 7.3(c) shall survive in the terminated jurisdiction(s) until the earlier of (A) **[*]** years following the First Commercial Sale of the Product by or on behalf of XOMA in the Retained Territory, or (B)**[*]** years following the effective date of termination; and Section 7.3(b) shall terminate in the terminated jurisdiction(s).

7.4 No Implied Licenses. Except as explicitly set forth in this Agreement, neither Party shall be deemed by estoppel or implication to have granted the other Party any license or other right to any intellectual property of such Party.

8. PAYMENTS

8.1 Notification, Payment and Invoicing. Any and all amounts payable by a Party to the other Party under this Agreement shall be invoiced as follows:

- by XOMA to LES LABORATOIRES SERVIER, 22 rue Garnier, 92200 Neuilly sur Seine, France, VAT FR08085480796, to the attention of **[*]**.

- by Servier to XOMA Ireland Limited, 26 Upper Pembroke Street, Dublin 2, Ireland, VAT IE 6327875R, to the attention of **[*]**.

Unless otherwise indicated below, payment shall be made within **[*]** days of receipt of the corresponding invoice. Each Party shall inform the other Party promptly and no later than within **[*]** days of the occurrence of an event triggering a payment obligation on the informing Party.

8.2 Upfront Payment. Within ten (10) business days after the Effective Date and the date of receipt of the invoice, Servier shall pay to XOMA a one-time, non-refundable and non-creditable upfront cash payment of Fifteen Million Dollars ($15,000,000).

8.3 Cash Advance to XOMA. Servier shall provide to XOMA an advance of funds in the total amount of up to fifteen million euro (€15,000,000), in accordance with a separate loan agreement to be entered into by and between the Parties contemporaneous with this Agreement (the "**Loan Agreement**").

8.4 Phase 3 Initiation Milestone. Regardless of whether XOMA has at such time exercised the Cardiometabolic Indications Option, Servier shall make a one-time, non-refundable and non-creditable milestone payment to XOMA of Twenty Million Dollars ($20,000,000) within **[*]** days after the Initiation of the first Phase 3 Clinical Trial for the Product by or on behalf of Servier in and for the Licensed Territory in Type 2 diabetes and receipt of the corresponding invoice.

8.5 XOMA Payments on Option Exercise. XOMA shall be obligated to make the applicable following payments to Servier upon exercise of the Cardiometabolic Indications Option:

	Early Option Exercise	Late Option Exercise
Option Exercise amount for patent and know-how access	$[*]	$[*]
Reimbursement of CMC Costs Incurred Prior to Exercise for CMC Activities for Cardiometabolic Indications – Percent of Total Costs Incurred	[*]%	[*]%
Reimbursement of Development Costs Incurred Prior to Exercise for Clinical Studies for Cardiometabolic Indications – Percent of Total Costs Incurred	[*]%	[*]%

XOMA shall pay the Option Exercise amount for patent and know-how access within [*] days of exercise of the option and receipt of the corresponding invoice. Subject to Article 3, as of the date of exercise of the option, XOMA shall be obligated to reimburse Servier for XOMA's share (as determined above) of the CMC Costs and Development Costs incurred by Servier prior to the option exercise date (the "**Reimbursable Costs**") in accordance with the following schedule: (A) for the Early Option Exercise, during the period from the date of option exercise until the [*] anniversary of such date, no payments would be owed, but commencing with the first calendar [*] after the [*] anniversary, and for the [*] calendar [*] thereafter, XOMA would be obligated to pay [*] of the total Reimbursable Costs within [*] days following the end of such calendar [*] and receipt of the corresponding invoice; and (B) for the Late Option Exercise, during the period from the date of option exercise until the [*] month anniversary of such date, no payments would be owed, but commencing with the first calendar [*] after such [*] month anniversary, and for the [*] calendar [*] thereafter, XOMA would be obligated to pay [*] of the total Reimbursable Costs within [*] days following the end of such calendar [*] and receipt of the corresponding invoice. Following exercise of the option, the ongoing CMC Costs and Development Costs for the Cardiometabolic Indications shall be handled as provided in Article 3.

8.6 Milestone Payments if XOMA Exercises the Cardiometabolic Indications Option

(a) General. If XOMA exercises the Cardiometabolic Indications Option, Servier shall make one-time, non-refundable and non-creditable milestone payments to XOMA within [*] days after the achievement of each applicable milestone event by Servier or its Affiliates or sublicensees as provided below and receipt of the corresponding invoice.

(b) Development and Regulatory Milestones for Major Cardiometabolic Indications. The following milestone payments shall be payable to XOMA for one or more Products to achieve the following milestone events:

Milestone Event	Milestone Payment
Initiation of the first Phase 3 Clinical Trial for each of the first **[*]** Major Cardiometabolic Indications other than Type 2 diabetes	€**[*]**
Acceptance for filing of MAA by EMA for each of the first **[*]** Major Cardiometabolic Indications	€**[*]**
Regulatory Approval by EMA (centralized) for each of the first **[*]** Major Cardiometabolic Indications	€**[*]**

For clarity, the maximum total amount payable under this Section 8.6(b) if all milestones are achieved would be €**[*]**. Whether a Cardiometabolic Indication is a Major Cardiometabolic Indication shall be determined by Servier in good faith, in consultation with XOMA. To the extent XOMA disagrees, in good faith, with any determination by Servier that an indication is not a Major Cardiometabolic Indication, the Parties shall attempt to resolve such dispute by good-faith negotiations between the Executive Officers and if not resolved within **[*]** days after notice of XOMA's disagreement, Servier shall have the final say and shall not be required to pay the foregoing milestones with respect to such Cardiometabolic Indication. Rather, in such a case, Servier shall be required to pay milestones as provided under Section 8.6(c) below, up to the limits provided in such section; it being understood that the maximum number of Cardiometabolic Indications for which Servier would owe milestones under this Section 8.6(b) and Section 8.6(c), in the aggregate, is **[*]**. Further, if Net Sales of the Product for such Cardiometabolic Indication in the Licensed Territory achieve at least **[*]** euros (€**[*]**) during any annual period starting on October 1st, then Servier shall so notify XOMA and the amounts set forth above (i.e., an aggregate of **[*]** euros (€**[*]**)) minus such amounts as were previously paid to XOMA pursuant to Section 8.6(c), if any, shall thereafter be due and owing within **[*]** days of receipt of invoice from XOMA.

(c) Development and Regulatory Milestones for Non-Major Cardiometabolic Indications. Servier shall pay the following milestone payments to XOMA for one or more Products, for each of the first **[*]** Indications in the Cardiometabolic Field which are not determined to be Major Cardiometabolic Indications, to achieve the designated milestone event within **[*]** days of the achievement of each such milestone event and receipt of the corresponding invoice:

Milestone Event	Milestone Payment
Acceptance for filing of MAA by EMA	€**[*]**
Regulatory Approval by EMA	€**[*]**

(d) Sales Milestones. Servier shall make the following one-time, non-refundable and non-creditable sales milestone payments to XOMA when the aggregate Net Sales of all Products in the Licensed Territory first reach the thresholds specified below in any **[*]**-month period. Such payments shall be made no later than **[*]** days after the end of the period in which each such sales milestone event is achieved and receipt of the corresponding invoice.

Threshold for Aggregate Net Sales in the Licensed Territory	Milestone Payment
€**[*]**	€**[*]**
€**[*]**	€**[*]**
€**[*]**	€**[*]**
€**[*]**	€**[*]**
€**[*]**	€**[*]**

To the extent more than one sales threshold is reached in any given **[*]**-month period, then the applicable milestone payment for each such achievement shall be due and owing with respect to such period. If during the Pre-Exercise Period any sales milestone becomes due in accordance with this Section 8.6(c) such amount shall be due and owing. If following the Pre-Exercise Period, however, the Cardiometabolic Indications Option is not exercised, the Net Sales milestones then due and owing thereafter are only those set forth below under Section 8.8(c) and not those listed above; provided that any amounts paid as of such time under the above schedule shall be credited against the first Net Sales milestone owed under Section 8.8(c). For example, should the payment of €**[*]** have been paid, and XOMA does not exercise the Cardiometabolic Indications Option, and subsequently Servier achieves worldwide Net Sales of $**[*]**, the payment owed would be $**[*]** minus €**[*]**.

8.7 Regulatory Milestones for Remaining Field Indications. Irrespective of whether XOMA exercises the Cardiometabolic Indications Option, Servier shall pay the following milestone payments to XOMA, within **[*]** days of the achievement of the applicable milestone event and receipt of the corresponding invoice, for one or more Products to achieve the following milestones for each of the first **[*]** Indications in the Remaining Field, other than Behçet's Uveitis, to achieve the designated milestone event:

Milestone Event	Milestone Payment
Acceptance for filing of MAA by EMA	€**[*]**
Regulatory Approval by EMA	€**[*]**

No development or regulatory milestone payments will be due for Behçet's Disease. For clarity, the maximum total amount payable under this Section 8.7 is €[*]. As used in this Article 8, "**Indication**" means an indication for the Product that is the subject of a separate MAA or supplemental MAA or any new indication requiring an amendment to the MAA.

8.8 Development and Regulatory Milestone Payments if XOMA Does Not Exercise the Cardiometabolic Indications Option

(a) General. If XOMA does not exercise the Cardiometabolic Indications Option, Servier shall make one-time, non-refundable and non-creditable development and regulatory milestone payments to XOMA within [*] days after the achievement of each applicable milestone event by Servier or its Affiliates or sublicensees as set forth below and receipt of the corresponding invoice.

(b) Major Cardiometabolic Indications Field. The following milestone payments shall be payable to XOMA for achievement of the following milestones by one or more Products:

Milestone Event	Milestone Payment
Initiation of the first Phase 3 Clinical Trial for each of the first [*] Major Cardiometabolic Indications other than Type 2 diabetes	€[*]
Acceptance for filing of MAA by FDA for each of the first [*] Major Cardiometabolic Indications	€[*]
Acceptance for filing of MAA by EMA for each of the first [*] Major Cardiometabolic Indications	€[*]
Filing of MAA with MHLW for each of the first [*] Major Cardiometabolic Indications	€[*]
Regulatory Approval by FDA for each of the first [*] Major Cardiometabolic Indications	€[*]
Regulatory Approval by EMA for each of the first [*] Major Cardiometabolic Indications	€[*]
Regulatory Approval by MHLW for each of the first [*] Major Cardiometabolic Indications	€[*]

For clarity, the maximum total amount payable under this Section 8.6(b) shall be €[*].

(c) Sales Milestones. Servier shall make the following one-time, non-refundable and non-creditable sales milestone payments to XOMA when the aggregate worldwide Net Sales of all Products first reach the thresholds specified below in any [*]-month period. Such payments shall be made no later than [*] days after the end of the period in which each such sales milestone event is achieved and receipt of the corresponding invoice.

Threshold for Aggregate Annual Worldwide Net Sales	Milestone Payment
$[*]	$[*]
$[*]	$[*]
$[*]	$[*]
$[*]	$[*]

To the extent more than one sales threshold is reached in any given year, then the applicable milestone payment for each such achievement shall be due and owing with respect to such year.

8.9 Royalty Payments.

(a) Royalties in Licensed Territory. Subject to the other applicable terms of this Section 8.7, and regardless of whether XOMA exercises the Cardiometabolic Indications Option, Servier shall pay to XOMA quarterly non-refundable, non-creditable royalties on Net Sales of Products in the Licensed Territory during such quarter, on a Product-by-Product and a country-by-country basis, as calculated by multiplying the total Net Sales of such Product in such country during such quarter by the applicable royalty rate as determined in the following royalty rate table. As used herein, "**Daily Cost of Treatment**" for a particular Product in a country means the average Net Sales per unit of the Product for such country in a specific calendar quarter (converted to Euros), divided by the number of days between each use of such Product as specified in the label for such Product in the country (e.g., per unit Net Sales divided by 30 for a Product labeled to be administered once per month).

Daily Cost of Treatment	Royalty Rate
Less than or equal to [*]	[*]%
Greater than [*] and less than or equal to [*]	[*]%
Greater than [*] and less than or equal to [*]	[*]%
Greater than [*] and less than or equal to [*]	[*]%
Greater than [*]	[*]%

In addition, Servier shall pay to XOMA (to the extent applicable) the following additional quarterly non-refundable, non-creditable royalties on Net Sales of Products in the Licensed Territory during such quarter, depending upon the Purchase Cost Ratio (as defined below) of such Product for the quarter, on a Product-by-Product and country-by-country basis, such royalties to be calculated by multiplying the applicable royalty rate set forth in the royalty rate table below by the total Net Sales of the Product in such country during such quarter. As used herein, "**Purchase Cost**" means, with respect to a particular Product for commercial sale in a particular country during a calendar quarter, the actual total amount paid by Servier to XOMA for its purchase of the amount of Bulk Drug Substance actually contained in such Product sold in such quarter (i.e., the XOMA Manufacturing Cost for such amount of Bulk Drug Substance purchased, plus **[*]**% of such cost). As used herein, "**Purchase Cost Ratio**" means, with respect to a particular Product for commercial sale in a particular country during a calendar quarter, the Purchase Cost for such Product divided by the average Net Sales per unit of such Product sold in the country during such quarter, expressed as a percentage.

Purchase Cost Ratio for a Product	Additional Royalty Rate
Less than **[*]**% but greater than or equal to **[*]**% of Net Sales per unit	**[*]**%
Less than **[*]**% but greater than or equal to **[*]**% of Net Sales per unit	**[*]**%
Less than **[*]**% of Net Sales per unit	**[*]**%

The Parties agree that if any factors affecting the profitability of the Product in the Licensed Territory change materially during the Term, the Parties will meet and discuss in good faith possible modifications to the royalty scheme for the Product in the Licensed Territory set forth in this Section 8.7(b) in light of such changing factors.

(b) Royalties in Retained Territory. Subject to Section 8.9(c) and 8.9(d), if XOMA does not exercise the Cardiometabolic Indications Option, in addition to royalties under Section 8.9(a), Servier shall pay to XOMA non-refundable, non-creditable royalties on Net Sales of Products by Servier, its Affiliates and sublicensees for use in the Cardiometabolic Indications in the Retained Territory, as calculated by multiplying the applicable royalty rates set forth in the royalty rate table below by the corresponding amount of incremental Net Sales in the Retained Territory of all Products in a calendar year (the **"Total Annual Net Sales"**).

Net Sales of all Products in Retained Territory	Royalty Rate
For that portion of Total Annual Net Sales less than $[*]	[*]%
For that portion of Total Annual Net Sales greater than or equal to $[*] but less than $[*]	[*]%
For that portion of Total Annual Net Sales greater than or equal to $[*] but less than $[*]	[*]%
For that portion of Total Annual Net Sales greater than or equal to $[*] but less than $[*]	[*]%
For that portion of Total Annual Net Sales equal to or greater than $[*]	[*]%

(c) Royalty Term. Royalties under this Section 8.9 with respect to a particular Product and country will be payable for so long as such Product is sold in such country.

(d) Royalty Adjustments.

(i) Third Party Royalty Offset. If, after the Effective Date, Servier or its sublicensee or designee: (A) is required, as agreed by the Parties in good faith, or absent such agreement, in the reasonable opinion of an independent expert selected by the Parties, to obtain a license from any Third Party under patent rights controlled by such Third Party in order to make, have made, use, sell, offer for sale or import a Licensed Antibody and/or a Product in any country, and pursuant to such license is required to pay a royalty or a lump sum payment to the Third Party based on sales of the Product containing such Licensed Antibody in such country, or (B) is required by any court of competent jurisdiction, due to infringement of patent rights controlled by such Third Party in any country(ies), to pay such a royalty to such a Third Party based on sales of such Product in such country(ies), then Servier may deduct from the milestones payments or royalties that would otherwise be due to XOMA on Net Sales resulting from the sales of such Product in such country in a calendar quarter the amount paid by Servier to such Third Party with respect to the sale of such Product for such country during such calendar quarter; provided that in no event shall the operation of this Section 8.9(d)(i) reduce the royalties or milestones payment due to XOMA for any Product below **[*]** percent (**[*]**%) of the amount that otherwise would have become due under this Agreement for such country.

(ii) Biosimilar Competition. On a country by country basis, following expiration of all XOMA Patents and Servier Collaboration Patents claiming a particular Product and the first commercial sale of a Biosimilar Product to such Product in such country, if, during any calendar quarter, the unit volume of sales of all such Biosimilar Product(s) in such country during such quarter are more than **[*]** percent (**[*]**%) of the total unit volume of sales of (i) all such Biosimilar Products plus (ii) such Product's unit volume of sales in such country, then the royalty rates under Section 8.9(a) or (b), as applicable, shall be reduced by **[*]** percent (**[*]**%) in any given calendar quarter with respect to the sales such Product in such country.

(e) Royalty Reports and Payments. Within **[*]** days following the end of each calendar **[*]** following the First Commercial Sale of a Product by Servier or its Affiliate or sublicensee anywhere in the Licensed Territory or Retained Territory, Servier shall provide XOMA with a report containing the following information for the applicable calendar quarter, on a Product-by-Product basis: (i) gross sales and Net Sales of Product consolidated in Euros, (ii) a calculation of the royalty payment due on such sales, including a calculation of the Purchase Cost used in the determination of such royalty, (iii) an accounting of the number of units and prices for the Product sold, grouped by the Daily Cost of Treatment in the countries in the Licensed Territory, (iv) the adjustment, if any, made in accordance with the terms of Section 8.9(d), as well as any other details reasonably requested by XOMA.

8.10 Payment Method. All payments due under this Agreement to XOMA shall be made by bank wire transfer in immediately available funds to an account designated by XOMA. All royalty payments arising from Net Sales in the Licensed Territory shall be made in Euros. All other payments, including any royalties arising from sales in the Retained Territory in the Cardiometabolic Indications, shall be made either in Dollars or in Euros as indicated in the corresponding section of this Agreement or as agreed by the Parties.

8.11 Late Payment. If either Party fails to make any payment due to the other Party under this Agreement, then interest shall accrue on a daily basis at the rate equal to one month LIBOR (for payment in Dollars) or EURIBOR (for payments in Euros) plus **[*]** basis points per annum, or at the maximum rate permitted by applicable Law, whichever is the lower.

8.12 Foreign Exchange. Conversion of sales recorded in local currencies to Euros shall be performed in a manner consistent with Servier's normal practices used to prepare its audited financial statements for internal and external reporting purposes, which uses a widely accepted source of published exchange rates.

8.13 Records; Inspection. Servier shall, and shall ensure that its Affiliates and sublicensee(s) will, keep complete, true and accurate books of account and records for the purpose of determining the payments to be made under this Agreement. Such books and records shall be kept for at least **[*]** years following the end of the calendar year to which they pertain. Such records shall be open for inspection during such period by independent accountants, solely for the purpose of verifying payment statements hereunder. Such inspections shall be made no more than **[*]** each calendar year, on reasonable notice during normal business hours. Any unpaid amounts (plus interest as set forth in Section 8.11) that are discovered shall be paid promptly by Servier. Inspections conducted under this Section 8.13) shall be at the expense of XOMA, unless the inspection discloses an underpayment by Servier of **[*]** percent (**[*]**%) or more of the amount due for any period covered by the inspection, whereupon all costs relating to the inspection for such period shall be paid promptly by Servier.

8.14 Taxes.

(a) Taxes on Income. Each Party shall be solely responsible for the payment of all taxes imposed on its share of income arising directly or indirectly from the efforts of the Parties under this Agreement.

(b) Tax Cooperation. The Parties agree to cooperate with one another and use reasonable efforts to reduce or eliminate tax withholding or similar obligations in respect of royalties, milestone payments, and other payments made by Servier to XOMA under this Agreement. Servier agrees that under current bilateral income tax Treaty between France and Ireland, payments made by Servier to XOMA under this Agreement are not subject to withholding tax in France. To the extent Servier is required to deduct and withhold taxes on any payment to XOMA, Servier shall pay the amounts of such taxes to the proper Governmental Authority in a timely manner and promptly transmit to XOMA an official tax certificate or other evidence of such withholding sufficient to enable XOMA to claim such payment of taxes. XOMA shall provide Servier, who shall complete any required portions of, any tax forms that may be reasonably necessary in order for Servier not to withhold tax or to withhold tax at a reduced rate under an applicable bilateral income tax treaty, including Forms 5000-EN and 5003-EN. Each Party shall provide the other with reasonable assistance to enable the recovery, as permitted by applicable Laws, of withholding taxes, value added taxes, or similar obligations resulting from payments made under this Agreement, such recovery to be for the benefit of the Party bearing such withholding tax or value added tax. Servier shall require its sublicensees to cooperate with XOMA in a manner consistent with this Section 8.14(b).

(c) Taxes Resulting From Servier Action. If Servier is required to make a payment to XOMA that is subject to a deduction or withholding of tax, then (i) if such withholding or deduction obligation arises as a result of any action by Servier, including any assignment or sublicense, or any failure on the part of Servier or its Affiliate to comply with applicable Laws or filing or record retention requirements, that has the effect of modifying the tax treatment of the Parties hereto (a "**Servier Withholding Tax Action**"), then the sum payable by Servier (in respect of which such deduction or withholding is required to be made) shall be increased to the extent necessary to ensure that XOMA receives a sum equal to the sum that it would have received had no such Servier Withholding Tax Action occurred, and (ii) otherwise, the sum payable by Servier (in respect of which such deduction or withholding is required to be made) shall be made to XOMA after deduction of the amount required to be so deducted or withheld, which deducted or withheld amount shall be remitted to the proper Governmental Authority in accordance with applicable Laws.

(d) Other Taxes. Each Party shall be solely responsible for the payment of Value Added Tax, custom duties, registration duties, transfer taxes, stamp duties and any other taxes or duties imposed to it in relation with the payments made under this Agreement.

(e) XOMA Obligations. The provisions of subsections (b) and (c) above shall apply *mutatis mutandis* to XOMA where XOMA is the paying Party.

9. INTELLECTUAL PROPERTY

9.1 Ownership of Inventions. Each Party shall own all inventions, whether or not patentable, made solely by its or its Affiliates' own employees, agents, or independent contractors in the course of conducting its or its Affiliates' activities under this Agreement, together with all intellectual property rights therein (" **Sole Inventions**"). The Parties shall jointly and equally own any inventions, whether or not patentable, that are made jointly by employees, agents, or independent contractors of each Party or its Affiliates in the course of conducting its or its Affiliates' activities under this Agreement, together with all intellectual property rights therein (" **Joint Inventions**"). Inventorship shall be determined in accordance with U.S. patent laws. All Patents claiming patentable Sole Inventions (but not Joint Inventions) shall be referred to herein as "**Sole Invention Patents**". All Patents claiming patentable, jointly owned Joint Inventions shall be referred to herein as "**Joint Invention Patents**". Except to the extent either Party is restricted by the licenses granted to the other Party or its Affiliates under this Agreement, each Party and its Affiliates shall be entitled to practice and exploit the Joint Inventions and the Joint Invention Patents without the duty of accounting or seeking consent from the other Party.

9.2 Disclosure. Each Party shall promptly disclose to the other Party all Sole Inventions and Joint Inventions, including any invention disclosures or other similar documents, submitted to it by its or its Affiliates' employees, agents or independent contractors describing inventions that are either Sole Inventions or Joint Inventions, and all Information relating to such inventions to the extent necessary for the preparation, filing and prosecution of any Patent with respect to such invention. Upon the disclosure of a Joint Invention or Sole Invention pursuant to this Section 9.2, the Parties shall promptly discuss such Joint Invention or Sole Invention and (a) confirm its status as either a Joint Invention or a Sole Invention in light of the ownership principles set forth in Section 9.1 and (b) determine whether to file a patent application claiming such Joint Invention or Sole Invention; provided that the Party owning such Sole Invention shall nonetheless have the right to file for such patent application.

9.3 Patent Prosecution.

(a) Budget. Within **[*]** days after the Effective Date, and at the beginning of each calendar quarter thereafter, each Party shall provide to the other Party a reasonably detailed budget setting forth its estimated costs and expenses for the subsequent six (6)-month period for the preparation, filing, prosecution and maintenance of all Patents whose costs and expenses such other Party is (or may be) responsible for under this Section 9.3. At either Party's request, the Parties shall promptly discuss such budget(s), and the providing Party shall provide any additional Information as the other Party may reasonably request.

(b) XOMA Patents and Joint Invention Patents.

(i) Licensed Territory. Except as otherwise provided in this Section 9.3(b)(i), XOMA shall be solely responsible for the preparation, filing, prosecution and maintenance of the XOMA Patents in its own name, and Joint Invention Patents in the name of Servier and XOMA, in the Licensed Territory, using patent counsel reasonably acceptable to Servier. The Parties shall discuss and confer with respect to the overall patent strategy with respect to the XOMA Patents and any Joint Invention Patents in the Licensed Territory. XOMA shall keep Servier advised of the status of all communications and actual and prospective filings and submissions regarding the XOMA Patents and Joint Invention Patents in the Licensed Territory, and shall give Servier a reasonable opportunity (but in no event less than ten (10) business days) to review and comment on any such communications, filings, filing date and submissions proposed to be sent to any patent office. XOMA shall incorporate all reasonable comments of Servier before making any substantive filing or submission related to the XOMA Patents or Joint Invention Patents in the Licensed Territory, provided that such comments are obtained at least **[*]** business days prior to the deadline for filing. If XOMA no longer wishes to maintain or prosecute any XOMA Patent or Joint Invention Patent in the Licensed Territory, then XOMA shall give reasonable notice to Servier, and thereafter, Servier may, upon written notice to XOMA, prosecute and maintain such XOMA Patent or Joint Invention Patent in its own name, and XOMA shall execute all required documents in order to assign to Servier such XOMA Patent or XOMA's interest in such Joint Invention Patent, at XOMA's expense. Servier shall be solely responsible for all costs and expenses incurred by XOMA or its Affiliates after the Effective Date and associated with the filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of the XOMA Patents and Joint Invention Patents in the Licensed Territory. Notwithstanding the foregoing, if Servier no longer desires to retain its license under any XOMA Patent or Joint Invention Patent in the Licensed Territory, and desires to cease payment of the costs of prosecution and maintenance thereof, it shall have the right to terminate such license to such Patent, and terminate reimbursement to XOMA of such costs, upon **[*]** days written notice; provided that with respect to any such Joint Invention Patent, Servier shall execute all required documents in order to assign to XOMA Servier's interest in such Joint Invention Patent, at Servier's expense.

(ii) Retained Territory.

(1) XOMA shall have the sole authority and control over the preparation, filing, prosecution and maintenance of the XOMA Patents in its own name, and Joint Invention Patents in the name of XOMA and Servier, in the Retained Territory, at XOMA's sole cost and expense, provided that XOMA shall update Servier from time to time on the status of such Patent prosecution and maintenance efforts; provided, however, that if the Cardiometabolic Indications Option expires without exercise thereof by XOMA, Section 9.3(b)(ii)(2) below shall apply to the XOMA Patents and Joint Invention Patents in the Retained Territory, and not this Section 9.3(b)(ii)(1).

(2) After expiration of the Cardiometabolic Indications Option without exercise thereof by XOMA, except as otherwise provided in this Section 9.3(b)(ii)(2), XOMA shall be solely responsible for the preparation, filing, prosecution and maintenance of the XOMA Patents and Joint Invention Patents in the Retained Territory, using patent counsel reasonably acceptable to Servier. The Parties (including any sublicensee of Servier) shall discuss and confer with respect to the overall patent strategy with respect to the XOMA Patents and any Joint Invention Patents in the Retained Territory. XOMA shall keep Servier advised of the status of all communications and actual and prospective filings and submissions regarding such XOMA Patents and Joint Invention Patents in the Retained Territory, and shall give Servier a reasonable opportunity (but in no event less than **[*]** business days) to review and comment on any such communications, filings and submissions proposed to be sent to any patent office. With respect to those XOMA Patents and Joint Invention Patents in the Retained Territory that are relevant to the Cardiometabolic Field (e.g., that claim the use of the Licensed Antibody to treat a Cardiometabolic Indication) (the "**XOMA Retained Territory Cardiometabolic Patents**"), XOMA shall incorporate all reasonable comments of Servier before making any substantive filing or submission related to such Patents, provided that such comments are obtained at least **[*]** business days prior to the deadline for filing. For all other XOMA Patents and Joint Invention Patents in the Retained Territory, XOMA shall consider Servier's comments in good faith. If XOMA no longer wishes to maintain or prosecute any XOMA Patent or Joint Invention Patent in the Retained Territory, then XOMA shall give reasonable notice to Servier, and thereafter, Servier may, upon written notice to XOMA, prosecute and maintain such XOMA Patent or Joint Invention Patent in its own name and at its sole expense, and XOMA shall execute all required documents in order to assign to Servier such XOMA Patent or XOMA's interest in such Joint Invention Patent, at XOMA's expense. Servier shall be responsible for **[*]**% of all costs and expenses incurred by XOMA or its Affiliates after the expiration of the Cardiometabolic Indications Option, associated with the filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of the XOMA Retained Territory Cardiometabolic Patents, and XOMA shall be responsible for **[*]**% of such costs and expenses. XOMA shall be solely responsible for all costs and expenses incurred by XOMA or its Affiliates associated with the filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of all XOMA Patents and Joint Invention Patents in the Retained Territory that are not XOMA Retained Territory Cardiometabolic Patents.

(c) Servier Patents.

(i) Licensed Territory. Servier shall have sole authority and control over the preparation, filing, prosecution and maintenance of the Servier Patents in the Licensed Territory, at Servier's sole cost and expense, provided that Servier shall update XOMA from time to time on the status of such Patent prosecution and maintenance efforts in the Licensed Territory.

(ii) Retained Territory. Except as otherwise provided in this Section 9.3(c)(ii), Servier shall be solely responsible for the preparation, filing, prosecution and maintenance of the Servier Patents in the Retained Territory, using patent counsel reasonably acceptable to XOMA. The Parties (including any sublicensee of Servier) shall discuss and confer with respect to the overall patent strategy with respect to the Servier Patents in the Retained Territory. Servier shall keep XOMA advised of the status of all communications and actual and prospective filings and submissions regarding the Servier Patents, and shall give XOMA a reasonable opportunity (but in no event less than ten (10) business days) to review and comment on any such communications, filings and submissions proposed to be sent to any patent office. Servier shall incorporate all reasonable comments of XOMA before making any substantive filing or submission related to the Servier Patents in the Retained Territory, provided that such comments are obtained at least **[*]** business days prior to the deadline for filing. If Servier no longer wishes to maintain or prosecute any Servier Patent in the Retained Territory, then Servier shall give reasonable notice to XOMA, and thereafter, XOMA may, upon written notice to Servier, prosecute and maintain such Patent in its own name, and Servier shall execute all required documents in order to assign to XOMA such Patent, at Servier's expense. XOMA shall be solely responsible for all costs and expenses incurred by Servier or its Affiliates associated with the filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of the Servier Patents in the Retained Territory. Notwithstanding the foregoing, if the Cardiometabolic Indications Option expires without exercise thereof by XOMA, then (A) for those Servier Patents in the Retained Territory that are relevant to the Remaining Field (e.g., that claim the use of the Licensed Antibody to treat a Remaining Field Indication) (the "**Servier Retained Territory Remaining Field Patents**"), XOMA shall be responsible for **[*]**% of all costs and expenses incurred by Servier or its Affiliates after the expiration of the Cardiometabolic Indications Option, associated with the filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of the Servier Retained Territory Remaining Field Patents, and Servier shall be responsible for **[*]**% of such costs and expenses, and (B) for all other Servier Patents in the Retained Territory, Servier shall be solely responsible for all costs and expenses incurred by Servier or its Affiliates after the expiration of the Cardiometabolic Indications Option, associated with the filing, prosecution (including any interferences, reissue proceedings and reexaminations) and maintenance of such Patents, and Servier shall not be obligated to incorporate all reasonable comments of XOMA with respect thereto, but shall consider XOMA's comments in good faith.

(d) Patent Term Extension. XOMA and Servier shall cooperate with each other and shall use Diligent Efforts in obtaining patent term extension (including any pediatric exclusivity extensions as may be available) or supplemental protection certificates or their equivalents in any country.

(e) Data Exclusivity. With respect to data exclusivity periods (such as those periods listed in the Biologics Price Competition and Innovation Act of 2009 and the Patient Protection and Affordable Care Act, as amended, or foreign equivalents of such laws), Servier shall use Diligent Efforts consistent with its obligations under applicable Laws (including any applicable consent order) to seek, maintain and enforce all such data exclusivity periods available for the Products in the Licensed Territory and, if XOMA does not exercise the Cardiometabolic Indications Option, in the Retained Territory.

(f) Cooperation. Each Party shall provide the other Party all reasonable assistance and cooperation in the patent prosecution efforts provide above in this Section 9.3, including providing any necessary powers of attorney and executing any other required documents or instruments for such prosecution.

9.4 Enforcement of Patents.

(a) Notification and Dispute Resolution. If either Party becomes aware of any existing or threatened infringement of any XOMA Patents, Joint Invention Patents or Servier Patents, which infringing activity involves the manufacture, use, import, offer for sale or sale of any Product in the Licensed Territory or the Retained Territory (a "**Product Infringement**"), it shall promptly notify the other Party in writing to that effect, and the Parties will consult with each other regarding any actions to be taken with respect to such Product Infringement. The Parties (including any sublicensee of Servier) shall discuss and confer with respect to the overall strategy with respect to any Patent litigation strategy under this section 9.4 with respect to a XOMA Patent or Joint Invention Patent in the Licensed Territory (and Retained Territory, with respect to the Cardiometabolic Field in the event of failure by XOMA to exercise the Cardiometabolic Indications Option), or Servier Patents, except with respect to those Servier Patents listed under section 9.3(c)(ii)(B) in the event of failure by XOMA to exercise the Cardiometabolic Indications Option, or Joint Invention Patent in the Retained Territory; any disputes arising with respect to such strategy or litigation tactics shall be submitted for resolution to an independent patent counsel approved by both Parties for resolution, pursuant to an expedited procedure, so as not to prejudice the proposing Party's response or action.

(b) XOMA Patents and Joint Invention Patents.

(i) Licensed Territory. XOMA shall have the first right, but shall not be obligated, to bring an infringement action against any person or entity engaged in a Product Infringement of the XOMA Patents and Joint Invention Patents in the Licensed Territory, at XOMA's cost and expense. If XOMA does not desire to bring such an action or to continue to pursue such action with respect to any such Patent (or to settle or otherwise secure the abatement of such Product Infringement), it shall so notify Servier prior to the earlier of: (A) **[*]** days following XOMA's receipt or delivery of the notice under Section 9.4(a), or (B) **[*]**days before the deadline, if any, set forth in the applicable Laws for the filing of such actions, in which event Servier shall have the right to bring and control any such action, at its own expense and by counsel of its own choice. In addition, to the extent XOMA does not so notify Servier within a reasonable time to allow Servier to bring such action, XOMA shall bring such action on behalf of, under the direction of, and at the expense of, Servier.

(ii) Retained Territory. XOMA shall have the first right, but shall not be obligated, to bring an infringement action against any person or entity engaged in a Product Infringement of the XOMA Patents and Joint Invention Patents in the Retained Territory, at XOMA's cost and expense. If the Cardiometabolic Indications Option expires without XOMA's exercise thereof, and if XOMA does not desire to bring such an action or to continue to pursue such action with respect to any such Patent (or to settle or otherwise secure the abatement of such Product Infringement), it shall so notify Servier prior to the earlier of: (A) **[*]** days following XOMA's receipt or delivery of the notice under Section 9.4(a), or (B) **[*]**days before the deadline, if any, set forth in the applicable Laws for the filing of such actions, in which event, Servier shall have the right to bring and control any such action, at its own expense and by counsel of its own choice. In addition, to the extent XOMA does not so notify Servier within a reasonable time to allow Servier to bring such action, XOMA shall bring such action on behalf of, under the direction of, and at the expense of, Servier.

(c) Servier Patents. Servier shall have the first right, but shall not be obligated, to bring an infringement action against any person or entity engaged in any infringement of the Servier Patents in the Licensed Territory or the Retained Territory, at Servier's cost and expense. If Servier does not desire to bring such an action or to continue to pursue such action with respect to any such Patent in the Retained Territory (or to settle or otherwise secure the abatement of such Product Infringement) it shall so notify XOMA prior to the earlier of: (i) **[*]** days following Servier's receipt or delivery of the notice under Section 9.4(a), or (ii) **[*]**days before the deadline, if any, set forth in the applicable Laws for the filing of such actions, in which event XOMA shall have the right to bring and control any such action, at its own expense and by counsel of its own choice. In addition, to the extent Servier does not so notify XOMA within a reasonable time to allow XOMA to bring such action, Servier shall bring such action on behalf of, under the direction of, and at the expense of, XOMA.

(d) Cooperation. Each Party shall provide to the enforcing Party under this Section 9.4 reasonable assistance in such enforcement, at such enforcing Party's request and expense, including joining such action as a party plaintiff if required by applicable Laws to pursue such action. The enforcing Party shall keep the other Party regularly informed of the status and progress of such enforcement efforts and shall reasonably consider the other Party's comments on any such efforts, subject to Section 9.4(a). To the extent that the non-enforcing Party owns or controls the Patent being enforced, it shall be entitled to separate representation in such matter by counsel of its own choice and at its own expense, but such Party shall at all times cooperate fully with the enforcing Party. Neither Party shall have the right to settle any patent infringement litigation under this Section 9.4 without the prior written consent of such other Party, such consent not to be unreasonably withheld or delayed.

(e) Expenses and Recoveries. The enforcing Party bringing a claim, suit or action under Section 9.4(b) or 9.4(c) shall be solely responsible for any expenses incurred by such Party as a result of such claim, suit or action. If such Party recovers monetary damages in such claim, suit or action, such recovery shall be allocated first to the reimbursement of any expenses incurred by the Parties in such litigation (including, for this purpose, a reasonable allocation of expenses of internal counsel), and any remaining amounts shall be allocated as follows: (i) in the case of any recovery for a Product Infringement of a XOMA Patent or Joint Invention Patent in the Licensed Territory, **[*]** percent (**[*]**%) to Servier and **[*]** percent (**[*]**%) to XOMA, (ii) in the case of any recovery for a Product Infringement of a XOMA Patent or Joint Invention Patent in the Retained Territory, one hundred percent (100%) retained by XOMA, but, where XOMA does not exercise the Cardiometabolic Indications Option, and such recovery relates to a Product Infringement in the Cardiometabolic Field, **[*]** percent (**[*]**%) to Servier and **[*]** percent (**[*]**%) to XOMA, (iii) in the case of any recovery for a Product Infringement of a Servier Patent in the Licensed Territory, one hundred percent (100%) retained by Servier, and (iv) in the case of any recovery for a Product Infringement of a Servier Patent in the Retained Territory, **[*]** percent (**[*]**%) to XOMA and **[*]** percent (**[*]**%) to Servier or, where XOMA does not exercise the Cardiometabolic Indications Option, and such recovery relates to a Product Infringement in the Cardiometabolic Field, one hundred percent (100%) to Servier.

9.5 Patent Oppositions and Other Proceedings.

(a) If a XOMA Patent or Joint Invention Patent in the Licensed Territory becomes the subject of any proceeding commenced by a Third Party in connection with an opposition, action for declaratory judgment, nullity action, interference or other attack upon the validity, title or enforceability thereof, then XOMA shall have the first right, but not the obligation, to control such defense at its own expense using counsel of its own choice. If XOMA decides that it does not wish to defend against such action, it shall notify Servier reasonably in advance of all applicable deadlines, and Servier shall thereafter have the right, but not the obligation, to assume defense of such action at its own expense.

(b) If a XOMA Patent or Joint Invention Patent in the Retained Territory becomes the subject of any proceeding commenced by a Third Party in connection with an opposition, action for declaratory judgment, nullity action, interference or other attack upon the validity, title or enforceability thereof, then XOMA shall have the first right, but not the obligation, to control such defense at its own expense using counsel of its own choice. If XOMA decides that it does not wish to defend against such action with respect to a Joint Invention Patent, it shall notify Servier reasonably in advance of all applicable deadlines, and Servier shall thereafter have the right, but not the obligation, to assume defense of such action with respect to such Patent at its own expense. If the Cardiometabolic Indication Option expires without exercise by XOMA, and if XOMA decides that it does not wish to defend against such action with respect to a XOMA Patent that is a XOMA Retained Territory Cardiometabolic Patent, it shall notify Servier reasonably in advance of all applicable deadlines, and Servier shall thereafter have the right, but not the obligation, to assume defense of such action with respect to such Patent at its own expense.

(c) If a Servier Patent becomes the subject of any proceeding commenced by a Third Party in connection with an opposition, action for declaratory judgment, nullity action, interference or other attack upon the validity, title or enforceability thereof, then Servier shall have the first right, but not the obligation, to control such defense at its own expense using counsel of its own choice. If Servier decides that it does not wish to defend against such action with respect to a Servier Patent in the Retained Territory, it shall notify XOMA reasonably in advance of all applicable deadlines, and XOMA shall thereafter have the right, but not the obligation, to assume defense of such action at its own expense.

(d) The Party controlling any defense under this Section 9.5 (other than XOMA under Section 9.5(b) in the Retained Territory, or Servier under Section 9.5(c) in the Licensed Territory) shall permit the non-controlling Party to participate in the proceedings to the extent permissible under applicable Laws and to be represented by its own counsel at the non-controlling Party's expense. Notwithstanding any of the foregoing, the Party controlling any infringement action pursuant to Section 9.4 shall also have the sole right to control the response to any attack on the validity, title, or enforceability of a Patent that is asserted by the alleged infringer(s) as a counterclaim or affirmative defense in such action, subject to Section 9.6. Neither Party shall have the right to settle any proceeding under this Section 9.5 with respect to any XOMA Patent or Joint Invention Patent without the prior written consent of such other Party, such consent not to be unreasonably withheld or delayed.

(e) The Parties (including any sublicensee of Servier) shall discuss and confer with respect to the overall strategy with respect to any Patent litigation strategy under this Section 9. 5 with respect to a XOMA Patent or Joint Invention Patent in the Licensed Territory (and Retained Territory, with respect to the Cardiometabolic Field in the event of failure by XOMA to exercise the Cardiometabolic Indications Option), or Servier Patents or Joint Invention Patent in the Retained Territory; any disputes arising with respect to such strategy or litigation tactics shall be submitted for resolution to an independent patent counsel approved by both Parties for resolution, pursuant to an expedited procedure, so as not to prejudice the proposing Party's response or action.

9.6 Patents Licensed From Third Parties. Each Party's rights under this Article 9 with respect to the prosecution, maintenance and enforcement of any XOMA Background Patent that is licensed by XOMA or its Affiliates from a Third Party or any New Servier Patent that is licensed by Servier or its Affiliates from a Third Party, shall be subject to the rights of such Third Party to prosecute, maintain and enforce such Patent.

9.7 Patent Marking. Servier and its Affiliates and sublicensees shall mark Products marketed and sold by Servier or its Affiliates or sublicensee hereunder with appropriate patent numbers or indices, where required by applicable Laws; provided, however, that Servier shall only be required to so mark such Product to the extent such markings or such notices would affect recoveries of damages or equitable remedies available under applicable Laws with respect to infringements of patents in the applicable jurisdiction.

9.8 Infringement of Third Party Rights. If any Product used or sold by Servier or its Affiliates or sublicensees becomes the subject of a Third Party's claim or assertion of infringement of such Third Party's intellectual property rights in any jurisdiction, Servier shall promptly notify XOMA, and the Parties shall agree on and enter into a "common interest agreement" wherein the Parties agree to their shared, mutual interest in the outcome of such potential dispute, and thereafter, the Parties shall promptly meet to consider the claim or assertion and the appropriate course of action. Unless agreed otherwise by the Parties, Servier shall be solely responsible for defending itself and, except as provided in the next sentence, XOMA, against any such claim or assertion in the Licensed Territory, at its sole expense. To the extent XOMA engages separate counsel in such defense, it would be at its own cost and expense. Servier shall keep XOMA fully informed of such claim and its defense, and shall reasonably consider and seek to accommodate any timely comments of XOMA with respect thereto.

10. CONFIDENTIALITY

10.1 Confidentiality Obligations. The Parties agree that during the Term and for a period of **[*]** years thereafter, a Party receiving Confidential Information of the other Party shall: (a) use Diligent Efforts to maintain in confidence such Confidential Information (but not less than those efforts as such Party uses to maintain in confidence its own proprietary industrial information of similar kind and value); (b) not disclose such Confidential Information to any Third Party without prior written consent of the other Party, except to the extent expressly authorized by this Agreement or otherwise agreed in writing by the Parties; and (c) not use such other Party's Confidential Information for any purpose except those permitted by this Agreement or in connection with exercising such Party's or its Affiliates' rights and/or fulfilling their obligations under this Agreement or any other agreement between the Parties or their Affiliates.

10.2 Exceptions. The obligations in Section 10.1 shall not apply with respect to any portion of the other Party's Confidential Information that the receiving Party can show by competent written proof:

(a) was known to the receiving Party, other than under an obligation of confidentiality, at the time of disclosure by the disclosing Party;

(b) was generally available to the public or otherwise part of the public domain, at the time of disclosure by the other Party;

(c) becomes generally available to the public or otherwise part of the public domain after the disclosure by the other Party, other than through any act or omission of the receiving Party in breach of this Agreement;

(d) is subsequently disclosed to the receiving Party by a Third Party who has a legal right to make such disclosure and who did not obtain such information directly or indirectly from the other Party; or

(e) is subsequently independently developed by employees or contractors of the receiving Party who had no access to or knowledge of the other Party's Confidential Information.

10.3 Authorized Disclosure. A Party may disclose to a Third Party the Confidential Information belonging to the other Party to the extent such disclosure is reasonably necessary in the following instances; provided that notice of any such disclosure shall be provided as soon as practicable to the other Party:

(a) filing or prosecuting Patents in accordance with Section 9.3;

(b) complying with the requirement of Regulatory Authorities with respect to obtaining and maintaining Regulatory Approval of Products;

(c) prosecuting or defending litigation as contemplated by this Agreement;

(d) disclosure to its or its Affiliates' employees, agents, consultants, contractors, licensees or sublicensees on a need-to-know basis for the sole purpose of performing its or its Affiliates' obligations or exercising its or its Affiliates' rights under this Agreement or any other agreement between the Parties or their Affiliates; provided that in each case, the disclosees are bound by written obligations of confidentiality and non-use consistent with those contained in this Agreement;

(e) disclosure to any bona fide potential or actual investor, Acquiror or merger partner or other potential or actual financial partner for the sole purpose of evaluating an actual or potential investment, acquisition or other business relationship; provided that in connection with such disclosure, the disclosing Party shall use all reasonable efforts to inform each disclosee of the confidential nature of such Confidential Information and cause each disclosee to treat such Confidential Information as confidential; provided, however, that where such potential Acquiror or merger partner is at such time a competitor of Servier in the Licensed Territory, i.e., a company clinically developing or commercializing in the Licensed Territory a product in one or several indications where the Product is being developed or is planned to be developed by Servier (and, where XOMA has not exercised the Cardiometabolic Indications Option, the same applies in the Retained Territory), XOMA shall prior to such disclosure obtain Servier's approval with respect to such disclosure; or

(f) complying with applicable Laws, including regulations promulgated by applicable security exchanges, court orders or administrative subpoenas or orders.

Notwithstanding the foregoing, in the event a Party is required to make a disclosure of the other Party's Confidential Information pursuant to Sections 10.3(c) or (f), such Party shall promptly notify the other Party of such required disclosure and shall use reasonable efforts to assist the other Party, at such other Party's expense, in obtaining a protective order preventing or limiting the required disclosure.

10.4 Publicity; Terms of Agreement.

(a) Each Party shall have the right to make its own public announcement of the execution of this Agreement in accordance with its internal policies and legal requirements, provided the other Party agrees with the content of such public announcement, except to the extent any such content of such announcement is required by applicable Law or the exchange on which such Party's securities are traded, as determined by such Party's counsel.

(b) After release of such press release, if either Party desires to make a public announcement concerning the material terms of this Agreement, such Party shall give reasonable prior advance notice of the proposed text of such announcement to the other Party for its prior review and approval (except as otherwise provided herein), such approval not to be unreasonably withheld, except that in the case of a press release or governmental filing required by law, regulation or stock exchange rules, the disclosing Party shall provide the other Party with such advance notice as it reasonably can and shall not be required to obtain approval therefor. A Party commenting on such a proposed press release or governmental filing shall provide its comments, if any, within **[*]** business days after receiving the press release for review. Further, Servier agrees that XOMA has the right to issue a press release with respect to the occurrence of the following events under this Agreement, provided that Servier is afforded a reasonable opportunity (but not more than **[*]** business days) to review the content of such press release prior to its release: (i) filing and/or approvals of any regulatory applications; (ii) initiation and summary results of a clinical trial; (iii) the receipt, and, where deemed material, the amount, of each milestone payment received under this Agreement; and (iv) commercial launch of a Product in a country or region in the Retained Territory or in the Licensed Territory (to the extent agreed by Servier that such launch has occurred). Neither Party shall be required to seek the permission of the other Party to repeat any information regarding the terms of this Agreement or any amendment thereto that has already been publicly disclosed by such Party, or by the other Party, in accordance with this Section 10.4, provided such information remains accurate as of such time.

(c) The Parties acknowledge that either or both Parties may be obligated to file under applicable Laws a copy of this Agreement with the U.S. Securities and Exchange Commission ("**SEC**") or other Governmental Authorities. Each Party shall be entitled to make such a required filing, provided that it requests confidential treatment of the commercial terms and sensitive technical terms hereof and thereof to the extent such confidential treatment is reasonably available to such Party and permitted by such Governmental Authority. In the event of any such filing, each Party will provide the other Party with a copy of the Agreement marked to show provisions for which such Party intends to seek confidential treatment and shall reasonably consider and incorporate the other Party's comments thereon to the extent consistent with the legal requirements, with respect to the filing Party, governing disclosure of material agreements and material information that must be publicly filed.

10.5 Technical Publications. Neither Party may publish peer reviewed manuscripts, or give other forms of public disclosure such as abstracts and presentations, of results of studies carried out under this Agreement, without the opportunity for prior review and coordination by the other Party, except to the extent required by applicable Laws. A Party seeking publication shall provide the other Party the opportunity to review and comment on any proposed publication which relates to the Product at least **[*]** days prior to its intended submission for publication. The other Party shall provide the Party seeking publication with its comments in writing, if any, within **[*]** days after receipt of such proposed publication. The Party seeking publication shall consider in good faith any comments thereto provided by the other Party and shall comply with the other Party's request to remove any and all of such other Party's Confidential Information from the proposed publication. In addition, the Party seeking publication shall delay the submission for a period up to **[*]** days in the event that the other Party can demonstrate reasonable need for such delay, including the preparation and filing of a patent application. If the other Party fails to provide its comments to the Party seeking publication within such **[*]**-day period, such other Party shall be deemed not to have any comments, and the Party seeking publication shall be free to publish in accordance with this Section 10.5 after the **[*]**-day period has elapsed. The Party seeking publication shall provide the other Party with a copy of the manuscript at the time of the submission. Each Party agrees to acknowledge the contributions of the other Party and its employees in all publications as scientifically appropriate.

10.6 Equitable Relief. Each Party acknowledges that its breach of this Article 10 could cause irreparable harm to the other Party, which might not be reasonably or adequately compensated in damages in an action at law. By reasons thereof, each Party agrees that the other Party may be entitled, in addition to any other remedies it may have under this Agreement or otherwise, to preliminary and permanent injunctive and other equitable relief to prevent or curtail any actual or threatened breach of the obligations relating to Confidential Information set forth in this Article 10 by the other Party.

11. TERM AND TERMINATION

11.1 Term. This Agreement shall become effective on the Effective Date and, unless earlier terminated pursuant to this Article 11, shall remain in effect on a Product-by-Product basis, for so long as Servier is developing or selling such Product in any country in the Licensed Territory and, where XOMA does not exercise the Cardiometabolic Indications Option, the Retained Territory (the "**Term**").

11.2 Unilateral Termination by Servier. Notwithstanding the above, Servier shall be permitted to terminate the Agreement with respect to the EU or in its entirety or, with respect to countries outside the EU only, on a country-by-country basis, without cause and without damages due by Servier to XOMA, its Affiliates, licensees or sub-licensees on account of such termination, upon **[*]** days prior written notice to XOMA (it being understood that Servier shall at all times remain liable for all costs incurred by it under this Agreement during such notice period).

11.3 Termination for Safety or Public Health Reasons. Notwithstanding Section 11.2, if Servier determines that a safety or public health issue has arisen which is demonstrated by clinically relevant events which are documented and which relate to the Licensed Antibody or the Product, it shall immediately notify XOMA, and it shall be permitted to terminate the Agreement with respect to the EU or in its entirety or, with respect to countries outside the EU only, on a country-by-country basis, promptly, but in any event within **[*]** days of Servier's determination of such issue.

11.4 Termination for Material Breach. Each Party shall have the right to terminate this Agreement in its entirety immediately upon written notice to the other Party if the other Party materially breaches its obligations under this Agreement and, after receiving written notice identifying such material breach in reasonable detail, fails to cure such material breach within **[*]** days from the date of such notice (or within **[*]** business days from the date of such notice in the event such material breach is solely based on the breaching Party's failure to pay any amounts due hereunder). Where such breach is not curable, the termination shall become effective upon receipt of the termination notice by the breaching Party.

11.5 Termination for Patent Challenge. XOMA shall have the right to terminate this Agreement immediately upon written notice to Servier if Servier or its Affiliates or sublicensees (directly or indirectly, individually or in association with any other person or entity) challenge the validity, enforceability or scope of any XOMA Patent anywhere in the Licensed Territory or Retained Territory; provided that such termination right shall be for the country of the challenged Patent only or, for a challenged Patent in a member state of the European Patent Organisation, for all such member states.

11.6 Effects of Termination of the Agreement. Upon any early termination of this Agreement, in its entirety or on a country-by-country or EU basis:

(a) Termination of License to Servier. All licenses granted to Servier under Section 7.1 shall terminate, but in the case of termination on a country-by-country or EU basis, solely to the extent such licenses relate to those countries so terminated.

(b) Servier License. Other than termination on the basis of a public health and safety reason under Section 11.3, or termination by Servier on the basis of a material breach of the Agreement by XOMA under section 11.4, or except where Servier can reasonably demonstrate that Commercializing the Product in the terminated country(ies) is detrimental to Servier's sales in the non-terminated countries, Servier hereby grants to XOMA, effective only in the event of such termination and upon the request of XOMA, an exclusive, irrevocable license (with the right to grant sublicenses through multiple tiers) under the Servier Technology to research, Develop, make, have made, use, sell, offer for sale, import and otherwise Commercialize the Products in such terminated country(ies), which shall bear royalties at a rate equal to the lower of (x) 4% of Net Sales (defined mutatis mutandis with the definition in Section 1.74) in any country in which a Product has received Regulatory Approval prior to the effective date of termination, or 2% of Net Sales (defined mutatis mutandis with the definition in Section 1.74) in any country in which a Product has not received Regulatory Approval prior to the effective date of termination, or (y) such royalty rate as was then being paid by Servier as of the time of such termination.

(c) Regulatory Materials; Data. Other than termination on the basis of a public health and safety reason under Section 11.3, or termination by Servier on the basis of a material breach of the Agreement by XOMA under Section 11.4 (provided that in such case Servier, upon XOMA's request, would agree to discuss in good faith such a transfer of such materials and approvals), or except where Servier can reasonably demonstrate that Commercializing the Product in the terminated country(ies) is detrimental to Servier's sales in the non-terminated countries, effective only in the event of such termination Servier hereby transfers to XOMA, at XOMA's costs, the Regulatory Materials, and Regulatory Approvals, and the related data relating to the Product in such terminated country.

(d) Transition Assistance. Promptly upon request by XOMA, but in no event commencing later than**[*]** days after the effective date of termination, Servier shall provide such assistance, at no cost to XOMA, as may be reasonably necessary or useful for XOMA to commence or continue Developing, Manufacturing or Commercializing the Product in the terminated country(ies), to the extent Servier is then performing or having performed such activities, including transferring or amending as appropriate, upon request of XOMA, any agreements or arrangements with Third Party vendors to Develop, Manufacture, distribute, sell or otherwise Commercialize the Product in such terminated country(ies). To the extent that any such contract between Servier and a Third Party is not assignable to XOMA, Servier shall reasonably cooperate with XOMA to arrange to continue to provide such services for a reasonable time after termination.

(e) Remaining Inventories. If this Agreement is terminated in a given country, XOMA shall have the right, upon its request, to obtain from Servier, at cost, any or all of the inventory of Products (or components thereof) held by Servier as of the date of such termination (that are not committed to be supplied to any Third Party or sublicensee, in the ordinary course of business, as of the date of termination). XOMA shall notify Servier within **[*]** days after the date of termination whether XOMA elects to exercise such right.

(f) Assignment of Patents by Servier. With respect to any or all of those XOMA Patents and Joint Invention Patents in the terminated countries, or in all countries if this Agreement is terminated in its entirety, that were assigned by XOMA to Servier under Section 9.3(b), upon XOMA's request, Servier shall assign to XOMA (i) all of its right, title and interest in such XOMA Patents and (ii) a one-half interest in such Joint Invention Patents, in each case on commercially reasonable terms to be negotiated by the Parties in good faith upon such termination.

(g) Assignment of Patents by XOMA. With respect to any or all of those Servier Patents and Joint Invention Patents in the terminated countries, or in all countries if this Agreement is terminated in its entirety, that were assigned by Servier to XOMA under Section 9.3(c), upon Servier's request, XOMA shall assign to Servier (i) all of its right, title and interest in such Servier Patents and (ii) a one-half interest in such Joint Invention Patents, in each case on commercially reasonable terms to be negotiated by the Parties in good faith upon such termination.

11.7 Survival. Termination or expiration of this Agreement shall not affect any rights or obligations of the Parties under this Agreement that have accrued prior to the date of termination or expiration. Notwithstanding anything to the contrary, the following provisions shall survive any expiration or termination of this Agreement: Sections 6.9, 6.11, 7.3 (as and to the extent provided therein), 8.11, 8.13, 9.1, 10.1, 10.2, 10.3, 10.4, 10.6, 11.6, 11.7, 12.5, 15.4, 15.5, 15.7, 15.8, 15.9, 15.10, 15.11 and 15.12 and Articles 1, 13 and 14.

12. REPRESENTATIONS AND WARRANTIES AND COVENANTS

12.1 Mutual Representations and Warranties. Each Party hereby represents and warrants to the other Party as follows:

(a) Corporate Existence. As of the Effective Date, it is a company or corporation duly organized, validly existing, and in good standing, if applicable, under the Laws of the jurisdiction in which it is incorporated.

(b) Corporate Power, Authority and Binding Agreement. As of the Effective Date, (i) it has the corporate power and authority and the legal right to enter into this Agreement and perform its obligations hereunder; (ii) it has taken all necessary corporate action on its part required to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder; and (iii) this Agreement has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid, and binding obligation of such Party that is enforceable against it in accordance with its terms.

12.2 Additional Representations and Warranties of XOMA. XOMA represents and warrants to Servier that, as of the Effective Date:

(a) Title; Encumbrances. It has sufficient legal and/or beneficial title, ownership or license, free and clear from any mortgages, pledges, liens, security interests, conditional and installment sale agreements, encumbrances, charges or claims of any kind, of the XOMA Technology to grant the licenses to Servier as purported to be granted pursuant to this Agreement.

(b) Sufficiency. The XOMA Background Patents are all of the Patents owned or Controlled by XOMA or its Affiliates as of the Effective Date that claim the composition, manufacture or use of a Licensed Antibody and/or Product. To XOMA's and its Affiliates' knowledge, none of the Development, Manufacture, or Commercialization of the Product as it exists as of the Effective Date, interferes with, infringes, misappropriates or otherwise violates any intellectual property rights of any Third Party in a manner that would reasonably result in a material adverse effect on the marketability of the Product.

(c) Pending or Threatened Proceedings. To XOMA's and its Affiliates' knowledge, **[*]** there is no claim, investigation, suit, action or proceeding pending against XOMA or its Affiliates before or by any governmental entity or arbitrator that (i) relates to the Licensed Antibody and the XOMA Background Patents or (ii) prevents the execution of this Agreement.

(d) Intellectual Property Proceedings. To XOMA's and its Affiliates' knowledge, the XOMA Background Patents are valid and enforceable. Neither XOMA nor any of its Affiliates have received any written communication alleging that any of the XOMA Background Patents are unpatentable, invalid or unenforceable or are subject to interference, reexamination, reissue, revocation, opposition, appeal or other administrative proceeding.

(e) Regulatory Data. XOMA has disclosed or made available to Servier in writing (i) any and all study reports, data and information provided to any Regulatory Authority, and (ii) all filings and correspondence between XOMA and its Affiliates and any Regulatory Authority, in the case of both (i) and (ii) relating to the Licensed Antibody.

(f) Due Diligence Data. To XOMA's and its Affiliates' knowledge, **[*]** the documents containing the technical information and Know-How disclosed or made available to Servier prior to the Effective Date are true and accurate copies of what they purport to be in all material respects. XOMA has made available to Servier all information in its (or its Affiliates') possession or control relating to the Licensed Antibody and the Development, Manufacture and Commercialization of the Licensed Antibody or the Product, that XOMA believes, **[*]** is material to the marketability of the Product in the Licensed Territory.

(g) Notice of Infringement or Misappropriation. Neither XOMA nor its Affiliates have received any written notice from any Third Party asserting or alleging that any research or development of the Licensed Antibody or Licensed Product by XOMA or its Affiliates prior to the Effective Date infringed or misappropriated the intellectual property rights of such Third Party.

12.3 Additional Representations and Warranties of Servier. Servier represents and warrants to XOMA that, as of the Effective Date, to Servier's knowledge, it does not own or Control any Patents covering or claiming the manufacture, use, sale, offer for sale, or import of any Licensed Antibody.

12.4 Mutual Covenants.

(a) No Debarment. In the course of the Development of Products, neither Party nor its Affiliates shall use any employee or consultant who has been debarred by any Regulatory Authority, or, to such Party's or its Affiliates' knowledge, is the subject of debarment proceedings by a Regulatory Authority. Each Party shall notify the other Party promptly upon becoming aware that any of its or its Affiliates' employees or consultants has been debarred or is the subject of debarment proceedings by any Regulatory Authority.

(b) Compliance. Each Party and its Affiliates shall comply in all material respects with all applicable Laws in the Development, Manufacture and Commercialization of the Product and performance of its obligations under this Agreement.

12.5 Disclaimer. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR NON-MISAPPROPRIATION OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS, ARE MADE OR GIVEN BY OR ON BEHALF OF A PARTY, AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE, ARE HEREBY EXPRESSLY EXCLUDED. Servier understands and acknowledges that the Products are the subject of ongoing clinical research and development and that XOMA cannot assure the safety or usefulness of any Product.

13. INDEMNIFICATION AND LIMITATION OF LIABILITY

13.1 Indemnification by Servier. Servier shall defend, indemnify, and hold XOMA and its Affiliates and their respective officers, directors, employees, and agents (the "**XOMA Indemnitees**") harmless from any and all damages or other amounts payable to a Third Party claimant, as well as any reasonable attorneys' fees and costs of litigation incurred by such XOMA Indemnitees, all to the extent resulting from claims, suits, proceedings or causes of action brought by such Third Party ("**Claims**") against such XOMA Indemnitees that arise from or are based on: (a) the Development, Manufacture or Commercialization of the Product by or on behalf of Servier or its Affiliates or its or their sublicensees (excluding in all cases XOMA or its Affiliates) in the Licensed Territory; (b) the breach of any of Servier's obligations under this Agreement, including Servier's representations and warranties set forth herein; (c) the willful misconduct or gross negligence of any Servier Indemnitee; or (d) the use by Servier in the Licensed Territory of pre-clinical and clinical data and information supplied by XOMA to Servier under Section 4.4(c), except in the case of XOMA's fraud or willful misconduct (it being understood that Servier's defense obligations shall remain in effect). The foregoing indemnity obligation shall not apply to any Claim to the extent such Claim arises from or is based on any activity set forth in Section 13.2(b) or (c).

13.2 Indemnification by XOMA. XOMA shall defend, indemnify, and hold Servier and its Affiliates and their respective officers, directors, employees, and agents (the **"Servier Indemnitees"**) harmless from and against any and all damages or other amounts payable to a Third Party claimant, as well as any reasonable attorneys' fees and costs of litigation incurred by such Servier Indemnitees, all to the extent resulting from Claims against such Servier Indemnitees that arise from or are based on (a) the Development, Manufacture or Commercialization of the Product by or on behalf of XOMA or its Affiliates or its or their sublicensees (excluding in all cases Servier, its Affiliates or its sublicensees) in the Retained Territory ; (b) the breach of any of XOMA's obligations under this Agreement, including XOMA's representations and warranties set forth herein; (c) the willful misconduct or gross negligence of any XOMA Indemnitee; or (d) the use by XOMA in the Retained Territory of pre-clinical and clinical data and information supplied by Servier to XOMA under Section 4.4(c), except in the case of Servier's fraud or willful misconduct (it being understood that XOMA's defense obligations shall remain in effect). The foregoing indemnity obligation shall not apply to any Claim to the extent that such Claim arises from or is based on any activity set forth in Section 13.1(b) or (c).

13.3 Conditions to Indemnification. The Party claiming indemnity under this Article 13 (the "**Indemnified Party**") shall give written notice to the Party from whom indemnity is being sought (the "**Indemnifying Party**") promptly after learning of such Claim, provided that the failure to promptly provide such notice shall not relieve the Indemnifying Party of any of its indemnification obligations hereunder except to the extent that the Indemnifying Party's defense of the relevant Claim is prejudiced by such failure. The Indemnified Party shall provide the Indemnifying Party with reasonable assistance, at the Indemnifying Party's expense, in connection with the defense of the Claim for which indemnity is being sought. The Indemnified Party may participate in and monitor such defense with counsel of its own choosing at its sole expense; provided, however, the Indemnifying Party shall have the right to assume and conduct the defense of the Claim with counsel of its choice. The Indemnifying Party shall not settle any Claim without the prior written consent of the Indemnified Party, not to be unreasonably withheld, unless the settlement involves only the payment of money. So long as the Indemnifying Party is actively defending the Claim in good faith, the Indemnified Party shall not settle or compromise any such Claim without the prior written consent of the Indemnifying Party. If the Indemnifying Party does not assume and conduct the defense of the Claim as provided above, (a) the Indemnified Party may defend against, consent to the entry of any judgment, or enter into any settlement with respect to such Claim in any manner the Indemnified Party may deem reasonably appropriate (and the Indemnified Party need not consult with, or obtain any consent from, the Indemnifying Party in connection therewith), and (b) the Indemnifying Party shall remain responsible to indemnify the Indemnified Party as provided in this Article 13.

13.4 Limitation of Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES ARISING FROM OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

13.5 Insurance. Each Party shall procure and maintain insurance, including product liability insurance, with respect to its activities hereunder and which is consistent with normal business practices of prudent companies similarly situated at all times during which any Product is being clinically tested in human subjects or commercially distributed or sold. Each Party shall provide the other Party with evidence of such insurance upon request and shall provide the other Party with written notice at least **[*]** days prior to the cancellation, non-renewal or material changes in such insurance. It is understood that such insurance shall not be construed to create a limit of either Party's liability with respect to its indemnification obligations under this Article 13.

14. Dispute Resolution.

14.1 Disputes. The Parties recognize that disputes as to certain matters may from time to time arise that relate to either Party's rights and/or obligations hereunder. It is the objective of the Parties to establish procedures to facilitate the resolution of disputes arising under this Agreement in an expedient manner by mutual cooperation and without resort to litigation. To accomplish this objective, the Parties agree to follow the procedures set forth in this Article 14 to resolve any controversy or claim arising out of, relating to or in connection with any provision of this Agreement, if and when a dispute arises under this Agreement.

14.2 Internal Resolution; Mediation. With respect to all disputes arising between the Parties under this Agreement, including, without limitation, any alleged breach under this Agreement or any issue relating to the interpretation or application of this Agreement, if the Parties are unable to resolve such dispute within **[*]** days after such dispute is first identified by either Party in writing to the other, the Parties shall refer such dispute to the Executive Officers (or their designees) for attempted resolution by good faith negotiations within **[*]** days after such notice is received, including at least one (1) in person meeting of the Executive Officers within**[*]** days after such notice is received. If the Executive Officers of the Parties are not able to resolve such disputed matter within **[*]** days and either Party wishes to pursue the matter, the Parties agree to submit the disputed matter 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), using a mutually agreed upon mediator selected from **[*]**, in **[*]**, for a period of not more than **[*]** days.

14.3 Binding Arbitration. If the Parties are unable to resolve a dispute relating to any alleged breach under this Agreement or any issue relating to the interpretation or application of this Agreement and such disputed matter is not resolved by non-binding mediation under Section 14.2 within **[*]** days and either Party wishes to pursue the matter, each such dispute, controversy or claim, subject to Section 14.4, shall be finally resolved by binding arbitration administered by the International Chamber of Commerce ("**ICC**") pursuant to its Dispute Resolution Rules then in effect, and judgment on the arbitration award may be entered in any court having jurisdiction thereof. The Parties agree that:

(a) The arbitration shall be conducted by a panel of three persons experienced in the pharmaceutical business. Within**[*]** days after initiation of arbitration, each Party shall select one person to act as arbitrator and the two Party-selected arbitrators shall select a third arbitrator within **[*]** days of their appointment. If the arbitrators selected by the Parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be appointed by the ICC. The place of arbitration shall be **[*]**, and all proceedings and communications shall be in English.

(b) Either Party may apply to the arbitrators for interim injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either Party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any injunctive or provisional relief necessary to protect the rights or property of that Party pending the arbitration award. The arbitrators shall have no authority to award punitive or any other type of damages not measured by a Party's compensatory damage. Each Party shall bear its own costs and expenses and attorneys' fees and an equal share of the arbitrators' fees and any administrative fees of arbitration, unless the arbitrators determine that a Party has incurred unreasonable expense due to vexatious or bad faith position taken by the other Party, in which event, the arbitrators may make an award of all or any portion of such expenses so incurred.

(c) Reasons for the arbitrators' decisions should be complete and explicit, including reasonable determinations of law and fact. The written reasons should also include the basis for any damages awarded and a statement of how the damages were calculated. Such a written decision shall be rendered by the arbitrators following a full comprehensive hearing, no later than **[*]** months following the selection of the arbitrators under Section 14.3(a).

(d) Except to the extent necessary to confirm an award or as may be required by applicable Laws, neither Party nor any arbitrator may disclose the existence, content, or results of an arbitration without the prior written consent of both Parties. In no event shall an arbitration be initiated after the date when commencement of a legal or equitable proceeding based on the dispute, controversy or claim would be barred by the applicable statute of limitations.

14.4 Patent Disputes. Notwithstanding Section 14.3, any dispute, controversy or claim relating to the scope, validity, enforceability or infringement of any Patent covering the manufacturing, use, importation, offer for sale or sale of a Product shall be submitted to a court of competent jurisdiction in the country in which such Patent was granted.

15. MISCELLANEOUS

15.1 Entire Agreement; Amendments. This Agreement, including the Exhibits hereto and the Supply Agreement, Quality Agreement, and Safety Data Exchange Agreement contemplated hereunder, and the Loan Agreement, sets forth the complete, final and exclusive agreement and all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings between the Parties with respect to the subject matter hereof. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as are set forth in this Agreement. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party.

15.2 Rights in Bankruptcy. All licenses granted under this Agreement by Servier or XOMA are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101(34A) of the U.S. Bankruptcy Code. The Parties agree that the Parties, as licensees of such rights under this Agreement, shall retain and may fully exercise all of their rights and elections under the U.S. Bankruptcy Code. The Parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against either Party under the U.S. Bankruptcy Code, the Party hereto that is not a party to such proceeding shall be entitled to a complete duplicate of (or complete access to, as appropriate) any such intellectual property and all embodiments of such intellectual property (including all Information related to such intellectual property and rights of reference with respect to Regulatory Approvals), and same, if not already in their possession, shall be promptly delivered to them (a) upon any such commencement of a bankruptcy proceeding upon their written request therefore, unless the Party subject to such proceeding continues to perform all of its obligations under this Agreement, or (b) if not delivered or granted under (a) above, following the rejection of this Agreement by or on behalf of the Party subject to such proceeding upon written request therefore by the non-subject Party.

15.3 Force Majeure. Each Party shall be excused from the performance of its obligations under this Agreement to the extent that such performance is prevented by force majeure (as defined below) and the nonperforming Party promptly provides notice of the prevention to the other Party. Such excuse shall be continued so long as the condition constituting force majeure continues and the nonperforming Party takes reasonable efforts to remove the condition. For purposes of this Agreement, "**force majeure**" shall include conditions beyond the control of the Parties, including an act of God, war, civil commotion, labor strike or lock-out, epidemic, failure or default of public utilities or common carriers, destruction of production facilities or materials by fire, earthquake, storm or like catastrophe.

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

If to XOMA:
XOMA Ireland Limited
26 Upper Pembroke Street
Dublin 2
Ireland
Attention: Company Secretary
FAX: 353 1 637 3989

With copies (which shall not constitute notice) to:
A & L Goodbody
North Wall Quay
IFSC
Dublin 1
Attention: Seamus O'Croinin
FAX: 353 1 649 2649

If to Servier:
LES LABORATOIRES SERVIER
22 rue Garnier
92200 Neuilly Sur Seine
France
Attention: Direction de la Coopération Scientifique
FAX : +33.1.55.72.39.00

15.5 Assignment. Neither Party may assign or transfer this Agreement or any rights or obligations hereunder without the prior written consent of the other, except that a Party may make such an assignment without the other Party's consent to its Affiliates, including in connection with any re-domiciling of such Party or its Affiliates, or to a Third Party successor to substantially all of the business of such Party to which this Agreement relates (such Third Party, an "**Acquiror**"), whether in a merger, sale of stock, sale of assets or other transaction. Any successor or assignee of rights and/or obligations permitted hereunder shall, in writing to the other Party, expressly assume performance of such rights and/or obligations. Any permitted assignment shall be binding on the successors of the assigning Party. Any assignment or attempted assignment by either Party in violation of the terms of this Section 15.5 shall be null, void and of no legal effect.

15.6 Performance by Affiliates. Each Party may discharge any obligations and exercise any right hereunder through any of its Affiliates. Each Party hereby guarantees the performance by its Affiliates of such Party's obligations under this Agreement, and shall cause its Affiliates to comply with the provisions of this Agreement in connection with such performance. Any breach by a Party's Affiliate of any of such Party's obligations under this Agreement shall be deemed a breach by such Party, and the other Party may proceed directly against such Party without any obligation to first proceed against such Party's Affiliate.

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

15.8 Severability. If any of the provisions of this Agreement are held to be invalid or unenforceable by any court of competent jurisdiction from which no appeal can be or is taken, the provision shall be considered severed from this Agreement and shall not serve to invalidate any remaining provisions hereof. The Parties shall make a good faith effort to replace any invalid or unenforceable provision with a valid and enforceable one such that the objectives contemplated by the Parties when entering this Agreement may be realized.

15.9 No Waiver. Any delay in enforcing a Party's rights under this Agreement or any waiver as to a particular default or other matter shall not constitute a waiver of such Party's rights to the future enforcement of its rights under this Agreement, excepting only as to an express written and signed waiver as to a particular matter for a particular period of time.

15.10 Independent Contractors. Each Party shall act solely as an independent contractor, and nothing in this Agreement shall be construed to give either Party the power or authority to act for, bind, or commit the other Party in any way. Nothing herein shall be construed to create the relationship of partners, principal and agent, or joint-venture partners between the Parties.

15.11 Governing Law. Resolution of all disputes, controversies or claims arising out of, relating to or in connection with this Agreement or the performance, enforcement, breach or termination of this Agreement and any remedies relating thereto, shall be governed by and construed under the substantive laws of **[*]**, without regard to conflicts of law rules.

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

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

[Signature page follows.]

In Witness Whereof, the Parties have executed this Agreement in duplicate originals by their proper officers as of the Effective Date.

Les Laboratoires Servier

By:

Name: **[*]**

Title: **[*]**

By:

Name: **[*]**

Title: **[*]**

Institut de Recherches Servier

By:

Name: **[*]**

Title: **[*]**

XOMA Ireland Limited

By:

Name: **[*]**

Title: **[*]**

Exhibits

Exhibit 1.88	Product Specifications
Exhibit 1.116	XOMA Background Patents as of Effective Date
Exhibit 1.119	XOMA Know-How as of Effective Date
Exhibit 3.3(a)	Initial Behçet's Development Plan
Exhibit 3.4(a)	Initial T2D Development Plan
Exhibit 3.6(a)	FTE Rates
Exhibit 6.2	Initial Manufacturing Plan
Exhibit 6.11	Safety Data Exchange Agreement
Exhibit 7.1(a)	Third Party Agreements

Exhibit 1.88
Product Specifications

[*]

Exhibit 1.116
XOMA Background Patents as of Effective Date

FAMILY 1
Title: IL1-BETA BINDING ANTIBODIES AND FRAGMENTS THEREOF
Inventors: Linda Masat; Mary Haak-Frendscho; Gang Chen; Arnold Horwitz; Marina Roell

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	60/692,830	06/21/05	
PCT	PCT/US06/024261	06/21/06	WO07/002261
US	11/472,813	06/21/2006	7,531,166
US	12/218,914	07/18/2008	7,582,742
US	12/463,741	05/11/2009	7,744,865
US	12/463,844	05/11/2009	7,744,866
US	12/464,006	05/11/2009	7,829,093
US	12/464,323	05/12/2009	2010-0055110A1
US	12/464,381	05/12/2009	2010-0061998A1
Australia	2006 262179	06/21/2006	AU2006262179 A1
Brazil	PI0612273-6	06/21/2006	BRPI0612273 A2
Canada	2,612,760	06/21/2006	CA2612760 A1
China	2006 80026551.9	06/21/2006	CN101228188 A
Europe:	06773749.4	06/21/2006	1899378
Austria	06773749.4	06/21/2006	1899378
Belgium	06773749.4	06/21/2006	1899378
Bulgaria	06773749.4	06/21/2006	1899378
Cyprus	06773749.4	06/21/2006	1899378
Czech Republic	06773749.4	06/21/2006	1899378
Denmark	06773749.4	06/21/2006	1899378
Estonia	06773749.4	06/21/2006	E004059
Finland	06773749.4	06/21/2006	1899378
France	06773749.4	06/21/2006	1899378
Germany	06773749.4	06/21/2006	60 2006 010 072.8-08
Greece	06773749.4	06/21/2006	1899378
Hungary	06773749.4	06/21/2006	E 007716
Iceland	06773749.4	06/21/2006	1899378
Ireland	06773749.4	06/21/2006	1899378
Italy	06773749.4	06/21/2006	73749BE/2009
Latvia	06773749.4	06/21/2006	1899378
Lithuania	06773749.4	06/21/2006	1899378
Luxembourg	06773749.4	06/21/2006	1899378
Monaco	06773749.4	06/21/2006	1899378
Netherlands	06773749.4	06/21/2006	1899378
Poland	06773749.4	06/21/2006	1899378
Portugal	06773749.4	06/21/2006	1899378
Romania	06773749.4	06/21/2006	1899378
Slovak Republic	06773749.4	06/21/2006	1899378
Slovenia	06773749.4	06/21/2006	1899378
Spain	06773749.4	06/21/2006	1899378

Sweden	06773749.4	06/21/2006	1899378
Switzerland	06773749.4	06/21/2006	1899378
Turkey	06773749.4	06/21/2006	TR 2009 09878 T4
United Kingdom	06773749.4	06/21/2006	1899378
Europe	09 174 190.0	10/27/2009	2163562
Europe	10 179 088.9	09/23/2010	
Europe	10 179 089.7	09/23/2010	
Hong Kong	09100795.8	06/21/2006	1123560
Hong Kong	10107181.2	07/27/2010	
Israel	188094	06/21/2006	
Israel	202630	12/09/2009	
India	320/CHENP/2008	06/21/2006	
Japan	2008-518374	06/21/2006	2008-543340
Korea	10-2008-7001520	06/21/2006	KR20080039875 A
Mexico	MX/a/2007/016032	06/21/2006	
New Zealand	565138	06/21/2006	
Philippines	1-2007-502895	06/21/2006	
Russian Federation	2008102135	06/21/2006	RU2008102135 A
Singapore	200718904-6	06/21/2006	
South Africa	2008/00555	06/21/2006	2008/00555

FAMILY 2
Title: METHODS FOR TREATMENT OF IL-1BETA RELATED DISEASES
Inventors: Alan M. Solinger; Patrick J. Scannon; Robert J. Bauer; David Alleva

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	60/871,046	12/20/06	
US Provisional	60/908,389	03/27/07	
US Provisional	60/911,033	04/10/07	
PCT	PCT/US07/088411	12/20/07	WO 08/077145
US	11/961,764	12/20/2007	7,695,718
US	12/710,842	02/23/2010	
US	12/757,885	04/09/2010	
Europe	07 869 675.4	12/20/2007	EP2094306 A2
Australia	2007333635	12/20/2007	AU2007333635 A1
Brazil	PI 0720928-2	12/20/2007	
Canada	2,673,592	12/20/2007	
China	200780051536.4	12/20/2007	CN 101616690A
Hong Kong	10102012.8	02/25/2010	1135323A
India	4626/DELNP/2009	12/20/2007	
Indonesia	W00 2009 01721	12/20/2007	050.2064A
Japan	2009-543229	12/20/2007	2010-514694
Mexico	MX/a/2009/006709	12/20/2007	
Russia	2009127066	12/20/2007	
South Africa	2009/04660	12/20/2007	2009/04660

FAMILY 3
Title: METHODS FOR TREATMENT OF GOUT
Inventors: Alan M. Solinger

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	61/015,633	12/20/2007	
US Provisional	61/059,378	06/06/2008	
US Provisional	61/095,191	09/08/2008	
PCT	PCT/US08/087519	12/18/2008	WO 2009/086003
Australia	2008343085	07/12/2010	
Canada	2,710,252	06/18/2010	
China	200880126879.7	08/13/2010	
Europe	08866346.3	12/18/2008	
Mexico	MX/a2010/006823	06/18/2019	
Russia	2010129783	07/20/2010	

FAMILY 4
Title: METHODS FOR THE TREATMENT OF RHEUMATOID ARTHRITIS
Inventors: Alan M. Solinger, Alexander Owyang

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	61/059,711	06/05/08	
US Provisional	61/095,232	09/08/08	
PCT	PCT/US09/46441	12/06/2010	WO 2009/149370
Canada	PCT/US09/46441	12/06/2010	
Australia	PCT/US09/46441		To be filed by 01/06/11
Europe	PCT/US09/46441		To be filed by 01/06/11

FAMILY 5
Title: METHODS FOR TREATING OR PREVENTING IL-1BETA RELATED DISEASES
Inventors: Patrick J. Scannon, Alan M. Solinger, Robert J. Bauer

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	61/094,842	09/05/08	
US Provisional	61/121,451	12/10/08	
PCT	PCT/US09/56086	09/04/2009	WO 2010/028275

FAMILY 6
Title: METHODS FOR IMPROVEMENT OF BETA CELL FUNCTION
Inventors: Patrick J. Scannon, Alan M. Solinger, Robert J. Bauer

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	61/094,857	09/05/08	
US Provisional	61/121,486	12/10/08	
PCT	PCT/US09/56084	09/04/2009	WO 2010/028273

FAMILY 7
Title: CARDIOVASCULAR RELATED USES OF IL-1BETA ANTIBODIES AND BINDING FRAGMENTS THEREOF
Inventors: Patrick J. Scannon, Alan M. Solinger, Jeffrey D. Feldstein

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	61/182,679	05/29/09	
US Provisional	61/252,571	10/16/09	
US Provisional	61/313,001	03/11/10	
US	12/790,738	05/28/2010	
PCT	PCT/US10/36761	05/28/2010	

[*]

Exhibit 1.119
XOMA Know-How as of Effective Date

[*]

Exhibit 3.3(a)
Initial Behçet's Development Plan

[*]

Exhibit 3.4(a)
Initial T2D Development Plan

Exhibit 3.6(a)
FTE Rates

2010 Budgeted Rates	
Quality	$ [*]
Pilot Plant	$ [*]
Analytical Development	$ [*]
PAM	$ [*]
Manufacturing	$ [*]
Formulation Development	$ [*]
Materials Mgmt	$ [*]
Clinical Development	$ [*]
Regulatory Affairs	$ [*]
Bioanalytical Development	$ [*]
NonClinical Safety Evaluation	$ [*]
Pharmacokinetics	$ [*]

Exhibit 6.2
Initial Manufacturing Plan

[*]

Exhibit 6.11
Safety Data Exchange Agreement

Exhibit 7.1(a)
Third Party Agreements

- Non-Exclusive XOMA License Agreement by and between XOMA Corporation (the predecessor in interest of XOMA Ltd.) and Genentech, Inc., effective as of December 30, 1998.[1]
- [*]
- License Agreement by and between the University of Zurich and XOMA (US) LLC, effective as of April 11, 2007[3]

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1 Assigned to XOMA Technology Ltd. pursuant to an Assignment and Assumption Agreement between XOMA Ltd. and XOMA Technology Ltd., effective as of May 31, 1999.

2 [*]

3 Assigned to XOMA Technology Ltd. pursuant to an Assignment and Assumption Agreement between XOMA (US) LLC and XOMA Technology Ltd., effective as of December 30, 2010.

[*] indicates that a confidential portion of the text of this agreement has been omitted.

LOAN AGREEMENT

This Loan Agreement (this **"Loan Agreement"**) is made and entered into as of December 30, 2010 (the **"Execution Date"**) by and between **XOMA Ireland Limited,** a company with limited liability organized under the laws of the Republic of Ireland having a principal place of business at 26 Upper Pembroke Street, Dublin 2, Ireland ("**XOMA Ireland**"), on the first part, and **Les Laboratoires Servier,** a corporation organized and existing under the laws of France having a principal place of business at 22 rue Garnier, 92200 Neuilly-sur-Seine, France ("**Servier**"), on the second part. XOMA Ireland and Servier are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**".

Recitals

A. Concurrently with the execution of this Loan Agreement, XOMA Ireland and Servier have entered into that certain Collaboration and License Agreement, dated as of the date hereof (the "**Collaboration Agreement**") pursuant to which the Parties will establish a collaboration for the continued development and commercialization of products containing XOMA 052.

B. XOMA Ireland and Servier have agreed to enter into this Loan Agreement pursuant to which XOMA Ireland may obtain an advance from Servier, subject to the terms and conditions stated herein, in a principal amount equal to the Loan Commitment.

Now, Therefore, in consideration of the foregoing recitals and the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. Definitions

1.1 Defined Terms. Unless otherwise defined in this Loan Agreement, all capitalized terms shall have the meanings given them in the Collaboration Agreement. As used in this Loan Agreement, the following terms shall have the following respective meanings:

"Advance" means the loan made, or to be made, pursuant to Article 2 of this Loan Agreement.

"Applicable Margin" means [*] basis points.

"Business Day" means a weekday on which commercial banks are open for business in London, England.

"Collaboration Agreement" has the meaning specified in the Recitals.

"**Collateral**" means all of XOMA Ireland's right, title and interest in, to and under that certain Transfer Agreement, dated as of the date hereof, between XOMA Ireland and XOMA Technology Limited relating to the Intellectual Property Rights (as defined in the Fixed Equitable Charge).

"**Disbursement Date**" means the date the Advance is made pursuant to Article 2.

"EURIBOR" has the meaning specified in Section 3.1(a).

"EURIBOR Interest Period" means the period commencing on the Disbursement Date (in the case of the first EURIBOR Interest Period) or the last Business Day of the prior EURIBOR Interest Period (in all other cases) and ending on the date that is [*] months thereafter; provided, however, that (a) no EURIBOR Interest Period with respect to the Advance shall end later than the Maturity Date, (b) the last day of an EURIBOR Interest Period shall be determined in accordance with the practices of the EURIBOR market as from time to time in effect, (c) if any EURIBOR Interest Period would otherwise end on a day that is not a Business Day, that EURIBOR Interest Period shall be extended to the following Business Day unless the result of such extension would be to carry such EURIBOR Interest Period into another calendar month, in which event such EURIBOR Interest Period shall end on the preceding Business Day, (d) any EURIBOR Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such EURIBOR Interest Period) shall end on the last Business Day of the calendar month at the end of such EURIBOR Interest Period, and (e) interest shall accrue from and include the first Business Day of an EURIBOR Interest Period but exclude the last Business Day of such EURIBOR Interest Period.

"EURIBOR Determination Date" means each date for calculating the EURIBOR for purposes of determining the interest rate in respect of an EURIBOR Interest Period. The EURIBOR Determination Date shall be the second Business Day prior to the first day of the related EURIBOR Interest Period.

"Event of Default" means any of those conditions or events listed in Article 7.

"Execution Date" has the meaning specified in the opening paragraph hereof.

"Fixed Equitable Charge" means a fixed equitable charge under the laws of the Republic of Ireland substantially in the form attached as Exhibit A providing for a fixed equitable charge on the Collateral.

"IFRS" means International Financial Reporting Standards, as they exist from time to time, consistently applied.

"Indebtedness" means, as of any given time, XOMA's entire indebtedness to Servier as of such time arising under any of the Loan Documents in respect of principal, interest, fees, costs or otherwise.

"Loan Commitment" means the principal amount of the Advance requested by XOMA Ireland, which amount is fifteen million euros (€15,000,000).

"Loan Documents" means collectively, this Loan Agreement, the Note, and the Fixed Equitable Charge, as such documents may be amended, modified, supplemented or restated from time to time. Loan Documents do not include the Collaboration Agreement.

"Material Adverse Effect" means a material adverse effect upon (a) the business, financial condition, operations or assets of XOMA and its Affiliates, taken as a whole, or (b) the ability of XOMA Ireland to perform its obligations under the Loan Documents.

"Maturity Date" means the earlier of (i) the fifth anniversary after the Disbursement Date, (ii) the date of termination of the Collaboration Agreement by Servier for material breach by XOMA Ireland under Section 11.4 of the Collaboration Agreement, (iii) the [*] anniversary of the effective date of termination of the Collaboration Agreement under Section 11.3 of the Collaboration Agreement and (iv) the date of assignment by XOMA of the Collaboration Agreement to an Acquiror.

"Note" means the promissory note executed by XOMA Ireland evidencing the Indebtedness, substantially in the form ofExhibit B attached hereto, to be executed contemporaneously with the funding of the Advance.

"Obligations" means all Indebtedness, liabilities, obligations, covenants and duties arising under any of the Loan Documents owing by XOMA to Servier whether direct or indirect, absolute or contingent.

"Repayment Commencement Date" means, subject to Section 3.1(d) the date that is the [*] anniversary of the Disbursement Date.

"Term" means the period from the Execution Date until the date on which all outstanding Indebtedness has been repaid in full.

"XOMA Withholding Tax Action" has the meaning specified in Section 3.10(b).

1.2 Accounting Terms. All accounting terms not specifically defined in this Loan Agreement shall be determined and construed in accordance with IFRS.

2. The Advance

Within 10 (ten) days following the Execution Date, provided that Servier has received from XOMA Ireland on or prior to the Execution Date a formal request for payment detailing all the information necessary for the bank transfer, Servier shall make the Advance to XOMA Ireland in the principal amount of the Loan Commitment in accordance with disbursement instructions supplied by XOMA Ireland. The Advance shall be evidenced by the Note executed by XOMA Ireland and the proceeds of the Advance may be used by XOMA directly or indirectly in relation to the Licensed Product pursuant to the Collaboration Agreement.

3. Interest and Payments

3.1 Interest.

(a) **Calculation of Interest.** For each EURIBOR Interest Period, the outstanding principal amount of the Advance shall bear interest at a rate per annum equal to the sum of (i) the applicable six-month Euro Inter-Bank Offered Rate ("**EURIBOR**") as published by Thomson Reuters (or any successor thereto) on the EURIBOR Determination Date, plus (ii) the Applicable Margin; provided that such rate shall not exceed [*] percent ([*]%). As soon as practicable on each EURIBOR Determination Date, SERVIER shall determine the interest rate that shall apply to the Advance for the applicable EURIBOR Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to XOMA Ireland. Such determination shall be binding upon the parties. Interest on the Advance shall be computed on the basis of a three hundred sixty (360) day year for the actual number of days elapsed. In the event that SERVIER is unable to determine EURIBOR, the parties shall negotiate in good faith to determine a substitute rate. At the end of each six month period, the unpaid interest will be added to the outstanding principal amount for the calculation of interest for the next six month period.

(b) **Default Interest**. Notwithstanding the above Section 3.1.(a) from and during the continuance of any failure by XOMA Ireland to pay any principal and accrued interest due and payable to Servier, the outstanding principal amount and accrued interest of the Advance shall bear interest at a rate per annum equal to [*] basis points above the EURIBOR on the EURIBOR Determination Date. This remedy is in addition to the other remedies set forth in Article 8 below**.**

(c) **Interest Payments.** From the Disbursement Date to the Repayment Commencement Date, accrued interest shall not be due or payable; provided, however that interest will accrue and be added to the outstanding principal as provided in Section 3.1(a). On the Repayment Commencement Date, all accrued and unpaid interest to, but excluding, such date, shall be paid by XOMA Ireland to Servier and thereafter, accrued and unpaid interest shall be due and payable .at the end of each six month period.

(d) **Acceleration of Repayment Commencement Date.** In the event of any termination of the Collaboration Agreement in its entirety by Servier pursuant to Section 11.2 or Section 11.3 of the Collaboration Agreement prior to the date which is [*] months prior to the Repayment Commencement Date, the Repayment Commencement Date shall be accelerated, and the Repayment Commencement Date shall be defined thereafter as the date that is [*] months following the effective date of such termination, at which time interest payments shall commence as provided in Section 3.1(c), at the interest rate provided in Section 3.1(a).

3.2 Principal Repayment. Notwithstanding any provision to the contrary, all outstanding principal, together with all accrued and unpaid interest, shall be due and payable by XOMA Ireland on the Maturity Date.

3.3 Right of Offset. From and after the Repayment Commencement Date, Servier may, at its election upon written notice to XOMA Ireland, withhold from XOMA Ireland and apply to the principal amount of the Advance an amount up to [*]% of any milestone payment owing from Servier to XOMA Ireland under the Collaboration Agreement and any royalty payment owing from Servier to XOMA Ireland under the Collaboration Agreement. Upon such application, Servier shall be deemed to have satisfied its obligation to pay the withheld amount to XOMA Ireland in respect of the applicable milestone payment, and XOMA Ireland shall be deemed to have discharged the principal amount of the Advance in the amount so applied. Servier shall have the right to set-off or apply any amounts owed by Servier or any of its Affiliates to XOMA Ireland or any of its Affiliates against the Indebtedness hereunder in case of Event of Default. Except as expressly permitted under this Section 3.3, Servier shall not have any right to set-off or apply any amounts owed by Servier or any of its Affiliates to XOMA Ireland or any of its Affiliates against the Indebtedness hereunder.

3.4 Mandatory Prepayment. From and after the Repayment Commencement Date, upon receipt by XOMA Ireland or any of its Affiliates of any upfront, milestone or royalty payment in cash from any Third Party Partner within the Retained Territory, XOMA Ireland shall (a) promptly provide Servier written notice thereof, and (b) within [*] days of the actual receipt of such payment, prepay the Indebtedness in an amount equal to [*] percent ([*]%) of such payment.

3.5 Payments on Non-Business Day. In the event that any payment of any principal, interest, fees or any other amounts payable by XOMA Ireland under or pursuant to this Loan Agreement, or under any other Loan Document shall become due on any day which is not a Business Day, such due date shall be extended to the next succeeding Business Day, provided that no interest shall accrue for and during any such extension.

3.6 Payment Procedures. All sums payable by XOMA Ireland to Servier under or pursuant to this Loan Agreement, or any other Loan Document, whether principal, interest, or otherwise, shall be paid, when due, directly to Servier bank account designated in writing by Servier to XOMA Ireland, in immediately available funds denominated in Euros, and without setoff, deduction or counterclaim.

3.7 Optional Prepayments. XOMA Ireland may prepay the outstanding Indebtedness, in whole or in part, without premium or penalty, at any time and from time to time.

3.8 Application of Prepayments or Repayments. Any partial prepayment or repayment shall be applied first to any Indebtedness consisting of amounts other than principal and interest, second to accrued but accrued and unpaid interest on the principal amount to be prepaid and finally to outstanding principal.

3.9 **Collection Costs**. All amounts payable by XOMA Ireland under any of the Loan Documents shall be payable with all collection costs and reasonable attorneys' fees.

3.10 **Tax Cooperation**.

(a) The Parties agree to cooperate with one another and use reasonable efforts to reduce or eliminate tax withholding or similar obligations in respect of payments of interest and other Indebtedness made by XOMA Ireland to Servier under this Loan Agreement. XOMA Ireland agrees that under current French/Irish Laws, payments made by XOMA Ireland to Servier under this Loan Agreement are not subject to withholding tax in Ireland so long as Servier files appropriate documentation with the Republic of Ireland evidencing its eligibility for an exemption from withholding tax. XOMA Ireland shall provide to Servier, who shall complete any required portions of, any tax forms that may be reasonably necessary in order for Servier not to withhold tax or to withhold tax at a reduced rate under an applicable bilateral income tax treaty, including Forms 5000-EN and 5003-EN. To the extent XOMA Ireland is required to deduct and withhold taxes on any payment to Servier, XOMA Ireland shall pay the amounts of such taxes to the proper Governmental Authority in a timely manner and promptly transmit to Servier an official tax certificate or other evidence of such withholding sufficient to enable Servier to claim such payment of taxes. Servier shall provide XOMA Ireland any tax forms that may be reasonably necessary in order for XOMA Ireland not to withhold tax or to withhold tax at a reduced rate under an applicable bilateral income tax treaty. Each Party shall provide the other with reasonable assistance to enable the recovery, as permitted by applicable Laws, of withholding taxes, value added taxes, or similar obligations resulting from payments made under this Loan Agreement, such recovery to be for the benefit of the Party bearing such withholding tax or value added tax.

(b) If XOMA Ireland is required to make a payment to Servier that is subject to a deduction or withholding of tax, then (i) if such withholding or deduction obligation arises as a result of any action by XOMA Ireland or any failure on the part of XOMA Ireland to comply with applicable Laws or filing or record retention requirements, that has the effect of modifying the tax treatment of the Parties hereto (a "**XOMA Withholding Tax Action**"), then the sum payable by XOMA Ireland (in respect of which such deduction or withholding is required to be made) shall be increased to the extent necessary to ensure that Servier receives a sum equal to the sum that it would have received had no such Servier Withholding Tax Action occurred, and (ii) otherwise, the sum payable by XOMA Ireland (in respect of which such deduction or withholding is required to be made) shall be made to Servier after deduction of the amount required to be so deducted or withheld, which deducted or withheld amount shall be remitted to the proper Governmental Authority in accordance with applicable Laws.

4. Conditions Precedent

The obligation of Servier to make the Advance shall be subject to the satisfaction of each of the following conditions precedent:

4 . 1 Representations and Warranties. Each of the representations and warranties of XOMA in this Loan Agreement shall be true and correct in all material respects on and as of the Execution Date.

4 . 2 Collaboration Agreement Not Terminated by XOMA Ireland. The Collaboration Agreement shall not have been terminated by **XOMA Ireland**, nor shall **XOMA Ireland** have given Servier written notice of its intention to terminate the Collaboration Agreement.

4.3 No Default. No Event of Default shall have occurred and be continuing.

4.4 Note. XOMA Ireland shall have delivered to Servier the Note, duly authorized and executed by **XOMA Ireland**.

4.5 Fixed Equitable Charge. XOMA Ireland shall have delivered to Servier the Fixed Equitable Charge, duly authorized and executed by XOMA Ireland.

5. Representations And Warranties of XOMA

XOMA Ireland hereby represents and warrants to Servier as of the Execution Date:

5 . 1 Organization, Good Standing and Qualification. XOMA Ireland is validly existing under the laws of the Republic of Ireland. XOMA Ireland is duly qualified to transact business as a corporation and is in good standing (to the extent such concept is applicable) in each jurisdiction in which the failure so to qualify would have a material adverse effect upon XOMA Ireland's ability to perform its obligations under any of the Loan Documents or the validity or enforceability of, or Servier's rights and remedies under, this Loan Agreement or any of the other Loan Documents.

5.2 Authorization; Due Execution. XOMA Ireland has the requisite power and authority to enter into each of the Loan Documents and to perform its obligations under the terms of each of the Loan Documents. All company action on the part of XOMA Ireland, its officers, directors and stockholders necessary for the authorization, execution, delivery and performance of each of the Loan Documents has been taken. Each of the Loan Documents has been duly authorized, executed and delivered by XOMA Ireland and, upon due execution and delivery by Servier of this Loan Agreement, each of the Loan Documents will each be a valid and binding agreement of XOMA Ireland, enforceable in accordance with its respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or by equitable principles.

5 . 3 Governmental Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any Irish, Belgian, or U.S. federal, state, provincial or cantonal, or local governmental authority on the part of XOMA Ireland is required in connection with the consummation of the transactions contemplated by the Loan Documents, except for such approvals or consents the failure to obtain would not reasonably be expected to result in a Material Adverse Effect.

5 . 4 No Conflict. XOMA Ireland's execution, delivery and performance of each of the Loan Documents does not violate any provision of XOMA Ireland's Memorandum and Articles of Association, each as amended as of the date hereof, any provision of any order, writ, judgment, injunction, decree, determination or award to which XOMA Ireland is a party or by which it is bound, or, to XOMA Ireland's knowledge, any law, rule or regulation currently in effect having applicability to XOMA Ireland.

5.5 Litigation. There is no action, litigation or proceeding pending or threatened against or involving XOMA Ireland or its Affiliates in any court or before or by any agency or regulatory body which would reasonably be expected to result in a Material Adverse Effect.

5.6 Payment of Taxes. XOMA Ireland has filed all tax returns which were required to be filed by it prior to and as of the date of this Loan Agreement. XOMA Ireland has paid all taxes and assessments which to XOMA Ireland 's knowledge are payable by it, to the extent that the same have become due and payable and before they became delinquent, except for any taxes or assessments that are being contested in good faith by appropriate proceedings properly instituted and diligently conducted. XOMA Ireland does not know of any proposed material tax assessment against it or any of its properties for which adequate provision has not been made on its books.

5.7 Compliance. XOMA Ireland is in compliance with and in conformity to all laws, ordinances, rules, regulations and all other legal requirements, the violation of which would reasonably be expected to result in a Material Adverse Effect.

6. Covenants

XOMA Ireland covenants and agrees that, during the Term, it will:

6 . 1 Maintenance of Existence and Rights. Maintain and preserve in full force and effect its existence and all material rights, contracts, licenses, leases, qualifications, privileges, franchises and other authority necessary for the conduct of its business, and qualify and remain qualified to do business in each jurisdiction in which such qualification is material to its business and operations or ownership of its properties, except where the lapsing of any of the foregoing would not reasonably be expected to result in a Material Adverse Effect.

6 . 2 Governmental and Other Approvals. Apply for, obtain and maintain in effect, as applicable, all material authorizations, consents, approvals, licenses, qualifications, exemptions, filings, declarations and registrations (whether with any court, governmental agency, regulatory authority, securities exchange or otherwise) which are necessary in connection with the execution, delivery and performance by XOMA Ireland of this Loan Agreement, the Loan Documents, or any other documents or instruments to be executed or delivered by XOMA Ireland, in connection with the Loan Documents.

6.3 **Compliance with Laws**. Carry out its obligations pursuant to this Agreement consistent with all applicable laws.

6.4 **Use of Proceeds**. Use the proceeds of the Advances solely for the purposes set forth in Article 2 above.

6.5 **Payment of Taxes**. Pay and discharge (a) all taxes, assessments and governmental charges or levies imposed upon it or its income or property prior to the date on which penalties attach thereto and (b) all lawful claims and debts which, if unpaid, might become a lien upon any of its property; *provided* that XOMA Ireland shall not be required to pay any such tax, assessment, charge, levy, claim or debt for which XOMA Ireland has obtained a bond or insurance, or for which it has established a reserve, if the payment thereof is being contested in good faith and by appropriate proceedings which are being reasonably and diligently pursued.

6.6 **Litigation**. Notify Servier in writing, reasonably promptly upon learning thereof, of any litigation commenced against XOMA Ireland or any of its Affiliates, which would reasonably be expected to result in a Material Adverse Effect.

6.7 **Notices/Material Developments**. Promptly (and in any event within five (5) Business Days) after obtaining knowledge of the occurrence of any event that has resulted in or would reasonably be expected to result in a Material Adverse Effect, deliver to Servier a statement of XOMA Ireland setting forth the details of each such event and the action which XOMA Ireland has taken and proposes to take with respect thereto. In addition, XOMA Ireland shall promptly inform Servier by written notice of the occurrence of any event or condition of any nature which constitutes an Event of Default.

7. Events Of Default

The occurrence or existence of any of the following conditions or events shall constitute an "**Event of Default**" hereunder:

7.1 **Failure to Pay**. XOMA Ireland shall fail to pay any principal, interest or other sums due to Servier under this Loan Agreement and such failure shall continue for a period of [*] Business Days after the receipt of written notice from Servier thereof.

7.2 **Other Defaults Under the Loan Documents**. Any default in the observance or performance of any of the other conditions, covenants, or agreements of XOMA Ireland set forth in this Loan Agreement or in any Loan Document, and, if such default is capable of remedy, continuance thereof for a period of [*] days after the receipt of written notice from Servier thereof.

7.3 **Insolvency; Bankruptcy**. If (i) XOMA Ireland, XOMA (US) LLC, or XOMA Ltd, (in each case, "XOMA") becomes insolvent or generally fails to pay, or admits in writing its inability to pay, its debts as they mature, or applies for, consents to, or acquiesces in the appointment of a trustee, receiver, liquidator, conservator or other custodian for itself, or a substantial part of its property, or makes a general assignment for the benefit of creditors; (ii) XOMA files a voluntary petition in bankruptcy or a trustee, receiver, liquidator, conservator or other custodian is appointed for XOMA, or for a substantial part of its property; (iii) any bankruptcy, reorganization, debt arrangement, or other proceedings under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or against XOMA, and the same is consented to or acquiesced by XOMA, or otherwise remains undismissed for [*] days; or (iv) any warrant of attachment is issued against any substantial part of the property of XOMA which is not released within [*] days of service thereof.

7.4 Representations and Warranties. Any representation or warranty made by XOMA Ireland in any Loan Document shall fail to be true and correct in any material respect when made or deemed to have been made.

8. Servier's Rights And Remedies

8.1 Rights and Remedies. Upon the occurrence and during the continuance of an Event of Default, Servier may, at its election, without notice of its election and without demand, do any one or more of the following, all of which are authorized by XOMA Ireland :

(a) Declare all Obligations immediately due and payable;

(b) Terminate this Loan Agreement as to any future liability or obligation of Servier, but without affecting the Obligations of XOMA Ireland to Servier;

(c) Exercise the remedies in respect of the Collateral provided for in, and in accordance with, the Loan Documents; and

(d) Exercise the remedies (including damages) available to Servier under the applicable laws arising out of a breach of this Loan Agreement by XOMA Ireland.

8.2 Waiver of Defaults. No Event of Default shall be waived by Servier except in a written instrument specifying the scope and terms of such waiver and signed by an authorized officer of Servier, and such waiver and shall be effective only for the specific times and purposes given. No single or partial exercise of any right, power or privilege hereunder, nor any delay in the exercise thereof, shall preclude other or further exercise of Servier's rights. No waiver of any Event of Default shall extend to any other or further Event of Default. No forbearance on the part of Servier in enforcing any of Servier's rights or remedies hereunder or under any of the other Loan Documents shall constitute a waiver of any of its rights or remedies.

8.3 Remedies Cumulative. Servier's rights and remedies under this Loan Agreement, the Loan Documents, and all other agreements shall be cumulative. Servier shall have all other rights and remedies not expressly set forth herein as provided under applicable law, or in equity. No exercise by Servier of one right or remedy shall be deemed an election, and no waiver by Servier of any Event of Default on XOMA Ireland's part shall be deemed a continuing waiver. No delay by Servier shall constitute a waiver, election, or acquiescence by it. No waiver by Servier shall be effective unless made in a written document signed on behalf of Servier and then shall be effective only in the specific instance and for the specific purpose for which it was given.

8 . 4 Waiver. XOMA Ireland waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees at any time held by Servier on which XOMA Ireland may in any way be liable.

9. Miscellaneous

9.1 Entire Agreement; Amendments. This Loan Agreement, together with the Note, sets forth the complete, final and exclusive agreement and all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings between the Parties with respect to the subject matter hereof. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as are set forth in this Loan Agreement, the Note and the Collaboration Agreement. No subsequent alteration, amendment, change or addition to this Loan Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party.

9 . 2 Assignment. Neither Party may assign or transfer this Loan Agreement, the Note or any rights or obligations hereunder or thereunder (or any participation or interest in the Note or the Advance) without the prior written consent of the other, except that Servier may make such an assignment without XOMA Ireland's consent to its Affiliates, provided such assignment has no material adverse impact on XOMA Ireland. Any assignment or attempted assignment by either Party in violation of the terms of this Section 9.2 shall be null, void and of no legal effect.

9 . 3 Severability. If any of the provisions of this Loan Agreement are held to be invalid or unenforceable by any court of competent jurisdiction from which no appeal can be or is taken, the provision shall be considered severed from this Loan Agreement and shall not serve to invalidate any remaining provisions hereof. The Parties shall make a good faith effort to replace any invalid or unenforceable provision with a valid and enforceable one such that the objectives contemplated by the Parties when entering this Loan Agreement may be realized.

9 . 4 Notices. Any notices given under any Loan Document shall be in writing, addressed to the Parties at the following addresses, and delivered by person, by facsimile (with receipt confirmation), or by FedEx or other reputable courier service. Any such notice shall be deemed to have been given: (a) as of the day of personal delivery; (b) one (1) day after the date sent by facsimile service; or (c) on the day of successful delivery to the other Party confirmed by the courier service. Unless otherwise specified in writing, the mailing addresses of the Parties shall be as described below.

If to XOMA: XOMA Ireland Limited

26 Upper Pembroke Street
Dublin 2
Ireland
Attention: Company Secretary
FAX: 353 1 637 3989

With copies (which shall not constitute notice) to:

A & L Goodbody
North Wall Quay
IFSC
Dublin 1
Attention: Seamus O'Croinin
FAX: 353 1 649 2649

If to Servier:

22 rue Garnier,
92200 Neuilly-sur-Seine,
France
Attention: Direction de la Coopération Scientifique
FAX: +33.1.55.72.39.00

9.5 Waiver. Any delay in enforcing a Party's rights under this Loan Agreement or any waiver as to a particular default or other matter shall not constitute a waiver of such Party's rights to the future enforcement of its rights under this Loan Agreement, excepting only as to an express written and signed waiver as to a particular matter for a particular period of time.

9.6 Governing Law. Resolution of all disputes, controversies or claims arising out of, relating to or in connection with this Loan Agreement or the performance, enforcement, breach or termination of this Loan Agreement and any remedies relating thereto, shall be governed by and construed under the substantive laws of [*], without regard to conflicts of law rules.

9.7 Binding Arbitration. If the Parties are unable to resolve a dispute relating to any alleged breach under this Loan Agreement or any issue relating to the interpretation or application of this Loan Agreement within [*] days after first notification of such dispute and either Party wishes to pursue the matter, each such dispute, controversy or claim shall be finally resolved by binding arbitration administered by the International Chamber of Commerce ("**ICC**") pursuant to its Dispute Resolution Rules then in effect, and judgment on the arbitration award may be entered in any court having jurisdiction thereof. The Parties agree that:

(a) The arbitration shall be conducted by a panel of three persons experienced in the pharmaceutical business. Within [*] days after initiation of arbitration, each Party shall select one person to act as arbitrator and the two Party-selected arbitrators shall select a third arbitrator within [*] days of their appointment. If the arbitrators selected by the Parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be appointed by the ICC. The place of arbitration shall be [*], and all proceedings and communications shall be in English.

(b) Either Party may apply to the arbitrators for interim injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either Party also may, without waiving any remedy under this Loan Agreement, seek from any court having jurisdiction any injunctive or provisional relief necessary to protect the rights or property of that Party pending the arbitration award. The arbitrators shall have no authority to award punitive or any other type of damages not measured by a Party's compensatory damage. Each Party shall bear its own costs and expenses and attorneys' fees and an equal share of the arbitrators' fees and any administrative fees of arbitration, unless the arbitrators determine that a Party has incurred unreasonable expense due to vexatious or bad faith position taken by the other Party, in which event, the arbitrators may make an award of all or any portion of such expenses so incurred.

(c) Reasons for the arbitrators' decisions should be complete and explicit, including reasonable determinations of law and fact. The written reasons should also include the basis for any damages awarded and a statement of how the damages were calculated. Such a written decision shall be rendered by the arbitrators following a full comprehensive hearing, no later than [*] months following the selection of the arbitrators under Section 10.7(a).

(d) Except to the extent necessary to confirm an award or as may be required by applicable Laws, neither Party nor any arbitrator may disclose the existence, content, or results of an arbitration without the prior written consent of both Parties. In no event shall an arbitration be initiated after the date when commencement of a legal or equitable proceeding based on the dispute, controversy or claim would be barred by the applicable statute of limitations.

9.8 Construction of this Loan Agreement. Except where the context otherwise requires, wherever used, the use of any gender shall be applicable to all genders, and the word "**or**" is used in the inclusive sense. When used in this Loan Agreement, "**including**" means "**including without limitation**". Where the context herein requires, the singular number shall be deemed to include the plural, the masculine gender shall include the feminine and neuter genders, and vice versa. When a reference is made in this Loan Agreement to the Recitals, Articles, Sections, Exhibits or Schedules, such reference is to a Recital, Article or Section of, or an Exhibit or Schedule to, this Loan Agreement, unless otherwise indicated. References to either Party include the successors and permitted assigns of that Party. The headings of this Loan Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Loan Agreement or the intent of any provision contained in this Loan Agreement. The Parties have each consulted counsel of their choice regarding this Loan Agreement and have jointly prepared this Loan Agreement, and, accordingly, no provisions of this Loan Agreement shall be construed against either Party on the basis that the Party drafted this Loan Agreement or any provision thereof. If the terms of this Loan Agreement conflict with the terms of any Exhibit, then the terms of this Loan Agreement shall govern. The official text of this Loan Agreement and any Exhibits hereto, any notice given or accounts or statements required by this Loan Agreement, and any dispute proceeding related to or arising hereunder, shall be in English. In the event of any dispute concerning the construction or meaning of this Loan Agreement, reference shall be made only to this Loan Agreement as written in English and not to any other translation into any other language.

9.9 Counterparts. This Loan Agreement may be executed in two (2) or more counterparts, each of which shall be an original and all of which together will constitute the same document.

[The signature page follows.]

In Witness Whereof, the Parties have executed this Loan Agreement in duplicate originals by their proper officers as of the Execution Date.

Les Laboratoires Servier

By:

Name: [*]

Title: [*]

By:

Name: [*]

Title: [*]

XOMA Ireland Limited

By:

Name: [*]

Title: [*]

[Signature Page to Loan Agreement]

Exhibit A

Dated [to be dated as of the funding and note dates]

XOMA IRELAND LIMITED

(the "**Company")**

LES LABORATOIRES SERVIER

(the **"Chargee")**

FIXED CHARGE

INDEX

THIS FIXED CHARGE is dated _____ and made between

(1) **XOMA IRELAND LIMITED** a company incorporated in Ireland with registered number 307875 and having its registered office at 26 Upper Pembroke Street, Dublin 2, Ireland (the **Company**); and

(2) **LES LABORATOIRES SERVIER,** a corporation organised and existing under the laws of France having its principal place of business at 22 rue Garnier, 92200 Neuilly-sur-Seine, France (the **Chargee**).

RECITALS

The Company is indebted or may hereafter become indebted to the Chargee in respect of certain borrowings incurred by the Company pursuant to a Loan Agreement (the **Loan Agreement**) dated December 30, 2010 between the Chargee as lender and the Company as borrower.

It has been agreed between the Company and the Chargee that all monies now owing or which shall at any time in the future become owing from the Company to the Chargee pursuant to the Loan Agreement together with interest, costs and charges arising thereunder shall be secured by this Charge.

IT IS AGREED BY THIS DEED as follows:

10. DEFINITIONS AND INTERPRETATION

10.1 In this Charge, unless the context otherwise requires:

Act means the Land and Conveyancing Law Reform Act 2009;

Business Day means a day (other than a Saturday or Sunday) on which banks are open for the conduct of their normal business in Dublin;

Dispute means any suit, action, proceedings and/or any dispute or difference which may arise out of or in connection with or which may relate in any way to the Finance Documents (including but not limited to any suit, action, proceedings, dispute or difference relating to the formation, interpretation or performance of the Finance Documents or any dispute or difference which may arise out of or in connection with or which may relate in any way to any non-contractual obligations of any nature (including those to which Regulation (EC) No. 864/2007 applies) between the parties or any of them and **Disputes** shall be construed accordingly;

Enforcement Event means the occurrence and continuance of an Event of Default;

Event of Default has the meaning ascribed to it in the Loan Agreement;

euro means the national currency unit for the time being of Ireland;

Finance Documents means this Charge and the Loan Agreement;

Indebtedness means, as of any given time, the Company's entire indebtedness to the Chargee as of such time arising under any of the Loan Documents in respect of principal, interest, fees, costs or otherwise;

Intellectual Property Rights means all of the Company's patents and patent applications in the Licensed Territory listed in the Schedule, and any and all related continuations, continuations-in-part, divisions, extensions, reissues, re-examinations, renewals or substitutions, any and all other proprietary rights related to any of the foregoing (including without limitation remedies against infringements thereof and rights of protection of an interest therein under the laws of all jurisdictions) in the Territory;

Licensed Territory means all countries of the world other than (a) the United States of America and (b) Japan, including their respective territories and possessions;

Loan Documents means collectively the Loan Agreement and the Note as such documents may be amended, modified, supplemented or restated from time to time;

Obligations means all Indebtedness, liabilities, obligations, covenants and duties arising under any of the Loan Documents owing by the Company to the Chargee whether direct or indirect, absolute or contingent;

Proceedings has the meaning ascribed to it in clause 12.11.2;

Product has the meaning ascribed to that term in the Transfer Agreement;

Receiver has the meaning ascribed to it in clause 7.1;

Specifically Charged Property means the property and assets referred to in clauses 3.1 and 3.2; inclusive;

Transfer Agreement means that certain Transfer Agreement between XOMA Technology Ltd. and the Company dated 21 December 2010 relating to the Intellectual Property Rights; and

XOMA 052 has the meaning ascribed to that term in the Transfer Agreement;

10.2 In this Charge (except where the context otherwise requires):

(a) a word or phrase the definition of which is contained or referred to in section 2 of the Companies Act 1963 or Section 3 of the Act has the meaning thereby attributed to it;

(b) the singular includes the plural and vice versa and any gender includes the other gender;

(c) words importing persons include natural persons, firms, partnerships, companies, corporations, associations, organisations, governments, states, foundations and trusts (in each case whether or not having a separate legal personality);

(d) any reference to a statute, statutory provision or subordinate legislation ("legislation") is (unless the contrary is clearly stated) to be construed as a reference to legislation operative in Ireland and is (except where the context otherwise requires) to be construed as referring to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation;

(e) save as otherwise provided in this Charge, any reference to a section, clause, paragraph, sub-clause, sub-paragraph or schedule is a reference to a section, clause, paragraph, sub-clause, sub-paragraph or schedule (as the case may be) of this Charge;

(f) the index and headings are inserted for convenience only and are not to affect the construction of this Charge;

(g) a reference to any document includes that document as it has or may be amended, varied, assigned, novated, restated or supplemented from time to time;

(h) the **Company** and the **Chargee** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(i) any reference to a legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing is, in respect of any jurisdiction other than Ireland, to be deemed to include a reference to what most nearly approximates in that jurisdiction to the Irish legal term; and

(j) any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression is to be construed as illustrative and shall not limit the sense of the words preceding those terms; [and]

(k) terms not specifically defined herein shall have the meaning attributed to them in the [Loan Agreement.

1 0 . 3 The Schedule forms part of this Charge and is to have effect as if set out in full in the body of this Charge and any reference to this Charge includes the Schedule.

11. OBLIGATION TO PAY AND DISCHARGE:

The Company shall pay and discharge to the Chargee on first demand the Obligations when due.

12. CHARGING PROVISIONS

The Company as beneficial owner to the intent that the charges contained in this Charge will be a continuing security for the payment and discharge of the Obligations:

12.1 **HEREBY CHARGES** by way of first fixed charge the Transfer Agreement and all the right, title and interest of the Company in the Transfer Agreement;

1 2 . 2 **HEREBY CHARGES** as a first fixed charge all of the Company’s rights, title, interest and benefit in all Intellectual Property Rights including, without limitation, all Intellectual Property Rights specified in the Schedule to this Charge**.**

13. SUPPLEMENTARY PROVISIONS

13.1 The Company shall during the continuance of the security constituted by this Charge from time to time do, execute, acknowledge and deliver all and every such further deeds, conveyances, assignments, demises, mortgages, charges, documents and assurances at law as are necessary or advisable or as the Chargee may reasonably require for the better granting, conveying, assigning, transfer, demising or charging the same to the Chargee for the purpose referred to in this clause 4.1 and for conferring upon the Chargee such power of sale and other powers over the said property as are expressed to be conferred by this Charge.

13.2 This security will be a continuing security notwithstanding any settlement of account or other matter or thing whatsoever and in particular will not be considered satisfied by any intermediate repayment or satisfaction of all or any of the monies, liabilities and obligations secured by this Charge and will continue in full force and effect until final repayment in full and total satisfaction of all monies, liabilities and obligations secured by this Charge; and if upon such final repayment and satisfaction there shall exist any right on the part of the Company or any other person to draw funds or otherwise which, if exercised, would or might cause the Company to become actually or contingently liable to the Chargee whether as principal debtor or as surety for another person, then the Chargee will be entitled to retain this security and all rights, remedies and powers conferred by this Charge, the Specifically Charged Property for so long as shall or might be necessary to secure the discharge of such actual or contingent liability; and in the event that any demand is made by the Chargee under this Charge the said monies will become due and shall be paid and discharged to the Chargee and all provisions of this Charge will apply accordingly.

13.3 The security constituted by this Charge will be in addition to and will not operate so as in any way to prejudice or affect any other security which the Chargee may now or at any time in the future hold for or in respect of all or any part of the monies and liabilities secured by this Charge, nor will any such other security or any lien to which the Chargee may be otherwise entitled or the liability of any person not party to this Charge for all or any part of the monies and liabilities secured by this Charge be in any way prejudiced or affected by this security. The Chargee will have full power at its discretion to give time for payment to or make any other arrangement with any such other person without prejudice to the liability of the Company under this Charge.

13.4 If the Obligations covenanted to be paid and discharged in this Charge have been unconditionally and irrevocably paid and discharged in full the Chargee shall, as soon as reasonably practicable after such payment and discharge and at the request and cost of the Company, execute such documents as may be necessary to release the security created by this Charge.

13.5 If the Chargee receives, or is deemed to be affected by, actual or constructive notice of any subsequent charge or assignment or other disposition or interest affecting the Specifically Charged Property or any part of the Specifically Charged Property, the Chargee may open a new account for the Company. If the Chargee does not open a new account then, unless the Chargee gives express written notice to the contrary to the Company, the Chargee will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice and as from that time all payments made to any account of the Company shall be credited or be treated as having been credited to the new account and will not operate to reduce the amount due from the Company to the Chargee at the time when the Chargee received or was deemed to have received that notice.

14. GENERAL PROTECTION OF ASSETS

14.1 The Company shall not create or permit to subsist any mortgage, charge, pledge, debenture, lien (other than a lien arising in the ordinary and usual course of business by operation of law) or other encumbrance on the Specifically Charged Property securing any obligation of any person or any other type of preferential arrangement (including any title transfer and retention arrangement) having a similar effect.

14.2 The Company may not take any action in relation to the Specifically Charged Property or this Charge under the provisions of Section 94 of the Act (*Court order for sale*).

14.3 The Company shall also at all times during the continuance of the security constituted by this Charge:

(a) notify the Chargee in writing of all of the Intellectual Property Rights upon written demand by the Chargee and make such applications and maintain such registrations to keep those registered Intellectual Property Rights which are material to the Company's business in force and to record the Company's interest in those Intellectual Property Rights, take such steps at its own expense as are within its power (including, without limitation, the institution of legal proceedings) to prevent third parties infringing the Intellectual Property Rights and use its best endeavours to procure that any further Intellectual Property Rights licensed to it are freely assignable and chargeable to the Chargee;

(b) if requested to do so by the Chargee from time to time, make entries in any appropriate public register (in Ireland or elsewhere) of the Intellectual Property Rights which record the existence of this Charge;

(c) in the event of a notice being served affecting the Specifically Charged Property or any part of the Specifically Charged Property or in the event of any proceedings being commenced affecting the Specifically Charged Property in a matter of material importance immediately give full particulars of the notice or proceedings to the Chargee;

(d)

(i) do, observe and perform all its obligations and all matters and things necessary or expedient to be done, observed and performed under or by virtue of every licence and agreement to which the Company is party so as to preserve, protect and maintain all of the rights of the Company in them;

(ii) not suffer or permit any default for which any of the same may be terminated or as a result of which any party thereto may be relieved of any liability or obligation but, on the contrary, exercise and enforce from time to time all its rights and remedies;

(iii) if and when entitled to do so, renew all such licences and agreements so long as the same have utility or commercial value; and

(iv) on the expiration of any such licences and agreements, use its best endeavours to obtain new licences or agreements as the case may be on the most favourable terms available so long as the same have utility or commercial value;

(e)

(i) not without the written consent of the Chargee sell, convey, assign or transfer the Specifically Charged Property or any interest therein or any part of the Specifically Charged Property;

(ii) not part with possession of the Specifically Charged Property or any part of the Specifically Charged Property without the prior written consent of the Chargee; and

(f) pay or cause to be paid all rents, taxes, rates, assessments, impositions, calls and outgoings, whether governmental, municipal or otherwise, imposed upon or payable in respect of the Specifically Charged Property or any part of the Specifically Charged Property as and when the same become payable, and also punctually pay and discharge, or cause to be paid and discharged, all debts and obligations to or in respect of persons employed by the Company which by law may have priority over the security created by this Charge;

(g) not amend or waive any terms of the Transfer Agreement without the prior written consent of the Chargee;

(h) not sell, assign, part with, transfer, or otherwise dispose of the benefit of all or any of the Company's right, title and interest in and to the Specifically Charged Property or any part of them and not agree to, or grant any option in respect of, any of the foregoing

and so that, if the Company fails to perform any obligation on its part contained in this Charge, the Chargee may itself or by any agents perform any of the said covenants capable of being performed by it or by such agents, and if any such obligation requires the payment or expenditure of money the Chargee may make such payment or expenditure with its own funds or with money borrowed by or advanced to it for such purpose but will be under no obligation so to do; all sums so expended or paid shall be added to the indebtedness secured by this Charge and will bear interest accordingly and will be repayable to the Chargee on demand.

15. ENFORCEMENT

The security constituted by this Charge shall be enforceable and the Obligations, not already payable on demand, shall become due and payable on first demand immediately upon and at any time after the occurrence of an Enforcement Event. At any time after the security constituted by this Charge has become enforceable, the statutory powers conferred by the Act, as varied, disapplied and/or as extended by this Charge shall become exercisable.

16. RECEIVERS

16.1 At any time on or after the occurrence of an Enforcement Event, the Chargee may from time to time appoint (i) by Deed in writing under the hand of a duly authorised officer of the Chargee or (ii) under the Act, any person or persons considered by it to be competent to be a receiver or a receiver and manager (hereinafter called a **Receiver** which expression will, where the context so admits, include the plural and any substituted receiver or receiver and manager) of any part of the Specifically Charged Property. The restrictions contained in section 108(1) of the Act will not apply to the appointment of a Receiver under this Charge. The Chargee may from time to time in writing under the hand of a duly authorised officer of the Chargee remove any Receiver so appointed and appoint another in his stead.

16.2 A Receiver so appointed will be the agent of the Company, and the Company will be solely responsible for his acts and defaults, and the Chargee will have power from time to time to fix the remuneration of any Receiver appointed by the Chargee and to direct payment thereof out of the Specifically Charged Property or any part thereof, but the Company will alone be liable for the payment of such remuneration. The provisions of sub-sections 108(4) and (7) (*Appointment of a Receiver*) of the Act will not apply to the appointment of a Receiver under clause 7.1.

16.3 A Receiver so appointed under clause 7.1 will have and be entitled to exercise, in addition to all powers conferred by the Act (except where expressly disapplied in this Charge) and pursuant to section 108(3) of the Act, the following additional powers:

(a) to take possession of, collect and get in all or any part of the property in respect of which the Receiver is appointed, and for that purpose take any proceedings in the name of the Company or otherwise as may seem expedient;

(b) to make any arrangements or compromise which the Receiver or the Chargee may think expedient;

(c) to do all such other acts and things as may be incidental or conducive to any of the matters or powers above and which the Receiver lawfully may or can do as agent for the Company.

16.4 The foregoing powers of appointment of a Receiver are in addition to and not to the prejudice of all statutory and other powers of the Chargee under the Act (as varied or disapplied herein) or otherwise, and so that such powers will be and remain exercisable by the Chargee in respect of any part of the Specifically Charged Property in respect of which no appointment of a Receiver by the Chargee is for the time being subsisting, notwithstanding that an appointment under the powers of clause 9.1. shall have subsisted and been withdrawn in respect of that part of the Specifically Charged Property or shall be subsisting in respect of any other part of the Specifically Charged Property.

16.5 All monies received by the Receiver shall be applied by the Receiver for the following purposes (subject to the claims of secured or unsecured creditors (if any) ranking in priority to this Charge) and in the following order:

(a) in payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise of all or any of the above powers and of all outgoings properly paid by the Receiver;

(b) in payment of remuneration to the Receiver at such rate as may be agreed between the Receiver and the Chargee; and

(c) in or towards payment to the Chargee of all monies the payment of which is secured by this Charge

and any surplus shall be paid to the Company or any other person entitled thereto. The provisions of section 109 (*Application of money received*) of the Act shall not apply to this Charge.

16.6 No purchaser or other person will be bound or concerned to see or enquire whether the right of the Chargee or any Receiver appointed by the Chargee to exercise any of the powers conferred by this Charge has arisen or not or be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of such powers.

17. LIABILITY OF CHARGEE AND RECEIVER

17.1 In the event that the Chargee or any Receiver appointed under this Charge takes possession of the Specifically Charged Property or any part or parts of the Specifically Charged Property or otherwise exercises any statutory powers or any additional powers set forth in this Charge, neither the Chargee or any Receiver will be liable to account as mortgagee or as mortgagee in possession in respect of any of the Specifically Charged Property or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever (except to the extent that the same results from the Chargee's or the Receiver's negligence or wilful default) in connection with any of the Specifically Charged Property for which a mortgagee in possession might as such be liable. All costs, charges and expenses incurred by the Chargee or any Receiver appointed under this Charge (including the costs of any proceedings to enforce the security hereby given) shall be paid by the Company or Companies concerned on a solicitor and own client basis and be charged on the Specifically Charged Property.

17.2 Save as provided for in section 103 of the Act or otherwise, the Chargee will not be liable for any involuntary losses which may happen in or about the exercise or execution of the statutory power of sale or any of the powers or trusts expressed or implied which may be vested in the Chargee.

18. CHARGEE AS MORTGAGEE IN POSSESSION

In addition to the statutory powers incidental to the estate or interest of mortgagees contained in the Act as more particularly detailed in Clause 10 (Statutory powers) at any time after the Chargee in accordance with the provisions of this Charge enters into possession of the Specifically Charged Property or any part of the Specifically Charged Property, the Chargee will have power to:

18.1 perform or cause to be performed all acts and things requisite or desirable according to the law of the country in which the Specifically Charged Property or any part of the Specifically Charged Property of which the Chargee is in possession is situate for the purpose of giving effect to the exercise of any of the said powers, authorities and discretions.

18.2 The provisions of section 97 of the Act (*Taking possession*), section 99(1) (*Mortgagee in possession*) and section 101 (*Applications under sections 97 and 100*) shall not apply to this Charge.

19. STATUTORY POWERS

19.1 At any time after the security constituted by this Charge has become enforceable (in accordance with clause 6 (*Enforcement*):

(a) the statutory power of sale conferred by section 100 (*Power of sale*) of the Act free from restrictions contained in section 100(1), (2), (3) and (4) and without the requirement to serve notice (as provided for in section 100(1)); and

(b) the incidental powers of sale conferred by section 102 *(Incidental powers*)

will immediately arise and be exercisable by the Chargee and/or any Receiver (as appropriate).

20. CURRENCY CLAUSES

20.1 All monies received or held by the Chargee or by a Receiver under this Charge may from time to time after demand has been made be converted into such other currency as the Chargee considers necessary or desirable to cover the obligations and liabilities of the Company in that currency at the then prevailing spot rate of exchange (as conclusively determined by the Chargee) for purchasing the currency to be acquired with the existing currency.

20.2 If and to the extent the Company fails to pay the amount due on demand, the Chargee may in its absolute discretion without notice to the Company purchase at any time thereafter so much of a currency as the Chargee considers necessary or desirable to cover the obligations and liabilities of the Company in such currency, secured by this Charge, at the then prevailing spot rate of exchange (as conclusively determined by the Chargee) for purchasing such currency with euro and the Company hereby agrees to indemnify the Chargee against the full euro price (including all costs, charges and expenses) paid by the Chargee.

20.3 No payment to the Chargee (whether under any judgment or court order or otherwise) will discharge the obligation or liability of the Company in respect of which it was made unless and until the Chargee receives payment in full in the currency in which such obligation or liability was incurred, and to the extent that the amount of any such payment, on actual conversion into such currency, fall short of such obligation or liability expressed in that currency, the Chargee will have a further separate cause of action against the Company and will be entitled to enforce the charges created by this Charge to recover the amount of the shortfall.

21. MISCELLANEOUS PROVISIONS

21.1 Costs:

(a) All costs, charges and expenses (on a full indemnity basis) properly occasioned by or incidental to this or any other security held by or offered to the Chargee for the same indebtedness or by or to the enforcement of any such security and incurred, suffered or paid by the Chargee will be charged on the Specifically Charged Property and will be treated as monies due from the Company to the Chargee on current account and will bear interest and be secured accordingly.

(b) The charges conferred by this Charge will be in addition and without prejudice to any and every other remedy, lien or security which the Chargee may or but for the said charges would have for the monies and liabilities secured by this Charge.

(c) The Company shall pay all stamp, registration and other taxes to which this Charge or any judgment given in connection with this Charge is or at any time may be subject and shall indemnify the Chargee against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax.

(d) Any certificate or determination of the Chargee as to any matter provided for in this Charge will be conclusive and binding on the Company.

21.2 **Interest:** Any interest payable under the terms of this Charge will be payable as well after as before any judgment.

21.3 **Power of Attorney:** The Company by way of security hereby irrevocably appoints and constitutes the Chargee and any Receiver appointed by the Chargee under this Charge jointly and also severally the attorney and also the attorneys of the Company on the Company's behalf and in the name of the Company and as its act and deed to do all acts and to execute, seal or otherwise perfect any deed, assurance, agreement, instrument, document or act which the Company could itself do in relation to the Specifically Charged Property or which may be required or which may be deemed proper for any of the matters provided for in this Charge.

21.4 **Notices:**

(a) Any notice or demand for payment to be given or served under this Charge shall be in writing and shall be duly expressed to be a notice or demand under this Charge and will be deemed duly given or served if sent by facsimile at the time of transmission (subject to the correct code or facsimile number being received) or if posted 48 hours after the time at which it was posted or, if delivered by hand, at the time of delivery if such a day is a Business Day or if such day is not a Business Day on the next following Business Day, to the party to whom it is to be given or served at its address set out below or such other address or facsimile number as such party may have previously communicated for such purpose by notice to the party giving such first mentioned notice or demand. The addresses and facsimile numbers for service on the parties to this Charge are:

The Company	Address:	26 Upper Pembroke Street Dublin 2 Ireland
	Attention:	[*]
	Facsimile Number:	FAX: 353 1 637 3989

The Chargee	Address:	22 rue Garnier 92200 Neuilly-sur-Seine France
	Attention:	[*]
	Facsimile Number:	FAX: 33 1 55 72 39 00

(b) Any party giving or serving a notice or demand under this Charge by facsimile shall, but without prejudice to the validity of the notice or demand given, send a copy of the notice or demand by pre-paid registered post to the party receiving such notice or demand to that party's address set out in clause 12.4.1 or to such other address as such party shall have previously communicated by notice to the party giving such first-mentioned notice or demand.

(c) Any notice or demand given or served under this Charge will be deemed to have been received by the party so receiving such notice or demand on the Business Day of such receipt only if the notice or demand has been received during usual business hours on such Business Day, and if the notice or demand is received outside usual business hours it will be deemed to have been received on the next following Business Day.

21.5 Waiver and Forbearance:

(a) The rights of the Chargee will not be prejudiced or restricted by any indulgence or forbearance extended to the Company or other parties, and no waiver by the Chargee in respect of any breach will operate as a waiver in respect of any subsequent breach.

(b) No failure or delay by the Chargee in exercising any right or remedy will operate as a waiver of such right or remedy, nor will any single or partial exercise or waiver of any right or remedy prevent its further exercise or the exercise by the Chargee of any other right or remedy.

2 1 . 6 Remedies Cumulative: The rights and remedies of the Chargee under this Charge are cumulative and are without prejudice and in addition to any rights or remedies which the Chargee may have at law or in equity. No exercise by the Chargee of any right or remedy under this Charge, or at law or in equity, shall (save to the extent, if any, provided expressly in this Charge, or at law or in equity) operate so as to hinder or prevent the exercise by it of any other right or remedy. Each and every right and remedy may be exercised from time to time as often and in such order as may be deemed expedient by the Chargee.

21.7 Severability: If a term or provision in this Charge is or becomes illegal, invalid or unenforceable, in whole or in part, in any respect (or any of the security intended to be created by or pursuant to this Charge is ineffective) under the law of any jurisdiction, such illegality, invalidity or unenforceability shall not affect:

(a) the legality, validity or enforceability of the remaining provisions or the effectiveness of any of the other provisions of this Charge in that jurisdiction; or

(b) the legality, validity or enforceability of such provision or the effectiveness of any other provision of this Charge under the laws of any other jurisdiction.

21.8 Assignment:

(a) The Company may not assign nor enter into any trust arrangement with any third party in respect of any of its rights under this Charge.

(b) The Chargee will be entitled to assign the benefit of this Charge or any part of this Charge to any person, and the Company hereby consents to any such assignment. The Chargee will be entitled to impart any information concerning the Company to any assignee or successor in title.

(c) In the event of assignment by the Chargee as permitted by clause 12.8.2, the Company shall at the request of the Chargee join in such assignment so as to cause full beneficial title to the security created by this Charge to be passed to the relevant assignee.

21.9 Counterparts: This Charge may be entered into in the form of two or more counterparts, each executed by one of the parties but, taken together, executed by all, and, provided that all of the parties so enter into the Charge, each of the executed counterparts, when duly exchanged or delivered, will be deemed to be an original but, taken together, will constitute one instrument.

21.10 Variation: This Charge may not be released, discharged, supplemented, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties to this Charge.

21.11 Governing law and Jurisdiction:

(a) This Charge and all relationships created hereby and arising out of or in connection with it will in all respects be governed by and construed in accordance with the laws of Ireland.

(b) The Company hereby agrees for the exclusive benefit of the Chargee that any legal action or proceedings (**Proceedings**) brought against the Company with respect to this Charge may be brought in the High Court in Ireland or such other competent court of Ireland as the Chargee may elect, and the Company waives any objection to Proceedings in such courts whether on grounds of venue or on the grounds that Proceedings have been brought in any inconvenient forum. The Company undertakes to enter an unconditional appearance within 14 days after the completion of any service or process in any Proceedings. The Company hereby consents to the service by post of any process issued in connection with this Charge. Nothing in this Charge will affect the right to serve process in any other manner permitted by law.

(c) Nothing contained in this Charge will limit the right of the Chargee to take Proceedings against the Company in any other court of competent jurisdiction, nor will the taking of any Proceedings in any one or more jurisdictions preclude the taking by the Chargee of Proceedings in any other jurisdiction whether concurrently or not.

IN WITNESS whereof this Deed has been duly executed on the date first above written.

GIVEN under the common seal
of

XOMA IRELAND LIMITED:

_____
[*]

_____
[*]

SIGNED AND SEALED
on behalf of
LES LABORATOIRES SERVIER

SCHEDULE

Intellectual Property Rights

1. 1. Title: IL1-Beta binding antibodies and fragments thereof
Inventors: Linda Masat; Mary Haak-Frendscho; Gang Chen; Arnold Horwitz; Marina Roell

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	60/692,830	06/21/05	
PCT	PCT/US06/024261	06/21/06	WO07/002261
Australia	2006 262179	06/21/06	AU2006262179 A1
Brazil	PI0612273-6	06/21/06	BRPI0612273 A2
Canada	2,612,760	06/21/06	CA2612760 A1
China	2006 80026551.9	06/21/06	CN101228188 A
EP:	06773749.4	06/21/06	1899378
Austria	06773749.4	06/21/06	1899378
Belgium	06773749.4	06/21/06	1899378
Bulgaria	06773749.4	06/21/06	1899378
Cyprus	06773749.4	06/21/06	1899378
Czech Republic	06773749.4	06/21/06	1899378
Denmark	06773749.4	06/21/06	1899378
Estonia	06773749.4	06/21/06	E004059
Finland	06773749.4	06/21/06	1899378
France	06773749.4	06/21/06	1899378
Germany	06773749.4	06/21/06	60 2006 010 072.8-08
Greece	06773749.4	06/21/06	1899378
Hungary	06773749.4	06/21/06	E 007716
Iceland	06773749.4	06/21/06	1899378
Ireland	06773749.4	06/21/06	1899378
Italy	06773749.4	06/21/06	73749BE/2009
Latvia	06773749.4	06/21/06	1899378
Lithuania	06773749.4	06/21/06	1899378
Luxembourg	06773749.4	06/21/06	1899378
Monaco	06773749.4	06/21/06	1899378
Netherlands	06773749.4	06/21/06	1899378
Poland	06773749.4	06/21/06	1899378
Portugal	06773749.4	06/21/06	1899378

Romania	06773749.4	06/21/06	1899378
Slovak Republic	06773749.4	06/21/06	1899378
Slovenia	06773749.4	06/21/06	1899378
Spain	06773749.4	06/21/06	1899378
Sweden	06773749.4	06/21/06	1899378
Switzerland	06773749.4	06/21/06	1899378
Turkey	06773749.4	06/21/06	TR 2009 09878 T4
UK	06773749.4	06/21/06	1899378
EP	09 174 190.0	10/27/09	2163562
EP	10 179 089.7	09/23/10	
EP	10 179 088.9	09/23/10	
Hong Kong	09100795.8	06/21/06	1123560
Hong Kong	10107181.2	07/27/10	
Israel	188094	06/21/06	
Israel	202630	12/09/09	
India	320/CHENP/2008	06/21/06	
Korea	10-2008-7001520	06/21/06	KR20080039875 A
Mexico	MX/a/07/016032	06/21/06	
New Zealand	565138	06/21/06	
Philippines	1-2007-502895	06/21/06	
Russian Fed	2008102135	06/21/06	RU2008102135 A
Singapore	200718904-6	06/21/06	
South Africa	2008/00555	06/21/06	2008/00555

2. Title: METHODS FOR TREATMENT OF IL-1BETA RELATED DISEASES
Inventors: Alan M. Solinger; Patrick J. Scannon; Robert J. Bauer; David Alleva

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	60/871,046	12/20/06	
US Provisional	60/908,389	03/27/07	
US Provisional	60/911,033	04/10/07	
PCT	PCT/US07/088411	12/20/07	WO 08/077145
Europe	07 869 675.4	12/20/07	EP2094306 A2
Australia	2007333635	12/20/07	AU2007333635
Brazil	PI 0720928-2	12/20/07	
Canada	2,673,592	12/20/07	
China	200780051536.4	12/20/07	CN 101616690A
Hong Kong	10102012.8	02/25/10	1135323A
India	4626/DELNP/2009	12/20/07	
Indonesia	W00 2009 01721	12/20/07	050.2064A
Mexico	MX/a/2009/006709	12/20/07	
Russia	2009127066	12/20/07	
South Africa	2009/04660	12/20/07	2009/04660

3. Title: METHODS FOR TREATMENT OF GOUT
Inventors: Alan M. Solinger

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	61/015,633	12/20/07	
US Provisional	61/059,378	06/06/08	
US Provisional	61/095,191	09/08/08	
PCT	PCT/US08/087519	12/18/08	WO 2009/086003
Australia	2008343085	07/12/10	
Canada	2,710,252	06/18/10	
China	200880126879.7	08/13/10	
EP	08866346.3	12/18/08	
Mexico	MX/a/2010/006823	06/18/10	
Russia	2010129783	07/20/10	

4. Title: METHODS FOR THE TREATMENT OF RHEUMATOID ARTHRITIS
Inventors: Alan M. Solinger, Alexander Owyang

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	61/059,711	06/05/08	
US Provisional	61/095,232	09/08/08	
PCT	PCT/US09/46441	12/06/2010	WO 2009/149370
Canada	PCT/US09/46441	12/06/2010	
Australia	PCT/US09/46441		To be filed by 01/06/11
Europe	PCT/US09/46441		To be filed by 01/06/11

5. Title: METHODS FOR TREATING OR PREVENTING IL-1BETA RELATED DISEASES
Inventors: Patrick J. Scannon, Alan M. Solinger, Robert J. Bauer

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	61/094,842	09/05/08	
US Provisional	61/121,451	12/10/08	
PCT	PCT/US09/56086	09/04/09	WO 2010/028275

6. Title: METHODS FOR IMPROVEMENT OF BETA CELL FUNCTION
Inventors: Patrick J. Scannon, Alan M. Solinger, Robert J. Bauer

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	61/094,857	09/05/08	
US Provisional	61/121,486	12/10/08	
PCT	PCT/US09/56084	09/04/09	WO 2010/028273

7. Title: CARDIOVASCULAR RELATED USES OF IL-1BETA ANTIBODIES AND BINDING FRAGMENTS THEREOF
Inventors: Patrick J. Scannon, Alan M. Solinger, Jeffrey D. Feldstein

COUNTRY	APP. NO.	FILE DATE	PATENT/PUBLICATION
US Provisional	61/182,679	05/29/09	
US Provisional	61/252,571	10/16/09	
US Provisional	61/313,001	03/11/10	
PCT	PCT/US10/36761	05/28/10	

[*]

Exhibit B

PROMISSORY NOTE

€15,000,000 Dublin, Ireland
Insert date loan is funded

XOMA Ireland Limited, a company organized under the laws of the Republic of Ireland ("***XOMA"***), for value received, hereby promises to pay to the order of**Les Laboratoires Servier,** a corporation organized and existing under the laws of France ("***Servier***"), the principal amount of €15,000,000 or the aggregate outstanding principal amount of the Advance, together with interest as provided for below, payable on the dates, in the amounts and in the manner set forth below.

1. Loan Agreement. This Promissory Note is the Note referred to in that certain Loan Agreement, dated as of the date hereof, by and between XOMA and Servier (as the same may be amended, supplemented, restated or otherwise modified from time to time, the "***Loan Agreement***"). Capitalized terms used herein without definitions shall have the meanings given to such terms in the Loan Agreement.

2. Principal Payments. Subject to the terms and conditions of the Loan Agreement, the total outstanding balance of all Indebtedness shall be due and payable in accordance with the terms of the Loan Agreement.

3. Interest. The outstanding principal amount shall accrue interest and be payable at the rate or rates*per annum* and in the manner set forth in the Loan Agreement.

4. Payment on Non-Business Day. In the event that any payment of any principal, interest, fees or any other amounts payable by XOMA under or pursuant to this Loan Agreement, or under any other Loan Document shall become due on any day which is not a Business Day, such due date shall be extended to the next succeeding Business Day, provided that no interest shall accrue for and during any such extension.

5. Default. Upon the occurrence of an Event of Default under the Loan Agreement or any of the other Loan Documents, all unpaid principal, accrued interest and other amounts owing hereunder shall become due and payable as provided in the Loan Agreement and applicable law.

6. Governing Law. This Note shall be governed by and construed in accordance with the substantive laws of [*], without regard to conflicts of law rules.

XOMA: **XOMA Ireland Limited.**

By: [*]
Its: [*]

EXHIBIT 21.1

Subsidiaries of the Company	Jurisdiction of Organization
XOMA (Bermuda) Ltd.	Bermuda
XOMA Ireland Limited	Ireland
XOMA Technology Ltd.	Bermuda
XOMA (US) LLC	Delaware
XOMA Development Corporation	Delaware
XOMA Limited	United Kingdom
XOMA LS Limited	Ireland
XOMA CDRA LLC	Delaware

EXHIBIT 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements on Form S-8 (Nos. 333-108306, 333-151416 and 333-171429) pertaining to the XOMA Ltd. 1981 Share Option Plan, the XOMA Ltd. Restricted Share Plan, the XOMA Ltd. Management Incentive Compensation Plan, the XOMA Ltd. 1992 Directors Share Option Plan, the XOMA Ltd. 2002 Director Share Option Plan, the XOMA Ltd. 1998 Employee Share Purchase Plan, the XOMA Ltd. 2007 CEO Share Option Plan and the XOMA Ltd. 2010 Long Term Incentive and Share Award Plan and in the Registration Statements on Form S-3 (Nos. 333-148342 and 333-172197) and the related Prospectuses of XOMA Ltd., of our reports dated March 10, 2011, with respect to the consolidated financial statements of XOMA Ltd., and the effectiveness of internal control over financial reporting of XOMA Ltd. included in this Annual Report (Form 10-K) for the year ended December 31, 2010.

/s/ERNST & YOUNG LLP
Palo Alto, California
March 10, 2011

EXHIBIT 31.1

Certification
Pursuant to Section 302 Of The Sarbanes-Oxley Act Of 2002
(Chapter 63, Title 18 U.S.C. Section 1350(A) And (B))

I, Steven B. Engle, certify that:

1. I have reviewed this annual report on Form 10-K of XOMA Ltd.;

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 officers 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))) for the registrant and we 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 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 officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):

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

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

Date: March 10, 2011

/s/ STEVEN B. ENGLE

Steven B. Engle
Chairman, Chief Executive Officer and President

EXHIBIT 31.2

Certification
Pursuant to Section 302 Of The Sarbanes-Oxley Act Of 2002
(Chapter 63, Title 18 U.S.C. Section 1350(A) And (B))

I, Fred Kurland, certify that:

1. I have reviewed this annual report on Form 10-K of XOMA Ltd.;

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 officers 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))) for the registrant and we 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 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 officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):

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

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

Date: March 10, 2011

/s/ FRED KURLAND
Fred Kurland
Vice President, Finance and Chief Financial Officer

EXHIBIT 32.1

Certification
Pursuant to Section 906 Of The Sarbanes-Oxley Act Of 2002
(Chapter 63, Title 18 U.S.C. Section 1350(A) And (B))

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Chapter 63, Title 18 U.S.C. Section 1350(a) and (b)), the undersigned hereby certifies in his capacity as an officer of XOMA Ltd. (the "Company") that the Annual Report of the Company on Form 10-K for the year ended December 31, 2010, fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended, and that the information contained in such report fairly presents, in all material respects, the financial condition and results of operations of the Company at the end of and for the periods covered by such Report.

Date: March 10, 2011

/s/ STEVEN B. ENGLE

Steven B. Engle
Chairman, Chief Executive Officer and President

This certification will not be deemed filed for purposes of Section 18 of the Exchange Act (15 U.S.C. 78), or otherwise subject to the liability of that section. Such certification will not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act, except to the extent that the registrant specifically incorporates it by reference.

EXHIBIT 32.2

Certification
Pursuant to Section 906 Of The Sarbanes-Oxley Act Of 2002
(Chapter 63, Title 18 U.S.C. Section 1350(A) And (B))

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Chapter 63, Title 18 U.S.C. Section 1350(a) and (b)), the undersigned hereby certifies in his capacity as an officer of XOMA Ltd. (the "Company") that the Annual Report of the Company on Form 10-K for the year ended December 31, 2010, fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended, and that the information contained in such report fairly presents, in all material respects, the financial condition and results of operations of the Company at the end of and for the periods covered by such Report.

Date: March 10, 2011

/s/ FRED KURLAND

Fred Kurland
Vice President, Finance and Chief Financial Officer

This certification will not be deemed filed for purposes of Section 18 of the Exchange Act (15 U.S.C. 78), or otherwise subject to the liability of that section. Such certification will not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act, except to the extent that the registrant specifically incorporates it by reference.

XOMA Reports 2010 and Fourth Quarter Financial Results

BERKELEY, Calif., March 10, 2011 -- XOMA Ltd. (Nasdaq: XOMA), a leader in the discovery and development of therapeutic antibodies, today announced its financial results for the fourth quarter and year ended December 31, 2010 and provided a general business update.

“In 2010, we successfully secured a global joint development partnership with Servier for multiple indications of our lead product candidate, XOMA 052,” said Steven B. Engle, XOMA’s Chairman and Chief Executive Officer. “We reported positive results demonstrating XOMA 052 biological activity in the treatment of Behcet’s uveitis in a Phase 2 proof-of-concept trial and completed enrollment in two Phase 2 trials of XOMA 052 in patients with Type 2 diabetes. We also continued to make progress in our biodefense program and with our preclinical pipeline which is focused on cardio-metabolic, oncological and other diseases.

“Looking forward to a busy and exciting year, later this month we expect to report top line results from the full six months’ treatment with XOMA 052 in the Phase 2b clinical trial of XOMA 052 in patients with Type 2 diabetes and, in the second quarter of this year, top line results from the full six months’ treatment in the Phase 2a trial,” Mr. Engle said. “During the second half of the year, we plan to initiate our Phase 3 program for XOMA 052 in Behcet’s uveitis and provide further insight into our plans for XOMA 052 development in cardio-metabolic diseases.”

XOMA had total revenues of $33.6 million in 2010, compared with $98.4 million in 2009. The decrease in revenues in 2010 compared with 2009 was due primarily to several one-time transactions in 2009 including $28.1 million for the expansion of the company’s collaboration agreement with Takeda Pharmaceutical Company Limited, and $25.0 million for the sale of a royalty interest. XOMA had a net loss of $68.8 million, or $3.69 per share, for the year ended December 31, 2010, compared with net income of $0.6 million, or $0.05 per share, for the year ended December 31, 2009. Research and development expenses in 2010 increased to $77.4 million compared with $58.1 million in 2009, primarily reflecting increased spending on the Phase 2 clinical development of XOMA 052 in 2010. General and administrative expenses were generally unchanged at $23.3 million in 2010 and $23.7 million in 2009.

For the fourth quarter ended December 31, 2010, XOMA had total revenues of $9.6 million and a net loss of $17.8 million, or $0.84 per share, compared with total revenues of $21.6 million and net income of $3.0 million, or $0.22 per share for the quarter ended December 31, 2009.

At December 31, 2010, XOMA had cash and cash equivalents of $37.3 million, compared with $23.9 million at December 31, 2009. As previously reported, in January 2011, XOMA received from Servier approximately $35 million in cash related to the companies’ joint development and commercialization agreement for XOMA 052, including an upfront payment of $15 million and a EUR15 million loan.

Recent Highlights

- **Entered into global XOMA 052 development and commercialization partnership:** This agreement with Servier, a leading independent pharmaceutical company established in 140 countries with EUR3.7 billion in 2010 sales, includes the following:

- Retains for XOMA valuable commercial rights and options in the U.S. and Japan for multiple indications including Behcet's uveitis and other inflammatory and oncology indications,
- Enables acceleration of XOMA 052 into Phase 3 development in 2011 in Behcet's uveitis, an orphan indication,
- Advances the company's strategy of focusing on near-term opportunities to develop and commercialize products in the U.S., and
- Increases XOMA's cash resources and provides additional XOMA 052 licensing opportunities for XOMA in the U.S. and Japan for diabetes and cardiovascular disease.

Under the collaboration agreement, Servier will provide an initial $50 million and fund 50% of development expenses beyond the initial $50 million for the Behcet's uveitis program, and fund development in diabetes and cardiovascular disease. The agreement also includes potential milestone payments totaling approximately $470 million and tiered royalties up to a mid-teens percentage rate. The EUR15 million loan is due in full in 2016.The terms of the loan provide that, after a specified period, a significant percentage of milestone, royalty and/or upfront payments due XOMA, resulting from the successful attainment of collaboration objectives or from XOMA's licensing of rights to a third party in the U.S. or Japan, may be applied at the option of Servier if from the collaboration or will be applied if from a third party to repay a portion of the loan.

- ***Completed enrollment in two Phase 2 trials of XOMA 052 in patients with Type 2 diabetes:*** To date, more than 600 patients have been enrolled in clinical trials of XOMA 052, including 74 patients in the Phase 2a trial and 420 patients in the multicenter, randomized, placebo-controlled Phase 2b dose-ranging trial. Later this month, XOMA plans to report top line results from the Phase 2b trial, including hemoglobin A1c levels and C-reactive protein, following six months' treatment with XOMA 052 at one of four dose levels or placebo. Hemoglobin A1c is a measure indirectly reflecting blood glucose levels as averaged over a 90 to 120 day period and C-reactive protein is a biomarker of cardiovascular risk.

- ***Announced an interim review of three-month data from Phase 2a clinical trial of XOMA 052.*** This trial was designed to evaluate the overall safety and kinetics and was not designed to show statistically significant differences in measures of biological activity. A total of 74 patients with Type 2 diabetes, including 55 treated with XOMA 052 at a single dose level and 19 on placebo, were treated. At the three month interim review, XOMA 052 was shown to be well-tolerated with no drug-related serious adverse events and demonstrated evidence of biological activity, including a reduction in C-reactive protein levels and a modest reduction in hemoglobin A1c levels. In the final three months of the trial, patients in the XOMA 052 group receive the same, higher or lower dose level, and patients in the placebo group will continue to receive placebo. XOMA anticipates reporting the results from the full six months' treatment in this trial during the second quarter of 2011.

- ***Received two new patents covering XOMA 052:*** The patents cover methods of treatment for Type 1 diabetes and certain cancers, including multiple myeloma, using XOMA 052 or other IL-1 beta antibodies with similar binding characteristics to XOMA 052. XOMA now has eight issued U.S. and European patents for the XOMA 052 program, demonstrating success in building a strong intellectual property portfolio to protect innovation around XOMA 052.

- ***Awarded approximately $1 million in grants under Patient Protection and Affordable Care Program:*** All four of XOMA's grant applications were awarded the maximum allocation, providing funding for ongoing XOMA programs that address unmet medical needs in the areas of inflammation including diabetes and cardiovascular disease, biodefense, metabolic diseases and cancer.

- ***Reported XOMA 3AB results at national biodefense meeting:*** Several presentations highlighted advances in the development of XOMA 3AB, a novel combination of three antibodies in one product that bind to distinct regions of botulinum toxin type A, one of the most deadly bioterror threats. These included an invited oral presentation describing the successful lyophilization of XOMA 3AB, and studies demonstrating the stability of this formulation over time stored at a wide range of temperatures. The presentations were made at the Fifth Annual Public Health Emergency Medical Countermeasures Enterprise (PHEMCE) Stakeholders Workshop in Washington, DC.

Guidance

XOMA will not be providing specific guidance on overall revenues or cash receipts for 2011 so as to best manage its ongoing business development discussions and other activities. The company currently expects that cash used in operating activities in 2011 may range from $30 million to cash neutral.

Investor Conference Call and Webcast

XOMA will host a conference call and webcast today, March 10, 2011, at 4:30 p.m. ET. The webcast can be accessed via the Investors section of XOMA's website at http://investors.xoma.com/events.cfm and will be available for replay until close of business on June 10, 2011. Telephone numbers for the live audiocast are 877-369-6589 (U.S./Canada) and 408-377-0122 (international). A telephonic replay will be available beginning approximately two hours after the conclusion of the call until close of business on March 17, 2011. Telephone numbers for the replay are 800-642-1687 (U.S./Canada) and 706-645-9291 (international), passcode 49375680.

XOMA 052 and Interleukin-1 Inhibition

XOMA 052 is a potent monoclonal antibody with the potential to improve the treatment of patients with a wide variety of inflammatory diseases and other diseases including cancer. XOMA 052 binds strongly to interleukin-1 beta (IL-1 beta), a pro-inflammatory cytokine involved in Behcet's uveitis, diabetes, cardiovascular disease, rheumatoid arthritis, gout, and other auto-inflammatory diseases. The IL-1 pathway is a well-validated therapeutic target, with three marketed IL-1 inhibitors that have been used by more than 200,000 patients overall. By binding to IL-1 beta, XOMA 052 inhibits the activation of the IL-1 receptor, thereby preventing the cellular signaling events that produce inflammation.

To date, nearly 600 patients have been enrolled in XOMA 052 clinical trials. The Phase 2 trials follow a successful 98 patient Phase 1 program in Type 2 diabetes in which XOMA 052 was shown to be well-tolerated, demonstrated evidence of biological activity in diabetes measures and cardiovascular risk biomarkers, evidence of improved insulin sensitivity, and had a half-life that may provide convenient dosing of once per month or less frequently. The company has also demonstrated the potential for XOMA 052 in *in vivo* models of beta cell sparing and cardiovascular disease and in an *in vitro* model using human myeloma or plasma cell cancer cells.

XOMA has completed a successful proof-of-concept Phase 2 trial of XOMA 052 in patients with Behcet's uveitis. As previously reported, all seven patients displayed rapid reduction of intraocular inflammation and improvement in visual acuity or other ophthalmic measures after a single treatment with XOMA 052 and following discontinuation of immunosuppressive drugs such as cyclosporine and/or azathioprine. Follow-up results demonstrated that each of the five patients re-treated with XOMA 052 due to a recurring uveitis exacerbation responded again to XOMA 052 treatment and maintained their response for several months. The drug was well-tolerated, and no drug-related adverse events were reported.

About Behcet's Disease and Behcet's Uveitis

Behcet's (pronounced beh-CHETS) disease causes chronic inflammation of the blood vessels, or vasculitis, among other complications. Uveitis is a vasculitis of the blood vessels in the eye which can be vision-threatening. Behcet's uveitis is one of the most severe forms of uveitis which can lead to blindness and affects approximately 50% of Behcet's disease patients.

XOMA estimates that there are 250,000 patients diagnosed with Behcet's disease worldwide including 20,000 in the U.S. Onset of the disease occurs most commonly in adults in their twenties, thirties and forties, and is typically more severe in men.

Without immediate treatment, major exacerbations of Behcet's uveitis may lead to retinal detachment, macular edema, vitreous hemorrhage, glaucoma and eventual blindness. The effects of these exacerbations on vision are cumulative. Patients often experience multiple exacerbations per year, requiring treatment to control the frequency and severity of attacks of this chronic disease. No therapies are approved in the U.S. to treat Behcet's disease. It is treated with corticosteroids and immunosuppressive drugs, which can have significant side effects, including diabetes and hypertension, and can contribute to other eye diseases like glaucoma and the formation of cataracts. These drugs also can adversely affect the neurological, pulmonary, gastrointestinal, hematological and cardiovascular systems.

About XOMA

XOMA is a leader in the discovery and development of novel antibody therapeutics. The company's proprietary product pipeline includes:

- XOMA 052, a potentially best-in-class antibody that binds to the inflammatory cytokine interleukin-1 beta, or IL-1 beta. XOMA 052 is entering Phase 3 clinical development in Behcet's uveitis, an orphan indication, and is in Phase 2 clinical development for diabetes with cardiovascular disease biomarkers. Les Laboratoires Servier is XOMA's development and commercialization partner for XOMA 052.

- XOMA 3AB, a novel combination of three antibodies in one product under development to prevent and treat botulism poisoning caused by exposure to botulinum neurotoxin Type A, among the most deadly bioterror threats. XOMA 3AB is under development through funding provided by the National Institute of Allergy and Infectious Diseases of the National Institutes of Health (Contract # HHSN266200600008C).

- A preclinical pipeline with candidates in development for autoimmune, cardio-metabolic, inflammatory and oncologic diseases.

XOMA has a premier antibody discovery and development platform that incorporates an unmatched collection of antibody phage display libraries and proprietary expression and manufacturing technologies that it uses for its own pipeline and in collaborations with pharmaceutical and biotechnology companies. XOMA technologies have contributed to the success of marketed antibody products including LUCENTIS® for wet age-related macular degeneration and CIMZIA® for rheumatoid arthritis and Crohn's disease. XOMA's fully integrated product development infrastructure extends from preclinical science to approval and is located in Berkeley, California. For more information, please visit www.xoma.com.

The XOMA Ltd. logo is available at www.globenewswire.com/newsroom/prs/?pkgid=5960

Forward-Looking Statements

Certain statements contained herein concerning anticipated levels of cash utilization, timing of initiation or availability of results of clinical trials, interim or other results of early-stage clinical trials or additional licensing opportunities, or that otherwise relate to future periods are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These statements are based on assumptions that may not prove accurate. Actual results could differ materially from those anticipated due to certain risks inherent in the biotechnology industry and for companies engaged in the development of new products in a regulated market.

Among other things, the anticipated levels of cash utilization may be other than as expected due to unanticipated changes in XOMA's research and development programs, unavailability of additional arrangements or higher than anticipated transaction costs; the timing of initiation or availability of results of clinical trials may be delayed or may never occur as a result of actions or inaction by our present or future collaboration partners, complications in the design, implementation or third-party approval of clinical trials, complications in the collection or interpretation of statistical data or unanticipated safety issues; results of early-stage clinical trials may not be supported by later findings, larger trials and/or other actions required for regulatory approval may not be economically feasible, and final results of clinical trials may in any event not be consistent with preclinical or interim results; and additional licensing opportunities may not be available on acceptable terms or at all.

These and other risks, including those related to the generally unstable nature of current economic and market conditions; the results of discovery and pre-clinical testing; the timing or results of pending and future clinical trials (including the design and progress of clinical trials; safety and efficacy of the products being tested; action, inaction or delay by the FDA, European or other regulators or their advisory bodies; and analysis or interpretation by, or submission to, these entities or others of scientific data); changes in the status of existing collaborative or licensing relationships; the ability of collaborators, licensees and other third parties to meet their obligations and their discretion in decision-making; XOMA's ability to meet the demands of the United States government agency with which it has entered into its government contracts; competition; market demand for products; scale-up, manufacturing and marketing capabilities; availability of additional licensing or collaboration opportunities; international operations; share price volatility; XOMA's financing needs and opportunities; uncertainties regarding the status of biotechnology patents; uncertainties as to the costs of protecting intellectual property; and risks associated with XOMA's status as a Bermuda company, are described in more detail in XOMA's most recent filing on Form 10-K and in other SEC filings. Consider such risks carefully when considering XOMA's prospects.

** Tables Follow **

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XOMA Ltd.
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share amounts)

	Three months ended December 31,		Year ended December 31,	
	2010	**2009**	**2010**	**2009**
Revenues:				
License and collaborative fees	$ 433	$ 14,546	$ 2,182	$ 43,822
Contract and other revenue	9,150	6,830	27,174	25,492
Royalties	18	221	4,285	29,116
Total revenues	9,601	21,597	33,641	98,430
Operating expenses:				
Research and development	19,134	14,659	77,413	58,131
Selling, general and administrative	6,520	4,764	23,250	23,736
Restructuring	37	-	82	3,603
Total operating expenses	25,691	19,423	100,745	85,470
(Loss) income from operations	(16,090)	2,174	(67,104)	12,960
Other income (expense):				
Investment and interest income	2	2	16	49
Interest expense	(104)	(110)	(385)	(4,888)
Loss on debt extinguishment	-	-	-	(3,645)
Other (expense) income	(1,556)	561	(1,256)	1,801
Net (loss) income before taxes	(17,748)	2,627	(68,729)	6,277
Provision for income tax (expense) benefit	(10)	356	(27)	(5,727)
Net (loss) income	$ (17,758)	$ 2,983	$ (68,756)	$ 550
Basic and diluted net (loss) income per common share	$ (0.84)	$ 0.22	$ (3.69)	$ 0.05
Shares used in computing basic net (loss) income per common share	21,195	13,313	18,613	10,993
Shares used in computing diluted net (loss) income per common share	21,195	13,645	18,613	11,313

XOMA Ltd.
CONSOLIDATED BALANCE SHEETS
(in thousands)

	December 31,	
	2010	**2009**
ASSETS		
Current assets:		
Cash and cash equivalents	$ 37,304	$ 23,909
Trade and other receivables, net	20,864	7,231
Prepaid expenses and other current assets	712	1,012
Total current assets	58,880	32,152
Property and equipment, net	14,869	20,270
Other assets	503	402
Total assets	$ 74,252	$ 52,824
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 3,581	$ 2,942
Accrued liabilities	10,650	8,639
Deferred revenue	17,044	2,114
Warrant liability	4,245	4,760
Other current liabilities	8	223
Total current liabilities	35,528	18,678
Deferred revenue – long-term	1,086	2,894
Interest bearing obligations – long-term	13,694	13,341
Other long-term liabilities	353	385
Total liabilities	50,661	35,298
Shareholders' equity	23,591	17,526
Total liabilities and shareholders' equity	$ 74,252	$ 52,824