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

FORM 10-Q

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

For the quarterly period ended September 30, 2009

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)**

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 (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

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

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

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Class	Outstanding at November 5, 2009
Common Shares, U.S. $0.0005 par value	**198,937,455**

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XOMA Ltd.

FORM 10-Q

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PART I - FINANCIAL INFORMATION

ITEM 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (unaudited)

XOMA Ltd.

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

	September 30, 2009 (unaudited)	December 31, 2008
ASSETS		
Current assets:		
Cash and cash equivalents	$ 27,726	$ 9,513
Short-term investments	—	1,299
Restricted cash	—	9,545
Trade and other receivables, net	3,203	16,686
Prepaid expenses and other current assets	1,331	1,296
Debt issuance costs	—	365
Total current assets	32,260	38,704
Property and equipment, net	21,794	26,843
Debt issuance costs – long-term	—	1,224
Other assets	402	402
Total assets	$ 54,456	$ 67,173
LIABILITIES AND SHAREHOLDERS' EQUITY (NET CAPITAL DEFICIENCY)		
Current liabilities:		
Accounts payable	$ 2,657	$ 9,977
Accrued liabilities	8,539	4,438
Accrued interest	118	1,588
Deferred revenue	8,317	9,105
Warrant liability	5,321	—
Other current liabilities	475	1,884
Total current liabilities	25,427	26,992
Deferred revenue – long-term	4,716	8,108
Interest bearing obligations – long-term	13,129	63,274
Other long-term liabilities	408	200
Total liabilities	43,680	98,574
Commitments and contingencies		
Shareholders' equity (net capital deficiency):		
Preference shares, $0.05 par value, 1,000,000 shares authorized		
Series A, 210,000 designated, no shares issued and outstanding at September 30, 2009 and December 31, 2008	—	—
Series B, 8,000 designated, 2,959 shares issued and outstanding at September 30, 2009 and December 31, 2008 (aggregate liquidation preference of $29.6 million)	1	1
Common shares, $0.0005 par value, 400,000,000 shares authorized, 198,937,455 and 140,467,529 shares outstanding at September 30, 2009 and December 31, 2008, respectively	99	70
Additional paid-in capital	798,213	753,634
Accumulated comprehensive loss	—	(2)
Accumulated deficit	(787,537)	(785,104)
Total shareholders' equity (net capital deficiency)	10,776	(31,401)
Total liabilities and shareholders' equity (net capital deficiency)	$ 54,456	$ 67,173

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

XOMA Ltd.

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

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008	2009	2008
Revenues:				
License and collaborative fees	$ 1,421	$ 1,286	$ 29,276	$ 1,466
Contract and other revenue	3,688	1,979	18,662	14,728
Royalties	22,314	4,629	28,895	14,873
Total revenues	27,423	7,894	76,833	31,067
Operating expenses:				
Research and development (including contract related of $2,575 and $3,294 for the three months ended September 30, 2009 and 2008, respectively, and $12,671 and $13,121 for the nine months ended September 30, 2009 and 2008, respectively)	13,444	19,714	43,472	62,444
Selling, general and administrative	7,197	6,724	18,972	18,984
Restructuring	2	—	3,603	—
Total operating expenses	20,643	26,438	66,047	81,428
Income (loss) from operations	6,780	(18,544)	10,786	(50,361)
Other income (expense):				
Investment and interest income	9	182	47	797
Interest expense	(1,339)	(1,998)	(4,778)	(4,960)
Loss on debt extinguishment	(3,645)	—	(3,645)	(652)
Other income (expense)	103	(2)	1,240	(51)
Net income (loss) before taxes	1,908	(20,362)	3,650	(55,227)
Provision for income tax expense	370	—	6,083	—
Net income (loss)	$ 1,538	$ (20,362)	$ (2,433)	$ (55,227)
Basic and diluted net income (loss) per common share	$ 0.01	$ (0.15)	$ (0.02)	$ (0.42)
Shares used in computing basic net income (loss) per common share	167,254	132,364	153,170	132,270
Shares used in computing diluted net income (loss) per common share	172,762	132,364	153,170	132,270

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

XOMA Ltd.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)
(in thousands)

	Nine Months Ended September 30,	
	2009	2008
Cash flows from operating activities:		
Net loss	$ (2,433)	$(55,227)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	5,284	4,925
Common shares contribution to 401(k) and management incentive plans	1,198	1,008
Share-based compensation expense	3,398	3,968
Accrued interest on interest bearing obligations	(1,221)	2,672
Revaluation of warrant liability	(1,220)	—
Amortization of discount, premium and debt issuance costs of interest bearing obligations	1,589	1,133
Amortization of premiums on short-term investments	1	10
(Gain) loss on disposal/retirement of property and equipment	(15)	50
Impairment charge of property and equipment	27	—
Other non-cash adjustments	—	(17)
Changes in assets and liabilities:		
Receivables	13,483	4,173
Prepaid expenses and other current assets	(35)	(745)
Accounts payable	(7,320)	2,275
Accrued liabilities	4,101	385
Deferred revenue	(4,180)	(2,326)
Other liabilities	(1,201)	1,952
Net cash provided by (used in) operating activities	11,456	(35,764)
Cash flows from investing activities:		
Proceeds from sales of investments	—	9,875
Proceeds from maturities of investments	1,300	5,469
Transfer of maturities to short-term investments	—	(526)
Purchase of investments	—	(3,199)
Transfer of restricted cash	9,545	(7,859)
Purchase of property and equipment	(247)	(7,342)
Net cash provided by (used in) investing activities	10,598	(3,582)
Cash flows from financing activities:		
Proceeds from issuance of long-term debt	—	55,000
Principal payments of debt	(50,394)	(32,284)
Proceeds from issuance of common shares	46,553	316
Net cash provided by (used in) financing activities	(3,841)	23,032
Net increase (decrease) in cash and cash equivalents	18,213	(16,314)
Cash and cash equivalents at the beginning of the period	9,513	22,500
Cash and cash equivalents at the end of the period	$ 27,726	$ 6,186

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

XOMA Ltd.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

1. BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Business

XOMA Ltd. ("XOMA" or the "Company"), a Bermuda company, is a biopharmaceutical company that discovers, develops and manufactures therapeutic antibodies designed to treat inflammatory, autoimmune, infectious and oncological diseases. The Company's products are presently in various stages of development and are subject to regulatory approval before they can be commercially launched. The Company receives royalties from UCB Celltech, a branch of UCB S.A., on sales of CIMZIA® for the treatment of Crohn's disease and moderate-to-severe rheumatoid arthritis. Through the second quarter of 2009, XOMA also received royalties from Genentech, Inc., a wholly-owned member of the Roche Group (referred to herein as "Genentech") on LUCENTIS®, for the treatment of neovascular (wet) age-related macular degeneration. In the third quarter of 2009, the Company sold its LUCENTIS® royalty stream to Genentech. XOMA's pipeline includes both proprietary products and collaborative programs at various stages of preclinical and clinical development.

Liquidity and Financial Condition

The Company has incurred significant operating losses and negative cash flows from operations since its inception. As of September 30, 2009, the Company had cash and cash equivalents of $27.7 million. Based on cash and cash equivalents on hand at September 30, 2009 and anticipated spending levels, revenues, collaborator funding, government funding and other sources of funding the Company believes to be available, the Company estimates that it has sufficient cash resources to meet its anticipated net cash needs into 2011.

In September of 2009, the Company fully repaid its term loan facility with Goldman Sachs Specialty Lending Holdings, Inc. ("Goldman Sachs"). As previously disclosed, the Company was not in compliance with the requirements of the relevant provisions of this loan facility, due to the cessation of royalties from sales of RAPTIVA® related to its market withdrawal in the first half of 2009. Repayment of this loan facility discharged all of the Company's obligations to the lenders.

Also in the third quarter of 2009, the Company raised approximately $26.4 million in two separate financing transactions, before deducting placement agent fees and estimated offering expenses of approximately $0.4 million, with Azimuth Opportunity Ltd. ("Azimuth"). The Company sold approximately 34.3 million common shares to Azimuth in these financing transactions. The net proceeds from the first transaction, approximately $12.3 million, were used, together with other funds, to repay the Goldman Sachs term loan. Refer to *Note 5: Debt and Other Financings – Goldman Sachs Term Loan* and *Equity Line of Credit* for additional disclosure relating to these transactions.

The Company entered into an At Market Issuance Sales Agreement (the "ATM Agreement"), with Wm Smith & Co. ("Wm Smith") in the third quarter of 2009, under which the Company may sell up to 25,000,000 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 may 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 may also sell the common shares in privately negotiated transactions, subject to the Company's approval. The Company will pay Wm Smith a commission equal to 3% of the gross proceeds of all common shares sold through it as sales agent under the ATM Agreement but in no event less than $0.02 per share. Shares sold under the ATM Agreement will be 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.

In September of 2009, the Company received notice from the NASDAQ Stock Market that for the thirty consecutive business days preceding September 15, 2009, the bid price of XOMA's common shares closed below the minimum $1.00 per share requirement under Marketplace Rule 4450(a)(5) for continued inclusion on the NASDAQ Global Market. This notice has no effect on the listing of XOMA's common shares at this time, and the Company has an initial period of 180 calendar days to regain compliance with this requirement. If at any time before March 15, 2010, the bid price of the Company's common shares closes at $1.00 per share or more for at least ten consecutive business days, NASDAQ will provide written notification that the Company has achieved compliance, although NASDAQ may require the Company to maintain a closing bid price for a longer period before determining that XOMA has achieved compliance. If the Company does not regain compliance by March 15, 2010, NASDAQ would provide written notification that the Company's common shares will be delisted, after which the Company may appeal to the NASDAQ Listing Qualifications Panel. Alternatively, the Company could apply to transfer its common shares to The NASDAQ Capital Market if it satisfies all of the requirements, other than the minimum bid price requirement, for initial listing on The NASDAQ Capital Market set forth in

XOMA Ltd.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
(UNAUDITED)

Marketplace Rule 5505. If the Company were to elect to apply for such transfer and if the Company satisfies the applicable requirements and its application is approved, the Company would have an additional 180 days to regain compliance with the minimum bid price rule while listed on The NASDAQ Capital Market. The Company is considering alternative strategies to address this issue if necessary.

The Company may be required to raise additional funds through public or private financings, strategic relationships, or other arrangements. The Company cannot assure that the funding, if needed, will be available on terms attractive to it, or at all. Furthermore, any additional equity financings may be dilutive to shareholders and debt financing, if available, may involve covenants that place substantial restrictions on the Company's business. The Company's failure to raise capital as and when needed could have a negative impact on its financial condition and its ability to pursue business strategies. If adequate funds are not available, the Company has developed contingency plans that may require the Company to delay, reduce the scope of, or eliminate one or more of its development programs. In addition, the Company may be required to reduce personnel and related costs and other discretionary expenditures that are within the Company's control.

The accompanying interim financial statements have been prepared assuming the Company will continue to operate as a going concern, which contemplates the realization of assets and the settlement of liabilities in the normal course of business. The interim financial statements do not include any adjustments to reflect the possible future effects on the recoverability and classification of assets or the amounts and classification of liabilities that may result from uncertainty related to the Company's ability to continue as a going concern.

Basis of Presentation

The condensed consolidated financial statements include the accounts of XOMA and its subsidiaries. All intercompany accounts and transactions were eliminated during consolidation. The unaudited financial statements have been prepared in accordance with accounting principles generally accepted in the United States for interim financial information and with the instructions to Form 10-Q. These financial statements and related disclosures have been prepared with the assumption that users of the interim financial information have read or have access to the audited financial statements for the preceding fiscal year. Accordingly, these statements should be read in conjunction with the audited Consolidated Financial Statements and related Notes included in the Company's Annual Report on Form 10-K for the year ended December 31, 2008, filed with the SEC on March 11, 2009.

In the opinion of management, the unaudited condensed consolidated financial statements include all adjustments, consisting only of normal recurring adjustments, which are necessary to present fairly the Company's consolidated financial position as of September 30, 2009, the consolidated results of the Company's operations for the three and nine months ended September 30, 2009 and 2008, and the Company's cash flows for the nine months ended September 30, 2009 and 2008. The condensed consolidated balance sheet amounts at December 31, 2008 have been derived from the audited consolidated financial statements. The interim results of operations are not necessarily indicative of the results that may occur for the full fiscal year or future periods.

The Company has evaluated subsequent events through November 9, 2009, the date on which the financial statements being presented were issued, and not beyond that date.

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, revenues 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.

To conform to the current period presentation, prior period disclosures have been expanded in our consolidated statements of operations to reclassify the loss recognized on debt extinguishment in the second quarter of 2008 from interest expense to a separate line item. In addition, the interest expense disclosures in *Note 5: Debt and Other Financings* have also been revised to conform to the current period presentation. This reclassification had no impact on the Company's previously reported net earnings (losses), financial position or cash flows.

In the third quarter of 2008, the Company disclosed a change of accounting estimate as a result of an audit by the National Institutes of Health ("NIH") of the Company's 2007 actual data, from which the NIH developed billing rates for the period from January 2007 to June 2009 to be used for all of the Company's contracts with the National Institute of Allergy and Infectious Diseases ("NIAID"), a part of the NIH, including Contract No. HHSN26620060008C/N01-A1-600081 ("NIAID 2"). While the audited NIH

rates are considered final for 2007 billings, these NIH rates are considered provisional for the period from January of 2008 to June of 2009 and thus are subject to future audits at the discretion of NIAID's contracting office. In September of 2008, XOMA retroactively applied these NIH rates to the invoices from 2007 through the third quarter of 2008 resulting in an adjustment to decrease revenue by $2.7 million. The adjustment increased the Company's loss from operations and net loss for the three and nine months ended September 30, 2008 by $2.7 million. The adjustment also increased basic and diluted net loss per common share by $0.02 for the three and nine months ended September 30, 2008.

Concentration of Risk

Cash equivalents, short-term investments and receivables are financial instruments, which potentially subject the Company to concentrations of credit risk. The Company maintains money market funds and short-term investments that were previously thought to bear a minimal risk. Volatility in the financial markets created liquidity problems in these types of investments in 2008, and money market fund investors were unable to retrieve the full amount of funds, even in highly-rated liquid money market accounts, upon maturity. The Company has not encountered such issues during 2009.

The Company has not experienced any significant credit losses and does not generally require collateral on receivables. For the nine months ended September 30, 2009, three customers represented 42%, 37% and 10% of total revenues. As of September 30, 2009, there were receivables outstanding from two of these customers and one additional customer representing 35%, 29% and 22% of the accounts receivable balance. For the nine months ended September 30, 2008, three customers represented 48%, 34% and 11% of total revenues.

Recent Accounting Pronouncements

In June of 2009, the Financial Accounting Standards Board ("FASB") established the FASB Accounting Standards Codification (the "ASC") as the source of authoritative accounting principles recognized by the FASB. The FASB will issue new standards in the form of Accounting Standards Updates ("ASU"). The ASC is effective for financial statements issued for interim and annual periods ending after September 15, 2009 and therefore is effective for the Company in the third quarter of 2009. The issuance of the ASC does not change U.S. generally accepted accounting principles ("GAAP") and therefore the adoption of the ASC only affects the specific references to GAAP literature in the notes to the Company's consolidated financial statements.

Accounting Standards Codification Topic 855*, Subsequent Events* ("ASC 855") establishes general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued. In particular, ASC 855 sets forth the period after the balance sheet date during which management should evaluate events or transactions that may occur for potential recognition or disclosure in the financial statements, the circumstances under which an entity should recognize events or transactions occurring after the balance sheet date in its financial statements, and the disclosures that an entity should make about events or transactions that occurred after the balance sheet date. The new provisions of ASC 855 were effective for interim financial reporting periods ending after June 15, 2009 and did not have a material effect on the Company's financial statements.

Accounting Standards Codification Topic 320*, Investments – Debt and Equity Securities* ("ASC 320") contains an amendment to make previous guidance regarding other-than-temporary impairments more operational and to improve the presentation of other-than-temporary impairments in the financial statements. This amendment replaces the existing requirement that management assert it has both the intent and ability to hold an impaired debt security until recovery with a requirement that management assert it does not have the intent to sell the security and it is more likely than not it will not have to sell the security before recovery of its cost basis. ASC 320 requires increased and more frequent disclosures regarding expected cash flows, credit losses, and an aging of securities with unrealized losses. The amended provisions of ASC 320 were effective for interim financial reporting periods ending after April 1, 2009 and did not have a material effect on the Company's financial statements.

Accounting Standards Codification Topic 808*, Collaborative Arrangements* ("ASC 808") defines collaborative arrangements and establishes reporting requirements for transactions between participants and third parties in a collaborative arrangement. ASC 808 prohibits companies from applying the equity method of accounting to activities performed outside a separate legal entity by a virtual joint venture. Instead, revenues and costs incurred with third parties in connection with the collaborative arrangement should be presented gross or net by the collaborators based on the criteria in Accounting Standards Codification Topic 605*, Revenue Recognition* ("ASC 605"), and other applicable accounting literature. The new provisions of ASC 808 should be applied to collaborative arrangements in existence at the date of adoption using a modified retrospective method that requires reclassification in all periods presented for those arrangements still in effect at the transition date, unless that application is impracticable. Effective January 1, 2009 the Company adopted the new provisions of ASC 808, which did not have a material effect on the Company's financial statements. As a result of the restructuring in November of 2008 of the Company's collaboration agreement with Novartis AG ("Novartis"), this collaboration agreement is no longer within the scope of ASC 808. As of September 30, 2009, the Company does not have any collaboration agreements that fall under the scope of ASC 808. See *Note 4: Collaborative and Other Arrangements.*

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
(UNAUDITED)

Accounting Standards Codification Topic 815*, Derivatives and Hedging* ("ASC 815") clarifies how to determine whether certain instruments or features are indexed to an entity's own stock. This provision of ASC 815 applies to any free standing financial instrument or embedded feature that has all the characteristics of a derivative, as defined in ASC 815. Effective January 1, 2009, the Company adopted the relevant provisions of ASC 815. Refer to the *Significant Accounting Policies and Other Disclosures* section below for the effect this adoption had on the Company's financial statements.

Accounting Standards Codification Topic 820*, Fair Value Measurements and Disclosures* ("ASC 820") provided a one year deferral of the effective date of certain provisions of ASC 820 for non-financial assets and non-financial liabilities, except those that are recognized or disclosed in the financial statements at fair value at least annually. Effective January 1, 2009, the Company adopted the remaining provisions of ASC 820, as it relates to non-financial assets and non-financial liabilities, which did not have a material effect on the Company's financial statements.

Significant Accounting Policies and Other Disclosures

Accounting for Warrants

In the second quarter of 2009, the Company issued warrants to purchase XOMA's common shares in connection with two separate registered direct offerings. Refer to *Note 5: Debt and Other Financings – Other Equity Financings* for additional disclosure relating to these two transactions. The warrants issued include a provision allowing for an adjustment of the exercise price and number of warrant shares. This adjustment occurs if the Company issues or sells certain common shares in the future for a price per share less than the exercise price of the warrants in effect immediately prior to such issuance or sale. Due to this adjustment provision, the warrants do not meet the criteria set forth in ASC 815 to be considered indexed to the Company's own stock.

Accordingly, the Company has recorded these warrants as a liability at fair value, which was estimated at the issuance date using the Monte Carlo Simulation Model ("Simulation Model"). The warrants were revalued at September 30, 2009 using the Simulation Model and the change in the fair value of the warrants was recognized in the other income (expense) line item in the Company's consolidated statement of operations. The Company will revalue the unexercised warrants at each reporting period over the life of the warrants using the Simulation Model, and the changes in the fair value of the warrants will be recognized in the Company's consolidated statement of operations.

Share-Based Compensation

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. To date, share-based compensation issued under these plans consists of qualified and non-qualified incentive share options and shares. 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.

In February of 2009, the Board of Directors of the Company approved a company-wide grant of an aggregate of 4,730,000 share options, of which 4,568,000 were issued as part of its annual incentive compensation package. These options vest monthly over four years and include an acceleration clause based on meeting certain performance measures. In the third quarter of 2009, the Company determined that it was probable that the performance criteria would be achieved and estimated the implicit service period to be within twelve months from the grant date. The Company accelerated expense recognition related to these options, including recognizing a cumulative adjustment of $0.1 million to reflect additional share-based compensation expense pertaining to the first and second quarters of 2009.

As of September 30, 2009, the Company had approximately 9.4 million common shares reserved for future grant under its share option plans and ESPP.

XOMA Ltd.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
(UNAUDITED)

The following table shows total share-based compensation expense included in the condensed consolidated statements of operations for the three and nine months ended September 30, 2009 and 2008 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Research and development	$ 720	$ 547	$ 1,671	$ 1,806
Selling, general and administrative	793	540	1,727	2,162
Total share-based compensation expense	$ 1,513	$ 1,087	$ 3,398	$ 3,968

There was no capitalized share-based compensation cost as of September 30, 2009 and December 31, 2008, and there were no recognized tax benefits related to our share-based compensation cost during the three and nine months ended September 30, 2009 and 2008.

To estimate the value of an award, the Company uses the Black-Scholes Option Pricing Model (the "Black-Scholes Model"). This model requires inputs such as expected life, expected volatility and risk-free interest rate. The forfeiture rate also affects the amount of aggregate compensation. These inputs are subjective and generally require significant analysis and judgment to develop. While estimates of expected life, volatility and forfeiture rate are derived primarily from the Company's historical data, the risk-free rate is based on the yield available on U.S. Treasury zero-coupon issues.

The fair value of share-based awards was estimated using the Black-Scholes Model with the following weighted-average assumptions for the three and nine months ended September 30, 2009 and 2008:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Dividend yield	0%	0%	0%	0%
Expected volatility	80%	64%	74%	64%
Risk-free interest rate	2.28%	3.02%	1.81%	3.02%
Expected life	5.6 years	5.3 years	5.6 years	5.3 years

Share option activity for the nine months ended September 30, 2009 was as follows:

	Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life	Aggregate Intrinsic Value (in thousands)
Options outstanding at December 31, 2008	19,810,183	$ 3.24		
Granted	5,027,000	0.57		
Exercised	(25,583)	0.56		
Forfeited, expired or cancelled	(3,139,459)	2.79		
Options outstanding at September 30, 2009	21,672,141	$ 2.69	7.63	$ 1,242
Options exercisable at September 30, 2009	11,118,345	$ 3.45	6.67	$ 189

Total intrinsic value of the options exercised for the nine months ended September 30, 2009 was $5,825.

At September 30, 2009, there was $7.3 million of unrecognized share-based compensation expense related to unvested share options with a weighted-average remaining recognition period of 2.4 years.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
(UNAUDITED)

Comprehensive Income (Loss)

Unrealized gain (loss) on the Company's available-for-sale securities is included in accumulated comprehensive income (loss). Comprehensive income (loss) and its components for the three and nine months ended September 30, 2009 and 2008 was as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Net income (loss)	$1,538	$(20,362)	$(2,433)	$(55,227)
Unrealized gain (loss) on securities available-for-sale	—	(93)	2	(73)
Comprehensive income (loss)	$1,538	$(20,455)	$(2,431)	$(55,300)

Income Taxes

The Company recognized $0.4 million in income tax expense for the three months ended September 30, 2009 relating to federal, minimum, state and other withholding taxes for 2009, compared with no income tax expense for the same period of 2008. The Company's effective tax rate will fluctuate from period to period due to several factors inherent in the nature of the Company's operations and business transactions. The factors that most significantly impact this rate include the variability of licensing transactions in foreign jurisdictions.

The Company recognized $6.1 million in income tax expense for the nine months ended September 30, 2009, 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 Pharmaceutical Company Limited ("Takeda"), which was signed in February of 2009. Refer to *Note 4: Collaborative and Other Arrangements* for additional information. In addition, the Company recognized an additional $0.3 million in income tax expense related to federal, minimum, state and other withholding taxes for 2009. No income tax expense was recognized for the nine months ended September 30, 2008.

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.

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

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Options for common shares	16,497	18,642	18,591	18,642
Convertible preference shares	—	3,818	3,818	3,818
Warrants for common shares	11,100	—	11,100	—

XOMA Ltd.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
(UNAUDITED)

For the three months ended September 30, 2009, the following is a reconciliation of the numerators and denominators of the basic and diluted net income per share (in thousands):

	Three Months Ended September 30, 2009
Numerator	
Net income used for diluted net income per share	$ 1,538
Denominator	
Weighted average shares outstanding used for basic net income per share	167,254
Effect of dilutive share options	1,690
Effect of convertible preference shares	3,818
Weighted average shares outstanding and dilutive securities used for diluted net income per share	172,762

For the nine months ended September 30, 2009 and for the three and nine months ended September 30, 2008, all outstanding securities were considered antidilutive, and therefore the calculations of basic and diluted net loss per share are the same.

XOMA Ltd.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
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Cash and Cash Equivalents

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. At September 30, 2009 and December 31, 2008, cash equivalents consisted of overnight deposits, money market funds, repurchase agreements and debt securities with original maturities of 90 days or less and are reported at fair value. Cash and cash equivalent balances were as follows as of September 30, 2009 and December 31, 2008 (in thousands):

	September 30, 2009			
	Cost Basis	Unrealized Gains	Unrealized Losses	Estimated Fair Value
Cash	$15,132	$ —	$ —	$ 15,132
Cash equivalents	12,594	—	—	12,594
Total cash and cash equivalents	$27,726	$ —	$ —	$ 27,726

	December 31, 2008			
	Cost Basis	Unrealized Gains	Unrealized Losses	Estimated Fair Value
Cash	$ 553	$ —	$ —	$ 553
Cash equivalents	8,960	—	—	8,960
Total cash and cash equivalents	$ 9,513	$ —	$ —	$ 9,513

Short-term Investments

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 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 cost of investments sold is based on the specific identification method. Interest and dividends on securities classified as available-for-sale are also included in investment and other income.

At September 30, 2009, the Company had no short-term investments. At December 31, 2008, all short-term investments had maturities of less than one year.

Short-term investments by security type at December 31, 2008 were as follows (in thousands):

	December 31, 2008			
	Cost Basis	Unrealized Gains	Unrealized Losses	Estimated Fair Value
Corporate notes and bonds	$1,301	$ —	$ (2)	$ 1,299
Total short-term investments	$1,301	$ —	$ (2)	$ 1,299

The Company recognized no realized gains or losses on short-term investments for the three and nine months ended September 30, 2009. The Company recognized no realized gains or losses on short-term investments for the three months ended September 30, 2008 and $4,000 in realized gains on short-term investments for the nine months ended September 30, 2008.

Restricted Cash

At September 30, 2009, the Company had no restricted cash due to the repayment in full of the Goldman Sachs term loan in the third quarter of 2009, as discussed in *Note 5: Debt and Other Financings – Goldman Sachs Term Loan* Under the terms of the Company's loan agreement with Goldman Sachs, the Company maintained a custodial account, which has since been closed, for the deposit of royalty revenues in addition to a standing reserve of the next semi-annual interest payment due on the loan. This cash account and the interest earned thereon was used solely for the payment of the semi-annual interest amounts due on each April 1 and October 1 that the loan was outstanding and, at that time, amounts in excess of the interest reserve requirement were used to pay down principal or distributed back to the Company, at the discretion of the lenders.

XOMA Ltd.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
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At December 31, 2008, the restricted cash balance of $9.5 million included $8.6 million held in the Goldman Sachs custodial account and $0.9 million related to an irrevocable letter of credit arrangement, which was released to the Company in the first quarter of 2009. The December 31, 2008 balances were invested in money market funds and a certificate of deposit, respectively.

Receivables

Receivables consisted of the following at September 30, 2009 and December 31, 2008 (in thousands):

	September 30, 2009	December 31, 2008
Trade receivables, net	$ 2,676	$ 16,274
Other receivables	527	412
Total	$ 3,203	$ 16,686

Accrued Liabilities

Accrued liabilities consisted of the following at September 30, 2009 and December 31, 2008 (in thousands):

	September 30, 2009	December 31, 2008
Accrued management incentive compensation	$ 2,520	$ —
Accrued restructuring costs	175	—
Accrued payroll and other benefits	2,903	2,776
Accrued professional fees	701	514
Accrued clinical trial costs	454	438
Deferred rent	489	399
Income tax payable	336	—
Other	961	311
Total	$ 8,539	$ 4,438

Supplemental Cash Flow Information

The following table shows the supplemental cash flow information for the nine months ended September 30, 2009 and 2008 (in thousands):

	Nine Months Ended September 30,	
	2009	2008
Non-cash investing and financing activities:		
Fair value of warrant liability	$ 5,321	$ —
Interest added to principal balance on Novartis note	$ 249	$ 704

Refer to *Note 5: Debt and Other Financings* for additional disclosures regarding the warrants liability and the Novartis note.

XOMA Ltd.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
(UNAUDITED)

2. FAIR VALUE

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 September 30, 2009 and December 31, 2008.

Financial assets carried at fair value as of September 30, 2009 and December 31, 2008 are classified as follows (in thousands):

	Fair Value Measurements at September 30, 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	$ 7,225	$ 7,225	$ —	$ —
Money market funds	5,369	5,369	—	—
Total	$12,594	$ 12,594	$ —	$ —

	Fair Value Measurements at December 31, 2008 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	$ 8,950	$ 8,950	$ —	$ —
Certificates of deposit- restricted	952	952	—	—
Money market funds	10	10	—	—
Money market funds-restricted	8,593	8,593	—	—
Corporate notes and bonds	1,299	—	1,299	—
Total	$19,804	$ 18,505	$ 1,299	$ —

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
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Financial liabilities carried at fair value as of September 30, 2009 are classified as follows (in thousands):

	Fair Value Measurements at September 30, 2009 Using			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Warrants liability	$ 5,321	$ —	$ —	$ 5,321
Total	$ 5,321	$ —	$ —	$ 5,321

The fair value of the warrants liability was determined at September 30, 2009 using the Simulation Model, as discussed in *Note 1: Business and Summary of Significant Accounting Policies – Significant Accounting Policies – Accounting for Warrants.*

The Company did not have any financial liabilities carried at fair value as of December 31, 2008.

The following table provides a summary of changes in the fair value of the Company's Level 3 financial liabilities for the nine month period ended September 30, 2009 (in thousands):

	Warrants Liability
Balance at December 31, 2008	$ —
Initial fair value of warrants	(6,541)
Change in fair value of warrants included in other expense	1,220
Balance at September 30, 2009	$ (5,321)

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
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3. RESTRUCTURING CHARGES

On January 15, 2009, the Company announced a workforce reduction of approximately 42%, or 144 employees, a majority of which were employed in manufacturing and related support functions. This decision was made based on the challenging economic conditions and a decline in forecasted contract manufacturing demand in 2009.

As part of this workforce reduction, the Company recorded a charge of $3.3 million related to severance, other termination benefits and outplacement services in the first quarter of 2009. In the second quarter of 2009, the Company recorded an adjustment of $0.2 million to reduce the outplacement services liability related to the expiration of outplacement services offered to terminated employees. Additionally during 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. The Company is currently seeking a sublease tenant. These charges are included as restructuring expenses in the consolidated statement of operations for the nine months ended September 30, 2009. The following table summarizes the restructuring charges and utilization for the nine months ended September 30, 2009 (in thousands):

	Balance as of December 31, 2008	Charges	Cash Payments	Interest Expense	Adjustments	Balance as of September 30, 2009
Employee severance and benefits	$ —	$3,289	$(3,098)	$ —	$ (191)	$ —
Facilities consolidation	—	491	(78)	3	—	416
Total	$ —	$3,780	$(3,176)	$ 3	$ (191)	$ 416

Employee severance and other termination benefits related to the January of 2009 workforce reduction were fully paid in the third quarter of 2009. The Company does not expect to incur any additional restructuring charges for employee severance and other termination benefits related to the January of 2009 workforce reduction. The facilities consolidation charge is recorded as both a current accrued liability and a long-term liability at September 30, 2009 since the remaining lease term of the vacated building is approximately five years.

Also, as a result of the workforce reduction, the Company significantly reduced operations in four leased buildings in the first quarter of 2009. In the second quarter of 2009, the Company resumed operations in one of these buildings and vacated another resulting in a restructuring charge, as discussed above. The Company's leases on the remaining two buildings expire in 2011 and 2013, and total minimum lease payments due from October 1, 2009 until expiration of the leases are $4.3 million. The Company is pursuing multiple strategies to provide various options as to the future use of these leased spaces.

As of September 30, 2009, the Company performed an analysis of the long-lived assets related to the two remaining leased buildings, with an approximate net book value of $8.9 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 for impairment at each future reporting period.

4. COLLABORATIVE AND OTHER ARRANGEMENTS

Sale of the LUCENTIS® Royalty Stream

Through the second quarter of 2009, the Company received royalties from Genentech on sales of LUCENTIS®, for the treatment of neovascular (wet) age-related macular degeneration. In the third quarter of 2009, the Company sold the LUCENTIS® royalty stream to Genentech for a total of $25.0 million, which included the receipt of royalties of $2.7 million earned in the second quarter of 2009 and an additional one-time, non-refundable payment of $22.3 million. The Company recognized the entire payment as royalty revenue in September of 2009 as the terms of the sale were fulfilled and no related continuing performance obligations exist. The net proceeds from this transaction were used, together with other funds, to repay the Goldman Sachs term loan. The Company will not receive any further royalties on sales of LUCENTIS®.

Antibody Discovery Collaboration with 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, and the Company may be entitled to future milestone payments, aggregating up to $3.0 million per product, and royalties on product sales.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
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The fee of $6.0 million will be recognized as revenue upon validation of the technologies by Arana, which is scheduled for the fourth quarter of 2009, at which point the terms of the agreement will be fulfilled and no related continuing performance obligations will exist. As of September 30, 2009, the Company has received payment of $4.0 million due under the arrangement, which is recorded as deferred revenue. The remaining $2.0 million is payable in September of 2010.

Biodefense Subcontract with SRI International

In the third quarter of 2009, the Company began work on two biodefense subcontract awards from SRI International, including a $1.7 million award to develop novel antibody drugs against the virus that causes severe acute respiratory syndrome 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. Revenue recognized through the third quarter of 2009 relating to these subcontracts was $0.1 million.

Termination of Target Development Programs with Schering-Plough Research Institute

In May of 2006, the Company entered into a fully funded collaboration agreement with the Schering-Plough Research Institute ("SPRI"), a division of Schering-Plough Corporation, for therapeutic monoclonal antibody discovery and development. SPRI selected the initial discovery and development program at the inception of the collaboration and, in December of 2006, exercised its right to initiate additional discovery and development programs.

In the second quarter of 2009, the number of discovery and development programs under this collaboration was significantly reduced, which resulted in the accelerated recognition of $2.6 million in May of 2009 of the remaining unamortized balance in deferred revenue pertaining to the terminated programs. The Company will continue to amortize the deferred revenue relating to its continuing efforts over the estimated remaining period of the Company's obligation.

Expansion of Collaboration with Takeda

In February of 2009, the Company expanded its existing collaboration 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 was paid a $29.0 million expansion fee, of which $23.2 million was received in cash in February of 2009 and the remainder was withheld for payment to the Japanese taxing authority. After deducting an estimated $1.5 million in costs to be incurred related to the agreement, the Company recognized $27.5 million in revenue in February of 2009 as the terms of the expansion were fulfilled and no related continuing performance obligations exist. In the third quarter of 2009, the final costs were determined, and as a result the Company recognized additional revenue of $0.6 million related to this agreement due to actual costs being lower than the original estimate. The Company continues to conduct multiple discovery programs through this arrangement.

Restructuring of Collaboration with Novartis

The Company entered into a product development collaboration with Novartis (then Chiron Corporation) in 2004 for the development and commercialization of antibody products for the treatment of cancer, which was initially a cost and profit sharing arrangement. Under this agreement, XOMA received initial payments of $10.0 million in 2004, which were recognized from 2004 to 2007, at which point the parties' mutual obligation to conduct antibody discovery, development and commercialization work in oncology exclusively with one another ended. The expiration of this mutual obligation had no affect on the existing collaboration projects which had reached the development stage and the parties continued to collaborate on a non-exclusive basis. XOMA recognized development expenses relating to the collaboration with Novartis of $4.5 million in 2008 and $3.8 million in 2007.

In November of 2008, the Company restructured its product development collaboration with Novartis. Under the restructured agreement, the Company recognized $13.7 million in revenue in 2008 and may, in the future, receive milestones and double-digit royalty rates for two ongoing product programs and options to develop or receive royalties on four additional programs, in exchange for Novartis receiving control over the two ongoing programs under the original product development collaboration. In addition, as a result of the restructuring of the agreement, the Company does not expect to incur any future development expense under this collaboration agreement.

In December of 2008, the Company entered into a Manufacturing and Technology Transfer Agreement with Novartis, effective July 1, 2008. Under this agreement, the Company was engaged 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 Company completed this work in the third quarter of 2009. Revenue recognized for the nine months ended September 30, 2009 related to this agreement was $2.5 million.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
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5. DEBT AND OTHER FINANCINGS

As of September 30, 2009, the Company had long-term debt of $13.1 million outstanding, all of which was under its note with Novartis. As of December 31, 2008, the Company had long-term debt of $63.3 million outstanding, including $50.4 million outstanding under its term loan with Goldman Sachs and $12.9 million outstanding under its note with Novartis.

Goldman Sachs Term Loan

In September of 2009, the Company fully repaid its term loan facility with Goldman Sachs, which was a five-year term loan facility originally entered into in November of 2006 and refinanced in May of 2008. As previously disclosed, the Company was not in compliance with the requirements of the relevant provisions of this loan facility, due to the cessation of royalties from sales of RAPTIVA® related to its market withdrawal in the first half of 2009. Repayment of this loan facility discharged all of the Company's obligations to the lenders.

The Company repaid the outstanding principal balance of $42.0 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 three and nine months ended September 30, 2009.

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 $50.0 million in an aggregate principal amount. As of September 30, 2009, the interest rate was 3.18%. 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 $50.0 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 the collaboration with Novartis, including any payment owed to it thereunder. At September 30, 2009, the outstanding principal balance under this note agreement totaled $13.1 million and, pursuant to the terms of the arrangement as restructured in November of 2008, the Company will not make any additional borrowings on the Novartis note.

Interest expense and amortization of debt issuance costs, excluding the loss on debt extinguishment, for the Goldman Sachs term loan and Novartis note are shown below (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Interest expense				
Goldman Sachs term loan	$ 1,154	$ 1,616	$3,932	$3,506
Novartis note	110	281	352	974
Other	3	—	7	—
Total interest expense	$ 1,267	$ 1,897	$4,291	$4,480
Amortization of debt issuance costs				
Goldman Sachs term loan	$ 72	$ 101	$ 487	$ 480
Total amortization of debt issuance costs	$ 72	$ 101	$ 487	$ 480
Total interest expense	$ 1,339	$ 1,998	$4,778	$4,960

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Equity Line of Credit

In October of 2008, the Company entered into a common share purchase agreement (the "Purchase Agreement") with Azimuth, pursuant to which it obtained a committed equity line of credit facility (the "Facility") under which the Company could sell up to $60.0 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 $60.0 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 is no longer in effect, and no additional shares can be issued thereunder.

From the inception of the Facility through September 30, 2009, the Company has sold a total of 42,228,428 common shares to Azimuth for aggregate gross proceeds of $33.9 million. This includes the sale of 34.3 million shares in two transactions in September of 2009 that Azimuth agreed to purchase notwithstanding that the relevant volume weighted average prices were below the minimum price of $1.00. The Company negotiated a discount rate (excluding placement agent fees) of 8.0% for both transactions. Prior to the successful conclusion of negotiations, Azimuth was not obligated to purchase these shares. Offering expenses incurred through September 30, 2009 related to sales to Azimuth were $0.7 million. The net proceeds from the first September of 2009 transaction, approximately $12.3 million, were used, together with other funds, to repay the Goldman Sachs term loan.

Other Equity Financings

In May of 2009, the Company entered into a definitive agreement with an institutional investor to sell 11,764,706 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 $10.0 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 $0.85 per unit. The warrants, which represent the right to acquire an aggregate of up to 5,882,353 common shares, are exercisable at any time on or after May 15, 2009 and prior to May 20, 2014 at an exercise price of $1.02 per share.

In June of 2009, the Company entered into a definitive agreement with certain institutional investors to sell 10,434,782 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 $12.0 million, before deducting placement agent fees and estimated offering expenses of $0.8 million, in a second registered direct offering. The investors purchased the units at a price of $1.15 per unit. The warrants, which represent the right to acquire an aggregate of up to 5,217,391 common shares, will be exercisable at any time on or after December 11, 2009 and prior to December 10, 2014 at an exercise price of $1.30 per share.

As discussed in *Note 1: Business and Summary of Significant Accounting Policies – Significant Accounting Policies,* the fair value of the warrants at the issuance dates was estimated using the Simulation Model, and the Company recorded liabilities of $2.9 million and $3.6 million for the May and June warrant issuances, respectively. The Company revalued the warrants at June 30, 2009 and September 30, 2009 and recorded decreases in the fair value of the warrants of $1.0 million and $0.2 million, respectively, in the other income line item of the Company's consolidated statement of operations.

6. LEGAL PROCEEDINGS, COMMITMENTS AND CONTINGENCIES

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, fraud, 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. On April 29, 2009 and May 22, 2009, two additional complaints were filed in the same court in lawsuits captioned Heinen et al v. Genentech, Inc., et al, Case No. 09-449804 and York et al v. Genentech, Inc., et al Case No. 09-453932. Those complaints allege the same claims and seek the same types of damages based on injuries alleged to have occurred as a result of two individuals' treatment with RAPTIVA®. Four of the plaintiffs filed amended complaints on July 21, 2009 and October 10, 2009 that separate the plaintiffs and add factual allegations but do not allege any new causes of action. The fifth plaintiff withdrew her complaint without prejudice. 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.

There were no developments material to XOMA in the United States Bankruptcy Court proceedings involving Aphton Corporation (described in XOMA's Annual Report on Form 10-K for the fiscal year ended December 31, 2008) during the nine months ended September 30, 2009.

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7. SUBSEQUENT EVENTS

Antibody Discovery Collaboration with Kaketsuken

In October of 2009, the Company entered into an antibody discovery collaboration with Kaketsuken, a Japanese research foundation, 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. Subject to certain technical verification required under the collaboration agreement, Kaketsuken agreed to pay the Company a fee of $8.0 million, and the Company may be entitled to future milestone payments and royalties on product sales. The fee will be recognized as revenue upon such technical verification by Kaketsuken, which is scheduled for the fourth quarter of 2009.

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

The accompanying discussion and analysis of our financial condition and results of operations is 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 and assumptions that affect the reported amounts in our consolidated financial statements and accompanying notes. On an on-going basis, we evaluate our estimates, including those related to terms of revenue recognition, research and development expense, long-lived assets, warrant liabilities and share-based compensation. We base our estimates on historical experience and on various other market-specific and other relevant 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 significantly from these estimates.

Overview

We are a leader in the discovery, development and manufacture of therapeutic antibodies designed to treat inflammatory, autoimmune, infectious and oncological diseases. Our proprietary development pipeline includes XOMA 052, an anti-IL-1 beta antibody, XOMA 3AB, a biodefense anti-botulism antibody candidate, and five antibodies in preclinical development. Our proprietary development pipeline is funded by multiple revenue streams resulting from the licensing of our antibody technologies, product royalties, discovery and development collaborations and biodefense contracts, and sales of our common shares. Our technologies and experienced team have contributed to the success of marketed antibody products, including LUCENTIS® (ranibizumab injection) for (wet) age-related macular degeneration and CIMZIA® (certolizumab pegol, CDP870) for Crohn's disease and rheumatoid arthritis.

We have a premier antibody discovery and development platform that includes six antibody phage display libraries and our proprietary Human Engineering™ and bacterial cell expression technologies. Our bacterial cell expression technology is a key biotechnology for the discovery and manufacturing of antibodies and other proteins. Thus far, more than 50 pharmaceutical and biotechnology companies have signed bacterial cell expression licenses with us. We are currently in discussions with multiple companies to license our antibody technologies.

In addition to developing our own potential products, we develop products for premier pharmaceutical companies including Novartis AG ("Novartis"), Takeda Pharmaceutical Company Limited ("Takeda") and Schering-Plough Research Institute ("SPRI"). We have a fully integrated product development infrastructure, extending from preclinical science to manufacturing.

Our ability to fund ongoing operations is dependent on the progress of our proprietary development pipeline, specifically XOMA 052 and XOMA 3AB. In October of 2009, we announced the initiation of our Phase 2 clinical program for XOMA 052 in Type 2 diabetes and cardiovascular disease. The clinical trials are designed 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, select doses for pivotal Phase 3 studies. The initiation of the Phase 2 clinical program follows the announcement in July of 2009 of positive results from the U.S. Phase 1 trial, which continued to demonstrate that XOMA 052 is well tolerated in patients. Further, XOMA 052 showed clinically meaningful reductions in glycosylated hemoglobin, fasting blood glucose, high sensitivity C-reactive protein and erythrocyte sedimentation rate, a standard biomarker of systemic inflammation and cardiovascular risk. Generally, a more consistent response was seen across patients in the multiple dose regimen compared to single dose regimen. Pharmacokinetic results continue to support monthly or less frequent dosing.

We are in ongoing discussions with a number of companies offering to collaborate on development of XOMA 052 for Type 2 diabetes and now as a novel anti-inflammatory therapeutic for cardiovascular disease. We may complete a collaboration arrangement for XOMA 052 by the end of 2009 or it may take additional time to do so in order to, among other things, allow potential partners to include our new cardiovascular results in their analyses.

Our initial biodefense anti-botulism antibody candidate, XOMA 3AB, is a multi-antibody product that targets the most potent of the botulinum toxins, Type A. 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. To date, we have been awarded three contracts, totaling nearly $100 million, from 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 and additional product candidates toward clinical trials in the treatment of botulism poisoning.

We also have the ability to generate revenues from funded research and development and other development activities. We are developing a number of products, both proprietary and under collaboration agreements with other companies and may enter into additional arrangements. Our objective in development collaborations is to leverage our existing development infrastructure to broaden and strengthen our proprietary product pipeline thereby diversifying our development risk and gaining financial support from our collaboration partners.

In September of 2009, we fully repaid our term loan facility with Goldman Sachs Specialty Lending Holdings, Inc. ("Goldman Sachs"). As previously disclosed, we were not in compliance with the requirements of the relevant provisions of this loan facility, due to the cessation of royalties from sales of RAPTIVA®, a product for the treatment of moderate-to-severe plaque psoriasis, related to its market withdrawal in the first half of 2009. Repayment of this loan facility discharged all of our obligations to the lenders. Refer to the *Liquidity and Capital Resources – Goldman Sachs Term Loan* section for additional details relating to this repayment.

In connection with the repayment of this loan, we sold our LUCENTIS® royalty stream to Genentech, Inc., a wholly-owned member of the Roche Group (referred to herein as "Genentech"), in the third quarter of 2009 for a total of $25.0 million, which included the receipt of royalties of $2.7 million earned in the second quarter of 2009 and an additional one-time, non-refundable payment of $22.3 million. We will no longer receive royalties on sales of LUCENTIS®. We continue to receive royalties from UCB Celltech, a branch of UCB S.A., on sales of CIMZIA® for the treatment of Crohn's disease and moderate-to-severe rheumatoid arthritis.

Also in the third quarter of 2009, we raised approximately $26.4 million in two separate financing transactions, before deducting placement agent fees and estimated offering expenses of approximately $0.4 million, with Azimuth Opportunity Ltd. ("Azimuth"). We sold approximately 34.3 million common shares to Azimuth in these financing transactions. Refer to *Liquidity and Capital Resources – Equity Line of Credit* for additional disclosure relating to these equity financing transactions. The net proceeds from the first transaction, approximately $12.3 million, were used, together with other funds, to repay the Goldman Sachs term loan.

In January of 2009, we announced a workforce reduction of approximately 42%, or 144 employees, a majority of which were employed in manufacturing and related support functions. This decision was made based on the challenging economic conditions and a decline in forecasted manufacturing demand in 2009. We expected an annualized reduction of approximately $27 million in cash expenditures when changes are completed and are on track to achieve these savings. We remain staffed with approximately 190 employees to develop XOMA 052, develop and license proprietary products and technology, and continue fully funded antibody discovery and development activities with our pharmaceutical partners in collaborations and the U.S. government in biodefense. We recorded a charge in the first quarter of 2009 of $3.3 million for severance, other termination benefits and outplacement services in connection with the workforce reduction. In the second quarter of 2009, we recorded an adjustment of $0.2 million to reduce the outplacement services liability upon expiration of such services offered to the terminated employees.

Also, as a result of the workforce reduction, we significantly reduced operations in four leased buildings in the first quarter of 2009. In the second quarter of 2009, we resumed operations in one of these buildings and vacated another resulting in a restructuring charge of $0.5 million primarily related to the net present value of the future minimum lease payments, less the estimated future sublease income. We are currently seeking a sublease tenant. Our leases on the remaining two buildings expire in 2011 and 2013, and total minimum lease payments due from October 1, 2009 until expiration of the leases are $4.3 million. In addition, the net book value of fixed assets in these two buildings potentially subject to write-down is approximately $8.9 million as of September 30, 2009. We are pursuing multiple strategies to provide various options as to the future use of these leased spaces. We anticipate the potential for incurring further restructuring charges through the remainder of 2009 as we continue to evaluate our options as to the future use of our facilities.

In September of 2009, we received notice from the NASDAQ Stock Market that for the thirty consecutive business days preceding September 15, 2009, the bid price of our common shares closed below the minimum $1.00 per share requirement under Marketplace Rule 4450(a)(5) for continued inclusion on the NASDAQ Global Market. This notice has no effect on the listing of our common shares at this time, and we have an initial period of 180 calendar days to regain compliance with this requirement. If at any time before March 15, 2010, the bid price of our common shares closes at $1.00 per share or more for at least ten consecutive business days, NASDAQ will provide written notification that we have achieved compliance, although NASDAQ may require us to maintain a closing bid price for a longer period before determining that we have achieved compliance. If we do not regain compliance by March 15, 2010, NASDAQ would provide written notification that our common shares will be delisted, after which we may appeal to the NASDAQ Listing Qualifications Panel. Alternatively, we could apply to transfer our common shares to The NASDAQ Capital Market if we satisfy all of the requirements, other than the minimum bid price requirement, for initial listing on The NASDAQ Capital Market set forth in Marketplace Rule 5505. If we were to elect to apply for such transfer and if we satisfy the applicable requirements and our application is approved, we would have an additional 180 days to regain compliance with the minimum bid price rule while listed on The NASDAQ Capital Market. We are considering alternative strategies to address this issue if necessary.

We incurred negative cash flow from operations in four of the past five years and expect to remain in this position until sufficient cash flow can be generated from XOMA 052 partnering agreements, technology licensing, biodefense contracts with the government and various discovery and development collaboration arrangements, or until we achieve additional regulatory approvals and commence commercial sales of additional products. The timing and likelihood of additional approvals is uncertain and there can be no assurance that approvals will be granted or that cash flow from product sales will be sufficient to fully fund operations.

Results of Operations

Revenues

Total revenues for the three and nine months ended September 30, 2009, and 2008, were as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
License and collaborative fees	$ 1,421	$1,286	$29,276	$ 1,466
Contract and other revenue	3,688	1,979	18,662	14,728
Royalties	22,314	4,629	28,895	14,873
Total revenues	$27,423	$7,894	$76,833	$31,067

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 increased by $0.1 million and $27.8 million for the three and nine months ended September 30, 2009, compared to the same periods of 2008. The increase in license and collaborative fee revenue for the three months ended September 30, 2009, compared to the same period of 2008, was due to $0.6 million in revenue recognized on the determination of final costs related to the expansion of our collaboration agreement with Takeda, which was entered into in the first quarter of 2009, partially offset by a decrease in new licensing revenues in the period.

The increase in license and collaborative fee revenue for the nine months ended September 30, 2009, compared to the same period of 2008, was primarily due to a total of $28.1 million in revenue recognized during the first and third quarters of 2009 related to the expansion of our collaboration agreement with Takeda, partially offset by a decrease in new licensing revenues in the period. The generation of future revenues related to license fees and other collaboration arrangements is dependent on our ability to attract new licensees to bacterial cell expression and other antibody technologies and new collaboration partners.

Contract and other revenue increased by $1.7 million and $3.9 million for the three and nine months ended September 30, 2009, compared to the same periods of 2008. These revenues include agreements where we provide contracted research and development and manufacturing services to our collaboration partners, including Takeda, SPRI and NIAID. The increases in contract and other revenue for the three and nine months ended September 30, 2009 are primarily related to work performed under our contracts with NIAID Contract No. HHSN272200800028C (“NIAID 3”), which was awarded in September of 2008, and Novartis, which was entered into in December of 2008. The work performed under our contract with Novartis was completed in the third quarter of 2009. Additionally, we accelerated the recognition of $2.6 million of unamortized deferred revenue in the second quarter of 2009 related to the termination of certain discovery and development programs under our collaboration with SPRI.

These increases in contract revenue were partially offset by a decrease in revenue recognized for research and development activities performed under our SPRI contract in 2009 as a result of the termination of these programs. In addition, contract and other revenue decreased related to our AVEO Pharmaceuticals, Inc. (now with SPRI and referred to herein together as “SPRI/AVEO”) contract as a result of our nearing the end of the contracted service arrangement. Contract revenue in the third quarter of 2008 included an adjustment for NIAID Contract No. HHSN266200600008C/N01-A1-60008 (“NIAID 2”) to decrease revenue by $2.7 million due to a change in billing rates. This resulted in a net increase in revenue recognized in 2009 on NIAID 2, despite nearing the end of the NIAID 2 contracted service arrangement.

In the third quarter of 2009, we began work on two biodefense subcontract awards from SRI International, including a $1.7 million award to develop novel antibody drugs against the virus that causes severe acute respiratory syndrome 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. Revenue recognized through the third quarter of 2009 relating to these subcontracts was $0.1 million. Depending on whether and when we obtain new government and other contracts, we expect to experience a decline in contract revenues in the fourth quarter of 2009 as compared to 2008 levels.

Revenue from royalties increased by $17.7 million and $14.0 million for the three and nine months ended September 30, 2009, compared to the same periods of 2008, due to the sale of our LUCENTIS® royalty stream to Genentech for a total of $25.0 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. We recognized the payment of $22.3 million as royalty revenue in the third quarter of 2009, as the terms of the sale were fulfilled and no related continuing performance obligations exist. Royalties earned

from sales of LUCENTIS® for the first half of 2009 were $5.1 million. For the three and nine months ended September 30, 2008, royalties earned from sales of LUCENTIS® were $1.5 million and $5.7 million, respectively. We will not receive any further royalties on sales of LUCENTIS®.

The cessation of royalties earned from sales of RAPTIVA® in the second quarter of 2009 partially offsets these increases. RAPTIVA® was withdrawn from the market in the first half of 2009. Royalties earned from sales of RAPTIVA® for the nine months ended September 30, 2009 were $1.2 million. Royalties earned from sales of RAPTIVA® for the three and nine months ended September 30, 2008 were $3.1 million and $9.0 million.

During the three and nine months ended September 30, 2009, royalties received from sales of CIMZIA® were $0.2 million and $0.3 million, respectively. Royalties received from sales of CIMZIA® in 2008 were immaterial. CIMZIA® was approved by the U.S. Food and Drug Administration ("FDA") in May of 2009 for the treatment of moderate-to-severe rheumatoid arthritis in adults. We expect royalty revenues from sales of CIMZIA® to increase in the fourth quarter of 2009.

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 $13.4 million and $43.5 million for the three and nine months ended September 30, 2009, compared with $19.7 million and $62.4 million for the three and nine months ended September 30, 2008. The decrease of $6.3 million and $18.9 million for the three and nine months ended September 30, 2009, as compared to the same periods in 2008, is primarily a result of our continuing focus on cost control. In addition, spending on NIAID 2, SPRI/AVEO and Novartis-related contract activities decreased in 2009 due to our nearing the end of contracted service arrangements, and spending on SPRI-related contract activities decreased in 2009 due to the termination of certain discovery and development programs under the collaboration. These decreases were partially offset by increased spending on the preclinical development of five antibodies, and on our contracts with NIAID 3 and Takeda. Spending on XOMA 052 decreased in the first nine months of 2009, as compared to same period of 2008, due to the completion of enrollment in our two Phase 1 clinical trials in April of 2009. However, spending on XOMA 052 increased for the three months ended September 30, 2009, as compared to the same period of 2008, due to the initiation of our Phase 2 clinical program for XOMA 052 in Type 2 diabetes and cardiovascular disease in October of 2009.

We recorded research and development salaries and employee-related expenses of $6.2 million for the three months ended September 30, 2009, compared with $9.3 million for the same period of 2008. The decrease of $3.1 million for the third quarter of 2009 was due to decreases in salaries and benefits of $3.1 million and accrued bonus expense of $0.1 million primarily due to the workforce reduction announced in January of 2009. Partially offsetting these decreases was an increase in share-based compensation expense of $0.1 million for the three months ended September 30, 2009, as compared to the same period of 2008. See *Results of Operations: Share-Based Compensation* for further discussion of our share-based compensation expense.

For the nine months ended September 30, 2009, we recorded research and development salaries and employee-related expenses of $20.0 million, compared with $27.6 million for the same period of 2008. The decrease of $7.6 million for the nine months ended September 30, 2009 was due to decreases in salaries and benefits of $7.2 million and accrued bonus expense of $0.3 million primarily due to the workforce reduction announced in January of 2009. In addition, share-based compensation decreased by $0.1 million. See *Results of Operations: Share-Based Compensation* for further discussion of our share-based compensation expense.

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 continue to decrease in the fourth quarter of 2009 as we continue to consolidate facilities. Later stage programs include clinical testing, regulatory affairs and manufacturing clinical supplies. The costs associated with these programs approximate the following (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Earlier stage programs	$ 9,492	$ 11,921	$32,559	$36,932
Later stage programs	3,952	7,793	10,913	25,512
Total	$13,444	$ 19,714	$43,472	$62,444

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):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Internal projects	$10,869	$ 14,623	$30,800	$44,398
Collaborative and contract arrangements	2,575	5,091	12,672	18,046
Total	$13,444	$ 19,714	$43,472	$62,444

For the three and nine months ended September 30, 2009, our largest development program (XOMA 052) accounted for more than 20% but less than 30% of our total research and development expense, and one development program (NIAID 3) 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 for the three and nine months ended September 30, 2009. For the three and nine months ended September 30, 2008, our largest development program (XOMA 052) accounted for more than 20% but less than 30%, and no development program accounted for more than 30% of our total research and development expense.

We continue to expect our research and development spending in 2009 will be less than research and development spending in 2008. In October of 2009, we announced the initiation of our Phase 2 clinical program for XOMA 052 in Type 2 diabetes and cardiovascular disease. We are in ongoing discussions with a number of companies offering to collaborate on development of XOMA 052 for Type 2 diabetes and now as a novel anti-inflammatory therapeutic for cardiovascular disease. We may complete a collaboration arrangement for XOMA 052 by the end of 2009 or it may take additional time to do so in order to, among other things, allow potential partners to include our new cardiovascular results in their analyses.

Future research and development spending may 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. Selling, general and administrative expenses were $7.2 million and $19.0 million for the three and nine months ended September 30, 2009, compared with $6.7 million and $19.0 million for the same periods of 2008. The $0.5 million increase for the three months ended September 30, 2009, as compared to the same period of 2008, primarily relates to $1.3 million in fees incurred in the third quarter of 2009 related to the restructuring negotiations and repayment of the Goldman Sachs term loan discussed in further detail below in the *Liquidity and Capital Resources* section. This increase was partially offset by a decrease in salaries and employee-related expenses in the third quarter of 2009 of $0.5 million, as discussed below, a decrease in professional fees of $0.2 million, and other decreases due to our continued focus on cost control.

Selling, general and administrative expenses remained the same for the nine months ended September 30, 2009, as compared to the same period of 2008. However, salaries and employee-related expenses decreased by $1.7 million in 2009 as compared to the same period of 2008, as discussed below. This decrease was offset by an increase in fees incurred for the nine months ended September 30, 2009, related to the restructuring negotiations and repayment of the Goldman Sachs term loan of $1.8 million.

We recorded salaries and employee-related expenses of $3.3 million for the three months ended September 30, 2009, compared with $3.8 million for the same period of 2008. The decrease of $0.5 million for the third quarter of 2009 was due to a decrease in salaries and benefits of $0.7 million and accrued bonus expense of $0.1 million primarily due to the workforce reduction announced in January of 2009, partially offset by an increase in share-based compensation of $0.3 million. See *Results of Operations: Share-Based Compensation* for further discussion of our share-based compensation expense.

For the nine months ended September 30, 2009, we recorded salaries and employee-related expenses of $9.8 million, compared with $11.4 million for the same period of 2008. The decrease of $1.6 million for the nine months ended September 30, 2009 was due to decreases in salaries and benefits of $1.1 million and accrued bonus expense of $0.1 million primarily due to the workforce reduction announced in January of 2009. In addition, share-based compensation decreased by $0.4 million for the nine months ended September 30, 2009, as compared to the same period of 2008. See *Results of Operations: Share-Based Compensation* for further discussion of our share-based compensation expense.

Restructuring Charges

As discussed in the *Overview* section, we announced a workforce reduction of approximately 42% in January of 2009. As part of this workforce reduction, in the first quarter of 2009, we recorded a charge of $3.3 million related to severance, other termination benefits and outplacement services. In the second quarter of 2009, we recorded an adjustment of $0.2 million to reduce the outplacement services liability upon expiration of such services offered to the terminated employees. Employee severance and other termination benefits related to the January of 2009 workforce reduction were fully paid in the third quarter of 2009. We do not expect to incur any additional restructuring charges for employee severance and other termination benefits related to the January of 2009 workforce reduction.

As a result of the workforce reduction, we significantly reduced operations in four leased buildings in the first quarter of 2009. In the second quarter of 2009, we resumed operations in one of these buildings and vacated another resulting in a restructuring charge of $0.5 million primarily related to the net present value of the future minimum lease payments, less the estimated future sublease income. We are currently seeking a sublease tenant. Our leases on the remaining two buildings expire in 2011 and 2013, and total minimum lease payments due from October 1, 2009 until expiration of the leases are $4.3 million. We are currently pursuing multiple strategies to provide various options as to the future use of these leased spaces.

As of September 30, 2009, we performed an analysis of the long-lived assets related to the two leased buildings, with an approximate net book value of $8.9 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 for impairment at each future reporting period.

We anticipate the potential for incurring further restructuring charges in the fourth quarter of 2009 as we continue to evaluate our options as to the future use of our facilities.

Other Income (Expense)

Investment and interest income was $9,000 and $47,000 for the three and nine months ended September 30, 2009, compared with $0.2 million and $0.8 million for the same periods of 2008. Investment and interest income consists primarily of interest earned on our cash and investment balances. The differences between 2009 and 2008 balances resulted from varying average cash balances and interest rates and a decrease in the investments balance.

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 the three and nine months ended September 30, 2009 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Interest expense				
Goldman Sachs term loan	$ 1,154	$ 1,616	$ 3,932	$ 3,506
Novartis note	110	281	352	974
Other	3	—	7	—
Total interest expense	$ 1,267	$ 1,897	$ 4,291	$ 4,480
Amortization of debt issuance costs				
Goldman Sachs term loan	$ 72	$ 101	$ 487	$ 480
Total amortization of debt issuance costs	$ 72	$ 101	$ 487	$ 480
Total interest expense	$ 1,339	$ 1,998	$ 4,778	$ 4,960

The decrease in interest expense for the three months ended September 30, 2009, as compared to the same period of 2008, was primarily due to a decrease in interest expense and amortization of debt issuance costs on the Goldman Sachs term loan, due to the repayment in full of the term loan facility in September of 2009. In addition, interest expense related to the Novartis note decreased for the three months ended September 30, 2009, as compared to the same period of 2008, due to a decrease in the principal balance and interest rate of this note.

The decrease in interest expense for the nine months ended September 30, 2009, as compared to the same period of 2008, was due to a decrease in interest expense related to the Novartis note as a result of a decrease in the principal balance and interest rate of this note. Partially offsetting this decrease was an increase in interest expense related to the Goldman Sachs term loan due to a higher average principal balance in 2009, as compared to the same period of 2008. As discussed above, the Goldman Sachs term loan facility was fully repaid in September of 2009. Refer to the *Liquidity and Capital Resources: Goldman Sachs Term Loan* section for additional disclosure regarding this loan repayment.

Loss on debt extinguishment was $3.6 million for the three and nine months ended September 30, 2009 relating to the repayment of our Goldman Sachs term loan in September of 2009. This loss includes a prepayment premium of $2.5 million and the recognition of unamortized debt issuance costs of $1.1 million. For the nine months ended September 30, 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. To conform to the current period presentation, the loss recognized on debt extinguishment in the second quarter of 2008 was reclassified from interest expense to a separate line item in the current period. This reclassification had no impact on our previously reported net earnings (losses), financial position or cash flows.

Other income (expense) was $0.1 million and $1.2 million for the three and nine months ended September 30, 2009, compared with ($2,000) and ($51,000) for the same periods of 2008. The increase in other income in 2009 primarily relates to gains of $0.2 million and $1.2 million recognized relating to the revaluation of our warrant liability for the three and nine months ended September 30, 2009. See *Results of Operations: Warrants Revaluation* below for additional disclosure. For the three months ended September 30, 2009, we recognized a loss on disposal of fixed assets of $0.1 million, partially offsetting this increase.

Warrants Revaluation

We issued warrants to purchase our common shares in connection with two separate registered direct offerings completed in May and June of 2009. Refer to *Liquidity and Capital Resources: Other Equity Financings and Arrangements* for additional disclosure relating to these financing transactions.

The warrants issued include a provision allowing for an adjustment of the exercise price and number of warrant shares. This adjustment occurs if we issue or sell certain common shares in the future for a price per share less than the exercise price of the warrants in effect immediately prior to such issuance or sale. Due to this adjustment clause, these warrants are not considered indexed to our stock and are therefore subject to liability and fair value re-measurement. The fair value of the warrants at the issuance dates were estimated using the Monte Carlo Simulation Model ("Simulation Model") and we recorded liabilities of $2.9 million and $3.6 million for the May and June warrant issuances, respectively. We revalued the warrants at June 30, 2009 and September 30, 2009 and recorded decreases in the fair value of the warrants of $1.0 million and $0.2 million, respectively. We will revalue the warrants at each reporting period using the Simulation Model and changes in the fair values of the warrants will continue to be recognized in our consolidated statement of operations throughout the life of the unexercised warrants.

Income Taxes

We recognized $0.4 million in income tax expense for the three months ended September 30, 2009 relating to federal, minimum, state and other withholding taxes, compared with no income tax expense for the same period of 2008.

We recognized $6.1 million in income tax expense for the nine months ended September 30, 2009, 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 $29.0 million expansion fee, of which $5.8 million was withheld for payment to the Japanese taxing authority. In addition, we recognized $0.3 million relating to federal, minimum, state and other withholding taxes for 2009. No income tax expense was recognized for the nine months ended September 30, 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 carryback potential, we have determined that total deferred tax assets should be fully offset by a valuation allowance.

We did not have unrecognized tax benefits as of September 30, 2009 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 September 30, 2009, we have not accrued interest or penalties related to uncertain tax positions.

Share-Based Compensation

In February of 2009, our Board of Directors approved a company-wide grant of 4,730,000 share options, of which 4,568,000 were issued as part of our annual incentive compensation package. These options vest monthly over four years and include an acceleration clause based on meeting certain performance measures. In the third quarter of 2009, management determined that it was probable that the performance measures would be achieved and estimated the implicit service period to be within twelve months from the grant date. We accelerated expense recognition related to these options, including recognizing a cumulative adjustment of $0.1 million to reflect additional share-based compensation expense pertaining to the first and second quarters of 2009.

During the three and nine months ended September 30, 2009, we recognized $1.5 million and $3.4 million in share-based compensation expense, compared to $1.1 million and $4.0 million for the same periods of 2008. The increase in share-based compensation expense of $0.4 million for the three months ended September 30, 2009, as compared to the same period of 2008, was primarily due to the acceleration of expense recognition in the current quarter, as discussed above. Partially offsetting this increase was a decrease in share-based compensation in 2009 due to a decline in outstanding options as a result of the workforce reduction in January of 2009.

The decrease in share-based compensation expense of $0.6 million for the nine months ended September 30, 2009, as compared to the same period of 2008, was due to a decline in outstanding options as a result of the workforce reduction in January of 2009. Partially offsetting this decrease was the accelerated expense recognition related to the annual grants in February of 2009, as discussed above.

As of September 30, 2009, there was $7.3 million of unrecognized share-based compensation expense related to unvested shares with a weighted-average remaining recognition period of 2.4 years.

Liquidity and Capital Resources

Cash, cash equivalents and short-term investments at September 30, 2009 were $27.7 million compared with $10.8 million at December 31, 2008. Net cash provided by operating activities was $11.5 million for the nine months ended September 30, 2009, compared with net cash used in operating activities of $35.8 million for the same period in 2008. The $47.3 million increase in cash provided by operations for the nine months ended September 30, 2009, as compared to same period of 2008, 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 and the receipt of $22.3 million in the third quarter of 2009 related to the sale of our LUCENTIS® royalty stream to Genentech.

In addition, receivables decreased by $13.5 million for the nine months ended September 30, 2009 due to the cessation of LUCENTIS® and RAPTIVA® royalty revenues and a decline in contract revenues, and accrued liabilities increased in the first nine months of 2009 by $4.1 million related to the accrual of the 2009 employee bonus, restructuring charges and an increase in professional and other fees payable. These increases in cash were partially offset by a decrease in the accounts payable balance of $7.3 million for the nine months ended September 30, 2009 related to the pay down of the balance in the period and our continued focus on cost control. Also offsetting the increase in cash was a decrease in deferred revenue of $4.2 million for the nine months ended September 30, 2009 related to a decline in advance billings and the recognition of the remaining deferred revenue related to upfront fees received for terminated programs with SPRI, offset by $4.0 million in deferred revenue recorded in the third quarter of 2009 related to the antibody discovery collaboration with Arana Therapeutics Limited, a wholly-owned subsidiary of Cephalon, Inc.

Comparatively, for the nine months ended September 30, 2008, receivables decreased by $4.2 million primarily related to our NIAID 2 and SPRI/AVEO contracts due to a decline in activity and the accounts payable balance increased by $2.3 million due to increased research and development expenses in the period. In addition, other liabilities increased by $2.0 million related to an adjustment to the NIAID 2 billing rates in the third quarter of 2008. These increases in cash were partially offset by a decrease in deferred revenue of $2.3 million primarily related to a decline in advance billings.

Net cash provided by investing activities was $10.6 million for the nine months ended September 30, 2009, compared with net cash used in investing activities of $3.6 million for the same period of 2008. Cash provided by investing activities for the nine months ended September 30, 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 for the nine months ended September 30, 2009 of $1.3 million.

Net cash used in investing activities for the nine months ended September 30, 2008 consisted of an increase in restricted cash of $7.9 million related to the receipt of royalties held in the restricted account under the Goldman Sachs term loan facility and purchases of property and equipment of $7.3 million. Offsetting this cash outflow was $11.6 million in net proceeds from investment transactions.

Net cash used in financing activities was $3.8 million for the nine months ended September 30, 2009, compared with net cash provided by financing activities of $23.0 million in the same period of 2008. Cash used in financing activities for the nine months ended September 30, 2009 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 and repayment of the remaining outstanding balance of $42.0 million in September of 2009, partially offset by proceeds received from the issuance of common shares of $46.6 million in the period. Cash provided by financing activities for the nine months ended September 30, 2008 represented net proceeds of approximately $30.9 million from the refinancing of the Goldman Sachs term loan in May of 2008, partially offset by a principal payment of $8.2 million made to Goldman Sachs in the first quarter of 2008.

Goldman Sachs Term Loan

In September of 2009, we fully repaid our term loan facility with Goldman Sachs, which was a five-year term loan facility originally entered into in November of 2006 and refinanced in May of 2008. As previously disclosed, we were not in compliance with the requirements of the relevant provisions of this loan facility, due to the cessation of royalties from sales of RAPTIVA® related to its market withdrawal in the first half of 2009. Repayment of this loan facility discharged all of our obligations to the lenders.

We repaid the outstanding principal balance of $42.0 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, we recorded a loss on repayment of debt of $3.6 million, which included the prepayment premium and the recognition of the unamortized debt issuance costs of $1.1 million. This loss was recorded as loss on debt extinguishment in our consolidated statement of operations for the three and nine months ended September 30, 2009.

Novartis Note

In May of 2005, we 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, we borrowed semi-annually to fund up to 75% of our research and development and commercialization costs under our collaboration arrangement with Novartis, not to exceed $50.0 million in aggregate principal amount. As of September 30, 2009, the interest rate was 3.18%. At our 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 $50.0 million and we have made this election for all interest payments thus far. Loans under the note agreement are secured by our interest in the collaboration with Novartis, including any payments owed to us thereunder.

In November of 2008, we restructured our product development collaboration with Novartis. Pursuant to this restructuring, we will not make any additional borrowings on our Novartis note.

At September 30, 2009, the outstanding principal balance under this note agreement totaled $13.1 million.

Equity Line of Credit

On October 21, 2008, we entered into a common share purchase agreement (the “Purchase Agreement”) with Azimuth, pursuant to which we obtained a committed equity line of credit facility (the “Facility”) under which we could sell up to $60.0 million of our 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 us to issue shares to Azimuth under the Facility. However, at its election, Azimuth could buy shares below the threshold price at a negotiated discount. We were not obligated to utilize any of the $60.0 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 is no longer in effect, and no additional shares can be issued thereunder.

From the inception of the Facility through September 30, 2009, we have sold a total of 42,228,428 common shares to Azimuth for aggregate gross proceeds of $33.9 million. This includes the sale of 34.3 million shares in two transactions in September of 2009 that Azimuth agreed to purchase notwithstanding that the relevant volume weighted average prices were below the minimum price of $1.00. We negotiated a discount rate (excluding placement agent fees) of 8.0% for both transactions. Prior to the successful conclusion

of negotiations, Azimuth was not obligated to purchase these shares. Offering expenses incurred through September 30, 2009 related to sales to Azimuth were $0.7 million. The net proceeds from the first September of 2009 transaction, approximately $12.3 million, were used, together with other funds, to repay the Goldman Sachs term loan, and the remaining proceeds will be used to continue development of our XOMA 052 product candidate and for other working capital and general corporate purposes.

Other Equity Financings and Arrangements

In May of 2009, we entered into a definitive agreement with an institutional investor to sell 11,764,706 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 $10.0 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 $0.85 per unit. The warrants, which represent the right to acquire an aggregate of up to 5,882,353 common shares, are exercisable at any time on or after May 15, 2009 and prior to May 20, 2014 at an exercise price of $1.02 per share.

In June of 2009, we entered into a definitive agreement with certain institutional investors to sell 10,434,782 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 $12.0 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 $1.15 per unit. The warrants, which represent the right to acquire an aggregate of up to 5,217,391 common shares, will be exercisable at any time on or after December 11, 2009 and prior to December 10, 2014 at an exercise price of $1.30 per share.

The $20.4 million of net proceeds from these offerings are being used to continue development of our XOMA 052 product candidate and for other working capital and general corporate purposes.

In the third quarter of 2009, we entered into an At Market Issuance Sales Agreement (the “ATM Agreement”), with Wm Smith & Co. (“Wm Smith”), under which we may sell up to 25,000,000 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 may 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 may also sell the common shares in privately negotiated transactions, subject to our approval. We will pay Wm Smith a commission equal to 3% of the gross proceeds of all common shares sold through it as sales agent under the ATM Agreement but in no event less than $0.02 per share. Shares sold under the ATM Agreement will be 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.

The ATM Agreement will terminate on the earliest of (1) the sale of all of the common shares subject to the ATM Agreement, or (2) termination of the ATM Agreement by us or Wm Smith. Either we or Wm Smith may terminate the ATM Agreement at any time upon 60 days prior notice. Wm Smith may terminate the sales agreement at any time in certain circumstances, including the occurrence of a material adverse change that, in Wm Smith’s reasonable judgment, may materially impair its ability to sell the common shares, or a suspension or limitation of trading of our common shares on NASDAQ.

Refer to the complete terms of the ATM Agreement filed as an exhibit to this Form 10-Q.

* * *

We have incurred significant operating losses and negative cash flows from operations since our inception. At September 30, 2009, we had cash and cash equivalents of $27.7 million. During the fourth quarter of 2009, 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 anticipated spending levels, revenues, collaborator funding and other sources of funding we believe to be available, we estimate that we have sufficient cash resources to meet our anticipated net cash needs into 2011. 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.

Our independent registered public accounting firm included in their report for our fiscal year ended December 31, 2008 a qualification with respect to our ability to continue as a going concern. Our interim financial statements have been prepared assuming we will continue to operate as a going concern, which contemplates the realization of assets and the satisfaction of liabilities in the

normal course of business. If we became unable to continue as a going concern, we would have to liquidate our assets and the values we receive for our assets in liquidation could be significantly lower than the values at which they are carried on our consolidated financial statements. The inclusion of a going concern qualification in our independent registered public accounting firm's audit opinion for the year ended December 31, 2008 may materially adversely affect our share price and our ability to raise new capital.

For a further discussion of the risks related to our business and their effects on our cash flow and ability to raise new funding on acceptable terms, see *Item 1A: Risk Factors.*

Critical Accounting Estimates

Critical accounting estimates are those that require significant judgment and/or estimates by management at the time that the financial statements are prepared such that materially different results might have been reported if other assumptions had been made. We consider certain accounting policies related to revenue recognition, research and development expense, long-lived assets, warrant liabilities and share-based compensation to be critical policies. There have been no significant changes in our critical accounting estimates during the nine months ended September 30, 2009, except as noted below, as compared with those previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2008, filed with the SEC on March 11, 2009.

Long-Lived Assets

We record 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 are less than the carrying amounts of those assets. At September 30, 2009, we have determined there is no material impairment relating to our long-lived assets, and will continue to assess for impairment at each future reporting period.

Accounting for Warrant Liability

We issued warrants to purchase our common shares in connection with two separate registered direct offerings completed in May and June of 2009. The warrants issued include a provision allowing for an adjustment of the exercise price and number of warrant shares. This adjustment occurs if we issue or sell certain common shares in the future for a price per share less than the exercise price of the warrants in effect immediately prior to such issuance or sale. Due to this adjustment provision, the warrants do not meet the criteria set forth by Accounting Standards Codification Topic 815*, Derivatives and Hedging* ("ASC 815") and therefore are not considered indexed to our own stock.

The fair value of the warrants at the issuance date was estimated using the Simulation Model and recorded as a liability. The warrants were revalued at September 30, 2009 using the Simulation Model and the change in the fair value of the warrants was recognized in other income (expense) in our statement of operations. We will revalue the unexercised warrants on each reporting date over the life of the warrants using the Simulation Model, and the changes in the fair value of the warrants will be recognized in other income (expense) in our statement of operations.

Accrued Restructuring Costs

In the second quarter of 2009, we vacated one of our leased buildings and are currently seeking a sublease tenant. We recorded a restructuring charge in the second quarter of 2009 for the net present value of the future minimum lease payments, offset by potential future sublease payments. These charges are shown as restructuring expense in our consolidated statement of operations for the nine months ended September 30, 2009. If the amount of sublease income changes in the future based on changes in our estimates, we will adjust the related liability for the estimated net present value of the lease.

Subsequent Events

Antibody Discovery Collaboration with Kaketsuken

In October of 2009, we entered into an antibody discovery collaboration with Kaketsuken, a Japanese research foundation, 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. Subject to certain technical verification required under the collaboration agreement, Kaketsuken agreed to pay us a fee of $8.0 million, and we may be entitled to future milestone payments and royalties on product sales. The fee will be recognized as revenue upon such technical verification by Kaketsuken, which is scheduled for the fourth quarter of 2009.

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

Certain statements contained herein related to the sufficiency of our cash resources and our efforts to enter into a collaborative arrangement with respect to XOMA 052, as well as other statements related to current plans for product development and existing and potential collaborative and licensing relationships, 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 revenues or cost sharing arrangements do not materialize, or if funds are not otherwise available on acceptable terms; and, we may not be able to enter into a collaborative arrangement with respect to XOMA 052 on acceptable terms within the time frames anticipated or at all. These and other risks, including those related to inability to comply with NASDAQ's continued listing requirements; the declining and 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 3. 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 September 30, 2009 and December 31, 2008 (in thousands, except interest rates):

	Maturity	Carrying Amount (in thousands)	Fair Value (in thousands)	Average Interest Rate
September 30, 2009				
Cash and cash equivalents	Daily to 90 days	$ 27,726	$ 27,726	0.40%
December 31, 2008				
Cash and cash equivalents	Daily to 90 days	$ 9,513	$ 9,513	2.67%
Short-term investments	91 days to less than 12 months	1,301	1,299	4.64%

As of September 30, 2009, we have an outstanding principal balance on our note with Novartis of $13.1 million, which is due in 2015. The interest rate on this note is charged at a rate of six-month LIBOR plus 2%, which was 3.18% at September 30, 2009. 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.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of 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. 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 are effective as of the end of the period covered by this report in timely alerting them to material information relating to us and our consolidated subsidiaries required to be included in our periodic SEC filings.

Changes in Internal Control

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

PART II – OTHER INFORMATION

ITEM 1. 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, XOMA Ltd. (the "Company") and others for alleged strict liability for failure to warn, strict product liability, negligence, breach of warranty, fraud, 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. On April 29, 2009 and May 22, 2009, two additional complaints were filed in the same court in lawsuits captioned Heinen et al v. Genentech, Inc., et al, Case No. 09-449804 and York et al v. Genentech, Inc., et al, Case No. 09-453932. Those complaints allege the same claims and seek the same types of damages based on injuries alleged to have occurred as a result of two individuals' treatment with RAPTIVA®. Four of the plaintiffs filed amended complaints on July 21, 2009 and October 10, 2009 that separate the plaintiffs and add factual allegations but do not allege any new causes of action. The fifth plaintiff withdrew her complaint without prejudice. 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.

There were no developments material to the Company in the United States Bankruptcy Court proceedings involving Aphton Corporation (described in the Company's Annual Report on Form 10-K for the year ended December 31, 2008) during the quarter ended September 30, 2009.

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 as a going concern.

While our refocused business strategy will reduce capital expenditures and other operating expenses, 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 $25.0 million, including royalty revenues 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 revenues from this royalty interest.

Based on our cash reserves, anticipated revenues from collaborations including a XOMA 052 corporate partnership, licensing transactions and biodefense contracts, we believe that we have sufficient cash resources to meet our anticipated net cash needs into 2011. 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.

Our independent registered public accountants have indicated there is substantial doubt as to our ability to continue as a going concern.

Our independent registered public accounting firm has included in their report for our fiscal year ended December 31, 2008 a qualification with respect to our ability to continue as a going concern. Our interim financial statements have been prepared assuming we will continue to operate as a going concern, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. If we became unable to continue as a going concern, we would have to liquidate our assets and the values we receive for our assets in liquidation could be significantly lower than the values at which they are carried on our consolidated financial statements. The inclusion of a going concern qualification in our independent registered public accounting firm's audit opinion for the year ended December 31, 2008 may materially adversely affect our share price and our ability to raise new capital.

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 or short-term investments 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.

Recent 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 September 30, 2009, we have received the full amount of proceeds from money market fund investments, an inability to retrieve funds from money market and similar short-term 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. Our short-term investments consist primarily of readily marketable debt securities with remaining maturities of more than 90 days at the time of purchase. While as of the date of this filing, we are not aware of any downgrades, material losses, or other significant deterioration in the fair value of our cash equivalents or short-term investments since September 30, 2009, 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 short-term investments or our ability to meet our financing objectives.

If the trading price of our common shares fails to comply with the continued listing requirements of The NASDAQ Global Market, we would face possible delisting, which would result in a limited public market for our common shares and make obtaining future debt or equity financing more difficult for us.

Companies listed on the NASDAQ Stock Market ("NASDAQ") are subject to delisting for, among other things, failure to maintain a minimum closing bid price per share of $1.00 for 30 consecutive business days. The closing price per share of our common shares has been below $1.00 for all but eight days since December 9, 2008. Although NASDAQ temporarily suspended the minimum bid price requirement in response to market conditions, this suspension expired on July 31, 2009.

On September 21, 2009, we received a letter from NASDAQ indicating that for the preceding 30 consecutive business days, the bid price of our common shares closed below the minimum $1.00 per share requirement pursuant to NASDAQ Marketplace Rule 4450(a)(5) for continued inclusion on the NASDAQ Global Market. In accordance with NASDAQ Marketplace Rule 4450(e)(2), we have a period of 180 calendar days, or until March 15, 2010, to regain compliance with the minimum bid price requirement. If we do not regain compliance by March 15, 2010, NASDAQ would provide written notification that our common shares will be delisted, after which we may appeal to the NASDAQ Listing Qualifications Panel. Alternatively, we could apply to transfer our common shares to The NASDAQ Capital Market if we satisfy all of the requirements, other than the minimum bid price requirement, for initial listing on The NASDAQ Capital Market set forth in Marketplace Rule 5505. If we were to elect to apply for such transfer and if we satisfy the applicable requirements and our application is approved, we would have an additional 180 days to regain compliance with the minimum bid price rule while listed on The NASDAQ Capital Market.

We cannot be sure that our price will comply with the requirements for continued listing of our common shares on The NASDAQ Global Market, or that any appeal of a decision to delist our common shares will be successful. If our common shares lose their status on The NASDAQ Global Market and we are not successful in obtaining a listing on The NASDAQ Capital Market, our common shares would likely trade in the over-the-counter market.

If our shares were to trade on the over-the-counter market, selling our common shares could be more difficult because smaller quantities of shares would likely be bought and sold, transactions could be delayed, and security analysts' coverage of us may be reduced. In addition, in the event our common shares are delisted, broker-dealers have certain regulatory burdens imposed upon them, which may discourage broker-dealers from effecting transactions in our common shares, further limiting the liquidity thereof. These factors could result in lower prices and larger spreads in the bid and ask prices for common shares.

Such delisting from The NASDAQ Global Market or future declines in our share price could also greatly impair our ability to raise additional necessary capital through equity or debt financing, and could significantly increase the ownership dilution to shareholders caused by our issuing equity in financing or other transactions. Consent under the Exchange Control Act 1972 (and its related regulations) has been obtained from the Bermuda Monetary Authority for the issue and transfer of our shares, notes and other securities to and between non-residents of Bermuda for exchange control purposes, but this consent is conditional on our shares

remaining listed on an appointed stock exchange. We cannot assure you that the Bermuda Monetary Authority will give the same or a similar consent in the event our common shares are no longer listed on The NASDAQ Global Market or another appointed stock exchange. In the absence of such a general consent, specific consents of the Bermuda Monetary Authority would be required for certain issues and transfers of our shares, notes and other securities.

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 September 30, 2009, we had an accumulated deficit of $787.5 million.

For the three months ended September 30, 2009, we had a net income of approximately $1.5 million or $0.01 per common share (basic and diluted). For the nine months ended September 30, 2009, we had a net loss of approximately $2.4 million or $0.02 per common share (basic and diluted). For the three and nine months ended September 30, 2008, we had a net loss of approximately $20.4 million and $55.2 million, respectively, or $0.15 per common share and $0.42 per common share (basic and diluted), respectively.

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 November 5, 2009, 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 400,000,000 common shares, of which 198,937,455 were issued and outstanding as of November 5, 2009. 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 entered into an At Market Issuance Sales Agreement, with Wm Smith & Co. (“Wm Smith”), under which we may sell up to 25,000,000 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 may 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 may also sell the common shares in privately negotiated transactions, subject to our 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, 2009 through November 5, 2009, our share price has ranged from a high of $1.34 to a low of $0.37. 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.

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 Food and Drug Administration ("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 ("EMEA") 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.

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, FDA officials or officials from foreign regulatory authorities could interpret the data in different ways than we or our 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 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.

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.

To the extent our present and future revenues consist of royalties on product sales, our revenues will rely on sales of products marketed and sold by others.

We have only a royalty interest in CIMZIA® and receive revenues from sales of CIMZIA® in the U.S. and Switzerland for the treatment of moderate-to-severe Crohn's disease and in the U.S. for the treatment of moderate-to-severe rheumatoid arthritis. CIMZIA® was approved in the United States in April of 2008 and in Switzerland in September of 2007 for the treatment of Crohn's disease. In March of 2008, UCB Celltech, a branch of UCB S.A ("UCB"), announced that the CHMP had rejected UCB's appeal following CHMP's previously-announced refusal of UCB's marketing authorization application for CIMZIA® in the treatment of Crohn's disease. In May of 2009, CIMZIA® was approved by the FDA for the treatment of moderate-to-severe rheumatoid arthritis in adults. UCB is responsible for the marketing and sales effort in support of this product. We have no role in marketing and sales efforts, and UCB does not have an express contractual obligation to us regarding the marketing or sales of CIMZIA®.

Successful commercialization of CIMZIA® is subject to a number of risks, including, but not limited to:

- UCB's willingness and ability to implement their marketing and sales effort and achieve sales;
- the strength of competition from other products being marketed or developed to treat Crohn's disease and rheumatoid arthritis;
- the occurrence of adverse events which may give rise to safety concerns;
- physicians' and patients' acceptance of CIMZIA® as a treatment for Crohn's disease and rheumatoid arthritis;
- manufacturer's ability to provide manufacturing capacity to meet demand for the products;
- pricing and reimbursement issues; and
- expiration of patents and royalties.

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.

Although CIMZIA® was approved in the United States in April of 2008 and in Switzerland in September of 2007 for the treatment of Crohn's disease, and in the United States in May of 2009 for the treatment of rheumatoid arthritis, it may not be accepted in the marketplace. Furthermore, 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, such as CIMZIA®, 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 EMEA 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.

UCB is responsible for manufacturing or arranging for the manufacturing of commercial quantities of CIMZIA®. Should UCB have difficulty in providing manufacturing capacity to produce this product in sufficient quantities, we do not know whether they will be able to meet market demand. If not, we will not realize revenues from the sales of this product. 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 program. In exchange for cash and debt reduction on our existing loan facility with Novartis, Novartis has control over the HCD122 program and the additional ongoing program, as well as the right to expand the development of these programs into additional indications outside of oncology. We may, in the future, receive milestones of up to $14.0 million and double-digit royalty rates for two ongoing product programs, including HCD122. The agreement also provides us with options to develop or receive royalties on four additional programs.
- 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.
- 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 September 30, 2009, 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.

Because our collaborators and licensees are independent third parties, they may be subject to different risks than we are and have significant discretion in 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 our collaborators or licensees will successfully develop and market any of the products that are or may become the subject of one of our collaboration or licensing arrangements. In particular, each of these arrangements provides for funding solely by our collaborators or licensees. 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 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 2005, we signed a letter agreement with Cubist Pharmaceuticals, Inc. ("Cubist") to develop production processes and to manufacture a novel two-antibody biologic in quantities sufficient to conduct Phase 3 clinical trials. In July of 2006, Cubist announced that it had decided to cease investment in this product candidate because of stringent FDA requirements for regulatory approval, and as a result we have terminated our letter agreement with Cubist.
- 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. Without limiting the foregoing, we are aware that:

XOMA 052

We have initiated clinical testing of XOMA 052, a potent anti-inflammatory monoclonal antibody targeting IL-1 beta, in 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 July of 2009, Novartis announced that Ilaris® was recommended for approval 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 2008, Biovitrum AB 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 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 July of 2009, Regeneron announced that rilonacept was recommended for approval in the European Union for CAPS. In March of 2009, Regeneron announced the initiation of a Phase 3 program with rilonacept in gout, which includes four clinical trials.
- 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. Amgen announced it is focusing on other opportunities for the antibody.

XOMA 3AB

- 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.
- Emergent BioSolutions, Inc. 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 BioSolutions, Inc. 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.

CIMZIA®

In addition to CIMZIA®, there are four other FDA-approved anti-TNF therapies to treat moderate-to-severe rheumatoid arthritis: Amgen's Enbrel® (etanercept), Johnson & Johnson's Remicade® (infliximab), Simponi™ (golimumab) and Abbott Laboratories' Humira® (adalimumab), with two of them, infliximab and adalimumab, also approved for moderate-to-severe active Crohn's disease in adults.

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. 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 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.

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 is considering 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 one such case 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, fraud, 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. On April 29, 2009 and May 22, 2009, two additional complaints were filed in the same court in lawsuits captioned Heinen et al v. Genentech, Inc., et al, Case No. 09-449804 and York et al v. Genentech, Inc., et al, Case No. 09-453932. Those complaints allege the same claims and seek the same types of damages based on injuries alleged to have occurred as a result of two individuals' treatment with RAPTIVA®. Four of the plaintiffs filed amended complaints on July 21, 2009 and October 10, 2009 that separate the plaintiffs and add factual allegations but do not allege any new causes of action. The fifth plaintiff withdrew her complaint without prejudice. Even though Genentech has agreed to indemnify us, 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.

We may not realize the expected benefits of our initiatives to reduce costs across our operations, and we may incur significant charges or write-downs as part of these efforts.

We are pursuing and may continue to pursue a number of initiatives to reduce costs across our operations. In January of 2009, we implemented a workforce reduction of approximately 42% in order to improve our cost structure. We expect an annualized reduction of approximately $27 million in cash expenditures when changes are completed. We recorded charges during the first six months of 2009 of $3.1 million for severance, other employee benefits and outplacement services related to 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, less the estimated future sublease income. We anticipate that we will incur some level of restructuring charges through the remainder of 2009 as we continue to consolidate facilities.

As a result of the workforce reduction, we significantly reduced operations in four leased buildings in the first quarter of 2009. In the second quarter of 2009, we resumed operations in one of these buildings and vacated another resulting in a restructuring charge. The net book value of fixed assets in two remaining buildings potentially subject to write-down is approximately $8.9 million as of September 30, 2009. Although we have determined that there was no impairment of these assets as of September 30, 2009, there can be no assurance that we will not determine otherwise as of a future date and as a consequence write down these assets as impaired, and any such write-down may be significant.

We may not realize some or all of the expected benefits of our current and future initiatives to reduce costs. In addition to restructuring or other charges, we may experience disruptions in our operations as a result of these initiatives and write-downs.

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 190 employees as of November 5, 2009. 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 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

In September of 2009, XOMA fully repaid its term loan facility with Goldman Sachs Specialty Lending Holdings, Inc. As previously disclosed, XOMA was not in compliance with the requirements of the relevant provisions of this loan facility, due to the cessation of royalties from sales of RAPTIVA® related to its market withdrawal in the first half of 2009. Repayment of this loan facility discharged all of the Company's obligations to the lenders.

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

None.

ITEM 5. OTHER INFORMATION

None.

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ITEM 6. EXHIBITS

Exhibit Number	
10.18A	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)
10.35	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)
10.36	At Market Issuance Sales Agreement dated July 14, 2009, by and between XOMA Ltd. and Wm Smith & Co.
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 November 9, 2009, furnished herewith

SIGNATURES

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

XOMA Ltd.

Date: November 9, 2009

By: /s/ STEVEN B. ENGLE
Steven B. Engle
Chairman, Chief Executive Officer and President

Date: November 9, 2009

By: /s/ FRED KURLAND
Fred Kurland
Vice President, Finance and Chief Financial Officer

Exhibit 10.18A

Execution Version

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

AGREEMENT RELATED TO
LUCENTIS LICENSE AGREEMENT AND RAPTIVA COLLABORATION AGREEMENT

This Agreement, dated as of September 9, 2009 (the "Agreement"), is entered into by and between XOMA (Bermuda) Ltd., a Bermuda company having its registered office at Clarendon House, 2 Church Street, Hamilton HM CX, Bermuda ("XOMA Bermuda"), XOMA (US) LLC, a Delaware limited liability company having offices at 2910 Seventh Street, Berkeley, California, USA ("XOMA US") and Genentech, Inc., a Delaware corporation having offices at 1 DNA Way, South San Francisco, California, USA ("GENENTECH"). This Agreement relates to both a Non-Exclusive Genentech License Agreement effective as of December 30, 1998 between XOMA Bermuda and GENENTECH (the "LUCENTIS License Agreement") and a Collaboration Agreement effective as of April 22, 1996 (as amended by the Amendment thereto dated April 14, 1999), which was subsequently amended and restated in an Amended and Restated Collaboration Agreement dated March 31, 2003, which was subsequently amended and restated in a Second Amended and Restated Collaboration Agreement executed as of January 12, 2005 between XOMA US and GENENTECH (collectively the "RAPTIVA Collaboration Agreement"). All references to XOMA Bermuda, XOMA US and GENENTECH in this Agreement shall, as the context requires, include their respective Affiliates (as such term is defined in the RAPTIVA Collaboration Agreement; for the sake of clarity, GENENTECH's Affiliates for purposes of this Agreement shall include Roche Holding Ltd. including its affiliated companies). All capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the LUCENTIS License Agreement and/or the RAPTIVA Collaboration Agreement, as the context requires.

BACKGROUND

A. XOMA Corporation and GENENTECH entered into the LUCENTIS License Agreement, whereby XOMA Corporation granted GENENTECH non-exclusive licenses under the XOMA Patent Rights, on the terms and conditions set forth therein, to, among other things, make and sell certain Licensed Products.

B. As part of a corporate restructuring, XOMA Corporation's entire right, title and interest in and to the LUCENTIS License Agreement were transferred, assigned and delivered to XOMA Bermuda effective as of May 31, 1999.

C. By letter dated October 25, 2004, XOMA Bermuda acknowledged that GENENTECH's product known as LUCENTIS®, which binds to the vascular endothelial growth factor Antigen, is a Licensed Product under the LUCENTIS License Agreement.

D. XOMA Bermuda and GENENTECH desire to amend the LUCENTIS License Agreement as it applies to LUCENTIS® as set forth herein.

E. XOMA US and GENENTECH are parties to the RAPTIVA Collaboration Agreement relating to anti-CD11a products including GENENTECH's product known as RAPTIVA®.

F. [*] GENENTECH desires that XOMA Bermuda, XOMA US, and related parties give a release to GENENTECH with respect to those and related issues.

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

1. Amendments. Pursuant to Section 10.10 of the LUCENTIS License Agreement,

(a) Article 1 of the LUCENTIS License Agreement is hereby amended by adding the following to the end thereof:

"1.9 'LUCENTIS' means GENENTECH's product known as LUCENTIS®, which binds to the vascular endothelial growth factor Antigen and is a Licensed Product, as well as any and all pharmaceutical formulations and packaged forms of that product."

(b) Section 3.2 of the LUCENTIS License Agreement is hereby amended by adding the following to the end thereof:

"Notwithstanding the foregoing, effective upon the date of payment by GENENTECH to XOMA of the Royalty Repurchase Fee provided for in Section 3.6, GENENTECH's obligation under this Section 3.2 to pay any royalty on Net Sales of LUCENTIS for any period either in the past or in the future is extinguished, and XOMA specifically agrees that upon the receipt of the Royalty Repurchase Fee, XOMA shall have no right to seek any additional royalties for any Net Sales of LUCENTIS that may have occurred at any time in the past or that may occur at any time in the future."

(c) Article 3 of the LUCENTIS License Agreement is hereby amended by adding the following to the end thereof:

"3.6 LUCENTIS Royalty Repurchase Fee. In consideration of the modification to GENENTECH's royalty obligation with respect to LUCENTIS as reflected in the second sentence of Section 3.2, GENENTECH shall pay XOMA by wire transfer a one-time, non-refundable payment of Twenty-Two Million Two Hundred Fifty-Two Thousand Seven Hundred Fifty-One United States Dollars (US$22,252,751.00) (the "Royalty Repurchase Fee").

(d) Section 4.3 of the LUCENTIS License Agreement is hereby amended by adding the following to the end of the first sentence thereof: "for any period with respect to which royalties are payable in accordance with Section 3.2."

2. Releases.

(a) Release by XOMA Entities. Except as provided in paragraph 2(c), XOMA Bermuda and XOMA US, each on behalf of itself and its predecessors, successors, and assigns, and any owner, parent, subsidiary, or other affiliated person or entity, does hereby now and forever release and discharge GENENTECH, and its predecessors, successors, and assigns, and any owner, parent, subsidiary, or other affiliated entity, and each of their respective current and former officers, directors, employees, agents, attorneys, and representatives, from any and all claims, actions, causes of action, demands, costs, charges of whatever nature, whether known or unknown (hereinafter collectively "Claims" and in the singular "Claim"), based on any decision that GENENTECH has made or failed to make or any action that GENENTECH has taken or failed to take with respect to the development, manufacturing, clinical studies, marketing, commercialization, regulatory approval, or withdrawal from the market of RAPTIVA® anywhere in the world.

(b) Release by GENENTECH. Except as provided in paragraph 2(c), GENENTECH, on behalf of itself and its predecessors, successors, and assigns, and any owner, parent, subsidiary, or other affiliated person or entity, does hereby now and forever release and discharge XOMA Bermuda and XOMA US, and each of their respective predecessors, successors, and assigns, and any owner, parent, subsidiary, or other affiliated entity, and each of their respective current and former officers, directors, employees, agents, attorneys, and representatives, from any and all Claims, based on any decision that XOMA Bermuda or XOMA US has made or failed to make or any action that XOMA Bermuda or XOMA US has taken or failed to take with respect to the development, manufacturing, clinical studies, marketing, commercialization, regulatory approval, or withdrawal from the market of RAPTIVA® anywhere in the world.

(c) Limitation on Releases. The sole exception to the releases in paragraphs 2(a) and 2(b) is that they are not intended to, and do not, have any effect with respect to any Claim that is both (a) brought by a Third Party and (b) for which XOMA US or Genentech seeks indemnity from the other pursuant to Article 10 of the RAPTIVA Collaboration Agreement. For purposes of this paragraph the term "Third Party" means one who is not either (i) a party, or an Affiliate of a party, to this Agreement or any predecessor, successor, assign, parent, or subsidiary of such party or Affiliate, or (ii) one who in any way asserts the ability to pursue the rights held by a party, or an Affiliate of a party, to this Agreement or by any predecessor, successor, assign, parent, or subsidiary of such party or Affiliate. The exclusion from the definition of Third Party stated in (ii) above includes, without limitation and only by way of example, a shareholder of a party who purports to bring a shareholders derivative suit on behalf of a party asserting a Claim.

(d) Waiver of California Civil Code Section 1542. Each party understands that Section 1542 of the California Civil Code provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

XOMA Bermuda and XOMA US, with respect to each of the Claims released pursuant to numbered paragraph 2(a) above, and GENENTECH, with respect to each of the Claims released pursuant to numbered paragraph 2(b) above, each knowingly and voluntarily waives all rights under Section 1542 of the California Civil Code and any similar or comparable federal, state, or local law. Each party represents, warrants, and agrees that this waiver is a material term of this Agreement, without which the parties would not have entered into this Agreement.

(e) No Assignment of Claims. XOMA Bermuda and XOMA US each represents and warrants that it has not sold, assigned, conveyed, pledged, encumbered, or otherwise in any way transferred to any person or entity any Claim released pursuant to numbered paragraph 2(a) above. GENENTECH represents and warrants that it has not sold, assigned, conveyed, pledged, encumbered, or otherwise in any way transferred to any person or entity any Claim released pursuant to numbered paragraph 2(b) above.

3. Final and Binding Agreement. Each party represents and warrants that it has received or had the opportunity to receive independent legal advice from such party's attorney with respect to the rights and obligations arising from, and the advisability of entering into, this Agreement. Each party agrees that it has made such investigation of all matters pertaining to this Agreement that such party deems necessary, and does not rely on any statement, promise, or representation, whether oral or written, by any person or entity, not specifically and expressly set forth in this Agreement. Each party acknowledges that, after execution of this Agreement, such party may discover facts different from or in addition to those which it now knows or believes to be true. Nevertheless, each party agrees that this Agreement shall be and remain in full force and effect in all respects, notwithstanding such different or additional facts. This Agreement is intended to be, and is, final and binding on the parties [*].

4. Effectiveness.

(a) This Agreement shall be effective only upon agreement by Goldman Specialty Lending Holdings, Inc. and Fortress Credit Opportunities I LP pursuant to that certain Amended and Restated Loan Agreement, dated as of May 9, 2008, between Goldman Specialty Lending Holdings, Inc., as lender, XOMA Ltd., as guarantor, and XOMA US, as borrower, to the terms hereof, in form and substance satisfactory to XOMA US. XOMA US shall provide prompt written notice to GENENTECH after (i) such agreement is reached or the requirement that it be reached is waived by XOMA US (a "Notice to Proceed", which shall include wire transfer instructions for the Royalty Repurchase Fee under Section 3.6 of the LUCENTIS License Agreement) or (ii) XOMA US is finally informed that such agreement will not be reached and determines not to waive such requirement (a "Notice Not to Proceed").

(b) If GENENTECH receives from XOMA US a Notice to Proceed, GENENTECH shall pay to XOMA US the Royalty Repurchase Fee under Section 3.6 of the LUCENTIS License Agreement within two business days of receiving the Notice to Proceed. If, on the other hand, GENENTECH receives from XOMA US a Notice Not to Proceed, upon GENENTECH's receipt of that Notice, except for the provisions of this paragraph, all portions of this Agreement shall become null and void and have no effect.

(c) If XOMA US has not provided either a Notice to Proceed or a Notice Not to Proceed by November 15, 2009, then it shall be as if a Notice Not to Proceed has been received and, except for the provisions of this paragraph, all portions of this Agreement shall become null and void and have no effect.

5. Effect of Amendments. Except as expressly set forth in this Agreement, the LUCENTIS License Agreement and RAPTIVA Collaboration Agreement shall remain in full force and effect.

6. 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. Any dispute, controversy, or claim relating to the interpretation, enforceability, performance, breach, termination, or validity of this Agreement, including without limitation, this paragraph, shall be settled by arbitration in San Francisco County, California administered by the American Arbitration Association in accordance with its then-current commercial arbitration rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

7. 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, XOMA Bermuda, XOMA US, and GENENTECH have executed this Agreement in multiple originals by duly authorized officers.

XOMA (BERMUDA) LTD.

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

XOMA (US) LLC

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

GENENTECH, INC.

By: _____
Name:
Title:

Exhibit 10.35

Execution Version

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

DISCOVERY COLLABORATION AGREEMENT

This Discovery Collaboration Agreement (this "Agreement") is effective as of September 9, 2009 (the "Effective Date") and is made by and between Arana Therapeutics Limited (ACN 002 951 877), an Australian company having offices at Level 2, 37 Epping Road, Macquarie Park, New South Wales 2113, Australia ("Arana"), and XOMA Development Corporation, a Delaware corporation having offices at 2910 Seventh Street, Berkeley, California 94710, USA ("XOMA"). Arana and XOMA are sometimes referred to herein individually as a "Party" and together as the "Parties."

BACKGROUND

A. Arana is engaged in the research and development of product candidates, including without limitation Antibodies, for use in treating and/or preventing human diseases.

B. XOMA has developed certain materials, technologies and related information, hereinafter identified as [*], the Discovery Know-How and the Systems, that are useful to the discovery, optimization and development of Antibodies and related proteins.

C. Prior to the Effective Date, XOMA has conducted certain activities [*] to Arana's satisfaction.

D. XOMA and Arana, as specified herein, wish to form a collaboration directed toward identifying new Antibodies for diseases of interest to Arana and in the course of which, *inter alia*, XOMA would [*].

E. Arana, on its own behalf and on behalf of its Affiliates, agrees to accept the Transferred Materials under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements contained herein, XOMA and Arana agree as follows:

Section 1. DEFINITIONS

1.1 "Affiliate" means any corporation, company, partnership, joint venture and/or firm that controls, is controlled by or is under common control with a Party to this Agreement. For purposes hereof, "control" means (a) in the case of a corporate entity, direct or indirect ownership of more than fifty percent (50%) of the stock or shares entitled to vote for the election of directors; (b) in the case of a non-corporate entity, direct or indirect ownership of more than fifty percent (50%) of the equity interests with the power to direct the management and policies of such non-corporate entity; or (c) possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the entity in question (whether through ownership of securities or other ownership interests, by contract or otherwise).

1.2 "Antibody" shall mean any molecule, including full immunoglobulin molecules (e.g., IgG, IgM, IgE, IgA and IgD molecules) and ScFv, Fv and Fab molecules, that has an amino acid sequence by virtue of which it specifically interacts with an antigen, immunogen or hapten or which elicits an immune response and wherein that amino acid sequence consists essentially of a functionally operating region of an antibody variable region, including any naturally occurring or recombinant form of such a molecule.

1.3 "Antibody Product" means any composition of matter or article of manufacture consisting essentially of an Antibody (a) alone or (b) integrally associated with a composition of matter or article of manufacture (including without limitation conjugates bound to a toxin, label or other moiety) providing therapeutic, half-life, safety or other advantages to the Antibody.

1.4 "Applicable Interest Rate" has the meaning specified in Section 13(d) hereof.

1.5 "Arana Licensee" means, solely with respect to Licensed Products, any Third Party to whom Arana licenses or grants rights, as part of a bona fide collaboration, development, commercialization or marketing arrangement, to develop, commercialize, market or distribute any such Licensed Product. All arrangements with an Arana Licensee shall be pursuant to a written agreement, which will incorporate requirements on each Arana Licensee sufficient to ensure compliance with the provisions of Sections 7(b), 12(b)(ii), 12(c), and 14 and any other provisions of this Agreement expressly relating to Arana Licensees and provide (where possible under the governing law of such written agreements) that XOMA shall be a third party beneficiary thereof. No Third Party shall be an Arana Licensee if such Third Party does not take material economic risk with respect to the development or commercialization of the Licensed Product that is the subject of the applicable arrangement; *provided,* that this sentence shall not prevent Arana from using any Third Party as a distributor or selling agent.

1.6 [*]

1.7 [*]

1.8 "Bacterial Cell Expression Patent Rights" or "BCE Patent Rights" means the Patent Rights described on Schedule 1.8.

1.9 "Bankruptcy Code" has the meaning specified in Section 18(c) hereof.

1.10 [*]

1.11 [*]

1.12 "BLA" means a Biologics Licensing Application or New Drug Application (each as defined in the FDC Act) and any other equivalent marketing authorization application or other license, registration or application seeking approval from a Regulatory Authority to market a Licensed Product in the Field in the Territory.

1.13 [*]

1.14 [*]

1.15 [*]

1.16 "Change of Control" means any transaction or series of transactions with respect to an entity as a result of which any person or group (as defined under the U.S. Securities Exchange Act of 1934, as amended) becomes, directly or indirectly, the beneficial owner of more than fifty percent (50%) of the total voting power of such entity's equity securities or otherwise gains control of such entity.

1.17 [*]

1.18 "Collaboration" has the meaning specified in Section 2(a) hereof.

1.19 "Collaboration Committee" has the meaning specified in Section 2(b) hereof.

1.20 "Combination Product" has the meaning specified in Section 1.43 hereof.

1.21 "Confidential Information" means any information and data received by a Party (the "Receiving Party") from the other Party or its Affiliates (the "Disclosing Party") in connection with this Agreement or the Mutual Confidentiality Agreement effective as of February 27, 2009 between Arana Therapeutics (VIC) Pty Limited and XOMA (US) LLC. Notwithstanding the foregoing, Confidential Information shall not include any part of such information or data:

(a) which is or becomes public knowledge (through no fault of the Receiving Party); or

(b) which is made available to the Receiving Party by a Third Party not under an obligation of confidentiality with the Disclosing Party (and such lawful right can be demonstrated by the Receiving Party's written records); or

(c) which is already rightfully in the Receiving Party's possession at the time of receipt from the Disclosing Party (and such prior possession can be demonstrated by the Receiving Party's written records); or

(d) which is independently developed by an employee of the Receiving Party and/or its Affiliates without the aid, application or use of confidential information disclosed by the Disclosing Party (and such independent development can be demonstrated by the Receiving Party's written records), *provided* such independent development does not breach any of the Receiving Party's obligations under this Agreement.

1.22 "Control" or "Controlled" means, with respect to any (a) material, document, item of information, method, data or other Know-How or (b) Patent Right or other intellectual property right, the possession (whether by ownership or license, other than by a license granted pursuant to this Agreement) by a Party or its Affiliates of the ability to grant to the other Party access, ownership, a license and/or a sublicense as provided herein under such item or right without violating the terms of any agreement or other arrangement with any Third Party as of the time such Party would first be required hereunder to grant the other Party such access, ownership, license or sublicense.

1.23 "Disclosing Party" has the meaning specified in Section 1.21 hereof.

1.24 "Discovered" means, in respect of an Antibody or Antibody Product, the derivation of such Antibody or Antibody Product from the identification, determination and/or confirmation of a Target and/or a Target's associated ligand or receptor.

1.25 "Discovery Know-How" means the Know-How transferred to Arana or its Affiliates pursuant to Section 3.

1.26 "Discovery Patent Rights" means the Patent Rights described on Schedule 1.26, which shall be updated from time to time by XOMA to reflect the status of such Patent Rights or as otherwise agreed in writing by Arana and XOMA.

1.27 "Discovery Product" means an Antibody or Antibody Product Discovered as a result of, or arising out of, the use of [*] the Discovery Know-How and/or the practice of the Discovery Patent Rights by Arana or its Affiliates, either on their own account or on behalf of an Arana Licensee as part of a bona fide collaboration with respect to that Antibody or Antibody Product, including without limitation through the use of [*] the Discovery Know-How and/or the practice of the Discovery Patent Rights to identify, validate or otherwise use a Target and/or its associated ligand or receptor. As used herein, to "validate" a Target includes any activities by which, using [*], Discovery Know-How, Discovery Patent Rights and/or any Antibody arising therefrom, a Target is identified, determined and/or, confirmed as being significant in a disease or other biological pathway or used in any material manner to develop a therapeutic and/or prophylactic compound or product.

1.28 "EMEA" means the European Medicines Agency or any successor thereto.

1.29 "Event of Default" means an event described in Section 17(b)(i) hereof.

1.30 "FDA" means the United States Food and Drug Administration, or any successor thereto.

1.31 "FDC Act" means the United States Food, Drug and Cosmetic Act (or any successor thereto), as amended, and the rules and regulations promulgated thereunder.

1.32 "Field" means the Discovery, research, development, manufacture and/or commercialization of Antibody Products for (a) the treatment, palliation or prevention of any disease or condition in humans, [*].

1.33 "First Commercial Sale" means the first sale for use or consumption by the general public of a Licensed Product in a country after Regulatory Approval has been obtained in such country. For the avoidance of doubt, First Commercial Sale shall not include the sale of any Licensed Product for use in clinical trials or for compassionate use prior to Regulatory Approval.

1.34 "GAAP" means United States generally accepted accounting principles, as they exist from time to time, consistently applied.

1.35 "ICC" has the meaning specified in Section 18(h)(i) hereof.

1.36 "Indemnitee" has the meaning specified in Section 16(d) hereof.

1.37 "Indemnitor" has the meaning specified in Section 16(d) hereof.

1.38 "Know-How" means Confidential Information comprised of any and all know-how, trade secrets, data, processes, techniques, procedures, compositions, materials, devices, methods, formulas, protocols, and research, preclinical and clinical data and information, including any and all chemical, biochemical, toxicological, and scientific research information, whether in written, electronic, graphic or video form or any other form or format. Know-How shall not include Patent Rights [*].

1.39 "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.

1.40 "Licensed Know-How" means, collectively, the Discovery Know-How and the TAE Know-How.

1.41 "Licensed Patent Rights" means, collectively, the Discovery Patent Rights and the TAE Patent Rights.

1.42 "Licensed Product" means an Antibody or Antibody Product that is either a Discovery Product or a TAE Product.

1.43 "Net Sales" means, with respect to a Licensed Product, the gross amount invoiced by Arana or its Affiliates or by any Arana Licensee for sales of such Licensed Product to customers which are not Affiliates (or which are Affiliates but are end users of such Licensed Product), less the following unreimbursed or non-refunded deductions with respect thereto, determined in accordance with GAAP and calculated in United States dollars and to the extent such amounts have not already been deducted from the amount invoiced: (a) amounts actually allowed as volume or quantity discounts, rebates, price reductions, coupons, vouchers and co-pay assistance reimbursements, returns (including recalls), [*], and charge-backs, (b) sales, excise and turnover taxes. goods and services, value-added and other indirect taxes, and similar duties, levies and charges collected, charged or otherwise imposed directly upon and paid or payable by such party and its Affiliates, and (c) all other direct expenses or discounts, including but not limited to cash discounts, trade discounts, government and managed care discounts, custom duties and transportation and insurance charges.

In the event the Licensed Product is sold as part of a Combination Product (as defined below), the Net Sales from the Combination Product, for the purposes of determining royalty payments, will be determined by [*].

In the event that the average sale price of the Licensed Product can be determined but the average sale price of the other active compounds or active ingredients in the Combination Product cannot be determined, Net Sales for purposes of determining royalty payments will be calculated by [*]. If the average sale price of the other active compounds or active ingredients can be determined but the average price of the Licensed Product cannot be determined, Net Sales for purposes of determining royalty payments will be calculated by [*].

In the event that the average sales price of both the Licensed Product and the other active compounds or active ingredients in the Combination Product cannot be determined, the Net Sales of the Licensed Product shall be determined in accordance with the procedures set out in Section 18(h)(i).

As used above, the term "Combination Product" means any Licensed Product sold in conjunction with any other active component(s) (whether packaged together or in the same therapeutic formulation).

Free samples of Licensed Product and the disposition of Licensed Product for, or the use of Licensed Product in, preclinical or clinical (Phase 1–3) trials or other market-focused (Phase 4) trials in which Licensed Product is provided to patients without any payment shall not result in any Net Sales.

1.44 "Patent Rights" means all patents and patent applications existing as of the Effective Date and all patent applications claiming priority from the foregoing thereafter filed and patents thereafter issued, including, without limitation, any continuations, continuations-in-part, divisionals, provisionals or any substitute applications, any patent issued with respect to any such patent applications, any reissue, reexamination, renewal or extension (including any supplemental protection certificate) of any such patent, and any confirmation patent or registration patent or patent of addition based on any such patent, and all foreign counterparts of any of the foregoing.

1.45 "Phase 1 Trial" means a human clinical trial in any country that is intended to initially evaluate the safety and/or pharmacological effect of a Licensed Product in subjects or that would otherwise satisfy the requirements of 21 C.F.R. 312.21(a), or its foreign equivalent.

1.46 "Phase 2 Trial" means a human clinical trial in any country that is intended to initially evaluate the effectiveness of a Licensed Product for a particular indication or indications in patients with the disease or indication under study or that would otherwise satisfy the requirements of 21 C.F.R. 312.21(b), or its foreign equivalent.

1.47 "Phase 3 Trial" means a pivotal human clinical trial in any country, the results of which could be used to establish safety and efficacy of a Licensed Product as a basis for a BLA or that would otherwise satisfy the requirements of 21 C.F.R. 312.21(c) or its foreign equivalent. In the event of a Phase 2/3 trial, initiation of Phase 3 shall be deemed to have occurred upon a decision by Arana to continue enrollment for the pivotal portion of such trial.

1.48 "Receiving Party" has the meaning specified in Section 1.21 hereof.

1.49 "Regulatory Approval" means any and all approvals (including any applicable governmental price and reimbursement approvals), licenses, registrations, or authorizations of any federal, national, multinational, state, provincial or local regulatory agency, department bureau or other governmental entity that are necessary for the manufacture, use, storage, import, transport, promotion, marketing and sale of a Licensed Product in the Field in a country or group of countries.

1.50 "Regulatory Authority" means any governmental authority in a country or region that regulates the manufacture or sale of pharmaceutical products, including the FDA, the EMEA and the Australian Therapeutic Goods Administration, and any successors thereto.

1.51 "Representatives" has the meaning specified in Section 18(h)(i) hereof.

1.52 "Research and Development" means, solely with respect to the use of the Transferred Materials by Arana or its Affiliates, the conduct of activities relating to the Discovery of Antibodies for Targets, the identification, characterization, selection, optimization and research of Antibodies and Licensed Products and the conduct of all tests, clinical and other studies and other activities (including test method development, toxicology studies, statistical analysis and report writing, preclinical and other testing, packaging and regulatory affairs, product approval and registration activities) related thereto as are customarily performed in the biopharmaceutical industry as part of research and development of new products. Research and Development may include without limitation (a) the Discovery of Antibodies that selectively bind to and act through Targets, (b) the development of assays for Antibodies to, *inter alia,* confirm the activity of such Antibodies or Target, and (c) the performance of affinity maturation on such Antibodies, in each case with the objective of identifying Antibodies that have potential as Licensed Products.

1.53 "Royalty-Bearing Discovery Product" means [*].

1.54 "Services" has the meaning specified in Section 4(a) hereof.

1.55 "Systems" means the informatics and other materials handling systems, associated software applications and related data systems, Patent Rights related to the foregoing (the "Systems Patent Rights") and related Know-How (the "Systems Know-How"), each as more particularly described on Schedule 1.55. For the purposes of this Agreement, Systems shall not include any Third Party software, operating system, data device or other materials not actually integrated into the software applications and related data systems constituting the Systems.

1.56 "Systems Know-How" has the meaning specified in Section 1.55 hereof.

1.57 "Systems Patent Rights" has the meaning specified in Section 1.55 hereof.

1.58 "TAE Know-How" has the meaning specified in Section 1.63 hereof.

1.59 "TAE Patent Rights" has the meaning specified in Section 1.63 hereof.

1.60 "TAE Product" means an Antibody or Antibody Product which falls within a Valid Claim of the TAE Patent Rights at the time and in the jurisdiction of its manufacture or sale, or arose from the practice of a Valid Claim of the TAE Patent Rights at the time and in the jurisdiction of such activities.

1.61 "Target" means a gene and the products encoded by such gene, including, without limitation, (a) any partial or full-length DNA sequence from such gene (including any mutant or polymorphic forms thereof), (b) any RNA sequence (including any post-transcriptionally modified variants thereof) encoded by any such gene, (c) any peptide, polypeptide or protein (including any post-translationally modified variants thereof) encoded by any such gene, (d) any derivatives or fragments of any of the foregoing, and/or (e) any species variants or homologs of any of the foregoing.

1.62 [*]

1.63 "Target Affinity Enhancement Technology" or "TAE Technology" means (a) the materials and Know-How (the "TAE Know-How") and (b) the Patent Rights (the "TAE Patent Rights"), each as more particularly described on Schedule 1.63, that set forth an embodiment of the technology made available by XOMA for improving or enhancing the affinity of an Antibody.

1.64 "Territory" means all of the countries and territories of the world.

1.65 "Third Party" means any person or entity other than Arana, XOMA and their respective Affiliates.

1.66 "Third Party Agreements" has the meaning specified in Section 15(b)(ix) hereof.

1.67 "Third Party Patents" has the meaning specified in Section 15(b)(ix) hereof.

1.68 "Transferred Materials" means, collectively, [*], the Licensed Know-How, the Systems and/or any related materials actually transferred to Arana pursuant to this Agreement.

1.69 "Valid Claim" means, in respect of a Patent Right in the jurisdiction of that Patent Right, either (a) a claim of an issued and unexpired patent which has not been held permanently revoked, unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, unappealable or unappealed within the time allowed for appeal and that is not admitted to be invalid or unenforceable through reissue, disclaimer or otherwise, or (b) a claim of a pending parent patent application that was filed and is being prosecuted in good faith and has not been abandoned or finally rejected without the possibility of appeal or refiling.

1.70 [*]

1.71 "[*] Materials" has the meaning specified in Section 5(e) hereof.

1.72 "[*] Specifications" means Arana's specifications for [*] set forth on Schedule 1.70.

Section 2. COLLABORATION OVERVIEW

(a) Objectives. Arana and XOMA intend to collaborate in the Discovery of Antibodies and/or Antibody Products, with (in general) XOMA constructing and/or transferring certain materials and providing access to certain intellectual property rights and Arana conducting various Discovery and other activities, in each case as provided in or permitted by this Agreement (the "Collaboration"). It is intended that the Collaboration will be conducted as a collaborative effort with activities by the Parties carried out primarily at each Party's respective facilities, except as otherwise provided herein.

(b) Committee. As soon as practicable after the Effective Date, the Parties shall establish a committee (the 'Collaboration Committee") comprised of representatives designated by each of XOMA and Arana, each of whom shall have experience and seniority sufficient to enable him or her to make decisions on behalf of the Party he or she represents within the scope of the authority of the Collaboration Committee as provided herein, and each of whom shall be employed by the Party designating such representative. The Collaboration Committee shall be responsible for overseeing the Parties' interaction and performance of their respective obligations under this Agreement. In reaching decisions or taking action, the Collaboration Committee shall strive for unanimity. In the event unanimity cannot be reached on a question of whether or not a Party has complied with the requirements of this Agreement, the matter shall be referred for resolution pursuant to Section 18(h)(i). For the avoidance of doubt, subject to the foregoing, each Party shall determine the manner in which it exercises its independent rights and complies with its independent obligations hereunder using its own personnel and facilities.

Section 3. DELIVERABLES; DELIVERY

(a) Deliverables. Within [*] following the Effective Date, XOMA shall deliver [*], the Discovery Know-How relating thereto, the TAE Know-How and the Systems to Arana's Melbourne, Australia facility, as evidenced by the Delivery and Receipt Acknowledgement in the form attached as Exhibit A. XOMA shall provide [*] in the quantities, and together with the additional information, set forth in Schedule 3(a).

(b) Delivery. Delivery of the Transferred Materials shall be made F.O.B. XOMA's Berkeley, California facility, upon provision of the same to an independent carrier designated by XOMA and reasonably acceptable to Arana. Title and risk of loss shall transfer to Arana upon such delivery, [*].

(c) [*]

(d) [*]

Section 4. SERVICES

(a) Services Defined. Upon the request of Arana, XOMA agrees to perform the services described in Schedule 4(a) (the "Services"). XOMA warrants that it has and/or will retain employees and/or consultants with the skills, ability and training necessary to, and that it shall, render the Services in a timely and professional manner consistent with industry standards in accordance with the terms of this Section 4, including Schedule 4(a). Subject to the foregoing, the manner and means by which XOMA chooses to complete the Services are in XOMA's sole discretion and control. XOMA's only service obligations with respect to the validation, implementation or use of the Transferred Materials at Arana shall be those expressly provided in Section 3(c) and this Section 4.

(b) Compensation. In consideration of the Services to be rendered hereunder, Arana agrees to pay XOMA the compensation set forth in Schedule 4(a).

(c) Expenses. Arana will reimburse XOMA for all reasonable travel, lodging and other expenses of XOMA's employees and consultants rendering the Services documented to the reasonable satisfaction of Arana [*].

(d) Other Services. XOMA (including its employees rendering the Services) may conduct activities with and provide services to, and its consultants rendering the Services may perform services for or be employed by, Third Parties so long as doing so does not cause XOMA to breach its obligations under this Section 4 or any other provision of this Agreement.

(e) Term. The Parties shall have no further rights or obligations with respect to this Section 4 (other than those accrued prior to such termination) upon the earliest of (i) termination of this Agreement in accordance with its terms, (ii) termination of this Section 4 by either Party upon a material breach by the other Party that is not cured within thirty (30) days of such other Party becoming aware of such breach, effective immediately upon written notice to the breaching Party, (iii) termination by Arana of this Section 4, at its discretion, upon prior written notice to XOMA [*].

Section 5. GRANTS OF RIGHTS; [*]

(a) [*], TAE Technology, Etc. XOMA grants to Arana, on its own behalf and on behalf of its Affiliates, in the Field throughout the Territory, subject to the terms, conditions and limitations set forth in this Agreement:

(i) an exclusive (except as to the use of [*] by XOMA and its Affiliates, as provided in Section 5(f)), non-transferable license and/or right, without the right to grant sublicenses, to use [*] to identify, isolate, modify, develop and exploit Discovery Products; and

(ii) a non-exclusive, non-transferable license and/or right, without the right to grant sublicenses, to:

(x) use the Systems and/or the Discovery Know-How, and/or practice the Systems Patents and/or the Discovery Patent Rights, in each case to Discover, identify, isolate, modify, develop and exploit Discovery Products; and

(y) use the TAE Technology and/or the Systems, and/or practice the TAE Patent Rights and/or the Systems Patent Rights, in each case to alter, modify and/or express Antibodies and Antibody Products in order to discover, identify, isolate, modify and/or develop Licensed Products.

The grants provided for in this Section 5(a) include, to the extent required, a right and license to Arana, its Affiliates and any Arana Licensee, subject to the other limitations of this Agreement, to make, have made, use, sell, offer to sell, import or export any Licensed Product. The grant provided for under Section 5(a)(i) includes any Patent Right (other than the BCE Patent Rights, Arana's rights to which are addressed in clause (b) below), copyright or similar intellectual property right that is, as of the Effective Date, under the Control of XOMA and/or its Affiliates and shall be subject to all applicable limitations, restrictions and obligations provided for in this Agreement and any limitations or restrictions contained in any license or grant of rights from or other agreement with a Third Party the benefit of which is claimed by Arana, *provided* such terms (i) were made available in writing to Arana prior to the Effective Date, and (ii) are expressed to apply to collaborators or licensees of XOMA in the position of Arana under this Agreement.

(b) BCE Patent Rights. In addition, to the extent that the conduct by Arana of any of the activities expressly licensed by XOMA hereunder constitutes the practice of the BCE Patent Rights, Arana and its Affiliates shall be deemed to have a non-exclusive license, without the right to grant sublicenses, under the BCE Patent Rights to conduct such activities solely as provided in, and as limited by, the scope of the license grants in Section 5(a). For the avoidance of doubt, the license granted pursuant to this Section 5(b) shall not include any right (i) to make or have made any quantities of any product, including an Antibody, in a prokaryote other than as reasonably necessary to conduct Research and Development activities, (ii) to conduct phage display other than with the Transferred Materials and/or (iii) to conduct any activities for a Third Party except as reasonably necessary for an Arana Licensee to make (but not manufacture using the BCE Patent Rights), use, sell, offer to sell, import or export a Licensed Product after the initial binding domains have been Discovered by Arana or its Affiliates.

(c) Trade Secrets. Arana and/or each person or entity, including authorized Third Parties, who has been given access by Arana to the Transferred Materials, the Systems and/or the Source Code or Software (as such terms are defined in Section 8) acknowledges formulae, algorithms and computational methods contained therein may constitute XOMA's trade secret information. Arana shall take reasonable steps to prevent the dissemination of the trade secret information contained therein and shall permit the dissemination of such information only to those persons or entities with a "need to know" such information who acknowledge their obligation to maintain the secrecy of such trade secrets and not to use them for purposes not authorized hereunder. For the avoidance of doubt, Arana shall have an implied license to the trade secrets described in this Section 5(c) as is reasonably necessary to enjoy the benefits of the licenses otherwise granted in this Agreement, to the extent such trade secrets do not form part of the Know-How expressly licensed under this Agreement.

(d) [*] each of XOMA and Arana shall be obligated to keep accurate books and records sufficient to identify with reasonable specificity the uses to which [*] have been put and the Discovery Products which have been derived from or arose out of the use of [*].

(e) Limitations on Use of Source Materials and Copies. None of XOMA or its Affiliates shall [*], and XOMA agrees not to transfer, lend or otherwise make available [*] or [*] Materials (in whole or part) to any person other than XOMA's Affiliates or Arana. [*] Subject only to the foregoing, Arana acknowledges that XOMA and/or its Affiliates may, on their own behalf or on behalf of one or more Third Parties (x) [*], and/or (y) undertake competitive activities directed to a Target, including using copies of the Licensed Know-How and/or the Systems.

(f) Retention of Rights by XOMA. XOMA shall retain (i) ownership of and the right to use [*] for itself and its Affiliates, including for the avoidance of doubt as part of a bona fide collaboration, development, commercialization or marketing arrangement with a Third Party, to develop, commercialize, market or distribute Antibody Products, and (ii) the ownership and right to use, license or otherwise exploit in any manner whatsoever the Licensed Know-How and the Systems, the Source Code or the Software (as such terms are defined in Section 8), [*], the Licensed Patent Rights and/or any other Patent Right, copyright or other item of intellectual property that covers or claims the Transferred Materials and/or their creation, construction or use. [*] Except as otherwise expressly provided in this Agreement, under no circumstances shall a Party hereto, as a result of this Agreement, obtain any ownership interest in or other right to any technology, know-how, patents, patent applications, gene or genomic sequence data or information, products, or biological materials of the other Party, including items owned, controlled or developed by, or licensed to, the other Party, or transferred by the other Party to said Party, at any time pursuant to this Agreement.

Section 6. ARANA INVENTIONS; UNBLOCKING LICENSE

Without limitation to any other right Arana may have at Law, Arana shall be free to seek and obtain patent protection, except with respect to [*], the Discovery Patent Rights or the BCE Patent Rights themselves, for any inventions arising out of or relating to its authorized use or practice of the Transferred Materials, the Licensed Patent Rights, the Licensed Know-How, the Systems Patent Rights and/or the Systems Know-How, *provided*, *however*, that, solely to the extent such patent or patent application relating to such invention contains claims that would cover the use or practice of the Transferred Materials, the Licensed Patent Rights and/or any Systems Patent Rights, or would block XOMA, its Affiliates, licensees, partners or collaborators from full enjoyment of the same rights as are licensed hereunder to Arana, (a) Arana shall provide written notice of the filing of any such patent application to XOMA, and in the event Arana elects not to prosecute any such patent application or maintain any resulting patent, XOMA, at its own expense, but with the full assistance of Arana, shall be free to prosecute such patent application and/or maintain such patent, and (b) Arana shall be deemed to have granted to XOMA a non-exclusive, fully paid-up, irrevocable, worldwide license, in order for XOMA, and any Third Party working with XOMA, directly or without limitation as a licensee, partner or collaborator, to

enjoy the benefit, on its own behalf or on behalf of any Third Party, of the use or practice of the Transferred Materials, the Licensed Patent Rights and/or any patent or patent application covering the use of the Systems. Such license shall not extend to claims of patents or patent applications relating to Antibodies or Antibody Products, or methods and processes involving therapeutic or diagnostic use of Antibodies or Antibody Products. In the event that, after the Effective Date, Arana acquires Control of any Patent Rights to which this Section 6 would apply because the invention disclosures in such Patent Rights are covered by the first sentence hereof, then, subject to any limitations and obligations of any written agreement relating to such Patent Rights, Arana shall, at XOMA's option, extend to XOMA the same rights to such Patent Rights as are otherwise provided for herein.

Section 7. LIMITATIONS ON USE AND MODIFICATION

(a) Certain Transfers. All uses of the Transferred Materials shall initially be performed at Arana's Melbourne, Australia facilities; *provided*, *however*, that Arana shall be free to move the Transferred Materials to any other site of its selection that is and will remain under its or its Affiliates' control, it being understood that XOMA shall have no responsibility hereunder for any such transfer. Any site at which the Transferred Materials will be used shall be and shall remain accessible to employees only of Arana and its Affiliates, shall be under the exclusive control of Arana or its Affiliates and shall have reasonable safeguards designed to protect the Transferred Materials from theft, destruction or unauthorized use.

(b) Certain Limitations. Arana acknowledges, represents and warrants that the transfers provided for by this Agreement arise out of and are part of the Collaboration; *provided*, *however*, that the use of the Transferred Materials and the practice of the Licensed Patent Rights and any other Patent Rights to which rights are granted pursuant to this Agreement may, subject to the applicable provisions of this Agreement, be used by Arana and its Affiliates for any other purpose including the discovery, development and subsequent commercial sale of any composition of matter in the Field. Notwithstanding the foregoing, the following restrictions shall apply to the Transferred Materials:

(i) Except by XOMA or with XOMA's prior written consent, [*] may not be altered or modified.

(ii) The Transferred Materials may not be transferred or disposed of to a Third Party; *provided, however,* that [*].

(iii) Arana shall not use the Transferred Materials or practice the Licensed Patent Rights and any other Patent Rights to which rights are granted pursuant to this Agreement on behalf of any Third Party, [*] or otherwise engage in activities not directly associated with Arana's or its Affiliates' own internal discovery, research and development programs; *provided*, *however*, that, so long as the other limitations of this Agreement are satisfied, Arana may use the Transferred Materials or practice the Licensed Patent Rights and any other Patent Rights covered by this Agreement with respect to any Discovery Product as to which Arana or its Affiliates has either in-licensed or acquired rights from a Third Party where such in-license or grant of rights is for the exclusive development of such Discovery Product or variants thereof by Arana or its Affiliates and the original licensor does not become an Arana Licensee with respect to such Discovery Product.

(iv) Arana acknowledges that its rights to use the Transferred Materials are subject to all applicable limitations, restrictions and obligations provided for in the terms of any license or grant of rights from or other agreement with a Third Party the benefit of which is claimed by Arana, *provided* such terms (i) were made available in writing to Arana prior to the Effective Date, and (ii) are expressed to apply to collaborators or licensees of XOMA in the position of Arana under this Agreement.

(v) None of the grants of rights or licenses herein or the use of any of the Transferred Materials extend to or permit Arana to work with or extend any benefit hereunder to (A) any composition of matter, article of manufacture or Know-How arising out of the unlawful use of any item of Know-How or practice of any Patent Right owned or controlled by XOMA or its Affiliates that is also licensed to Arana or (B) any Third Party who the directors of Arana know is engaged in such unlawful use or practice.

Section 8. CERTAIN PROVISIONS RELATING TO SOFTWARE

(a) Additional Definitions. For purposes of this Section 8, the following terms shall have the respective meanings indicated below:

(i) "Applicable Patent Rights" shall mean (A) in the case where XOMA is the grantor of rights, claims of patents that (I) are now or hereafter acquired, owned by or assigned to XOMA and (II) cover subject matter contained in the Source Code or the Software, and (B) in the case where Arana is the grantor of rights, claims of patents that (I) are now or hereafter acquired, owned by or assigned to Arana and (II) cover subject matter contained in the Covered Code or the Covered Software.

(ii) "Covered Code" shall mean the Source Code and any Modifications to the Source Code made by Arana or any person or entity acting on Arana's behalf.

(iii) "Covered Software" shall mean the Software and any Modifications to the Software made by Arana or any person or entity acting on Arana's behalf.

(iv) "Modifications" shall mean any addition to, deletion from and/or other change to the substance and/or structure of the Source Code or the Software designated in item A.1 of Schedule 1.55 as non-encrypted. When code is released as a series of files, a Modification is (A) any addition to or deletion from the contents of a file containing the Covered Code or the Covered Software and/or (B) any new file or other representation of computer program statements that contains any part of the Covered Code or the Covered Software.

(v) "Software" shall mean the software, programs and/or computer instruction sets, other than the Source Code, consisting of the versions thereof existing and deployed at XOMA as of the Effective Date and more fully described in item A.1 of Schedule 1.55 and any changed or modified versions thereof that correct significant defects contained in the Software as of the Effective Date ("Corrected Software"). Expressly excluded from the definition of Software are (A) other programs, software and/or computer instructions that XOMA derives from such programs, software and/or computer instructions or develops, acquires or obtains the right to sublicense during the term of this Section 8, as well as (B) any changed, modified or enhanced versions of the Software (other than Corrected Software).

(vi) "Source Code" shall mean the human readable form of the Software designated in item A.1 of Schedule 1.55 as non-encrypted that is suitable for modification, including all modules it contains, plus any associated data files, interface definition files, scripts used to control compilation and installation of an executable computer instruction.

(b) Corrected Software. If, within the first [*] following the Effective Date, XOMA develops, licenses or acquires any Corrected Software, XOMA shall promptly provide Arana with a copy thereof. All Corrected Software shall be deemed, in accordance with the terms and conditions of this Section 8 and without payment of additional consideration, to be included in the definition of Software.

(c) Terms and Conditions.

(i) Any reproduction, use or dissemination of any Covered Code or Covered Software, including without limitation, any Modifications thereof, shall be limited to activities undertaken by employees of Arana or its Affiliates who are subject to the confidentiality and intellectual property provisions of this Agreement. Notwithstanding the foregoing, Arana may employ or use Third Parties to make Modifications or use the Covered Code or the Covered Software for purposes reasonably related to Arana's or its Affiliates' legitimate use as provided for by this Agreement, including this Section 8. Arana shall not grant any such Third Party the right to access the Software designated in item A.1 of Schedule 1.55 as non-encrypted or the Source Code unless and until such Third Party executes a written confidentiality agreement that provides, in addition to the other terms and conditions of such agreement, that (A) the Third Party will abide, for XOMA's and Arana's benefit, by the limitations provided for in this Section 8 and the other provisions of this Agreement, (B) all work will be undertaken by such Third Party in a manner so as to establish that any such work is done as a "work made for hire" and (C) such Third Party will assign any patent rights to Arana such that they become Applicable Patent Rights.

(ii) Arana shall retain and reproduce in all copies of the Covered Code and the Covered Software (A) the copyright and other proprietary notices and disclaimers of XOMA as they appear in the Source Code and the Software, respectively, (B) all notices in the Source Code and/or the Software that refer to this Section 8, and (C) to the extent it does not already exist, the notice provided for below:

"Portions Copyright (c) 2005-2009 XOMA Technology Ltd. All Rights Reserved.

"This file contains Source Code or Software or Modifications thereof as defined in and that are subject to a software license and related terms between Arana Therapeutics Limited and XOMA Development Corporation. You may not use this file except in compliance with that license and those terms. Please obtain a copy of the software license and related terms between Arana and XOMA by contacting the Company Secretary, of Arana Therapeutics Limited, and read it before using this file.

"Unless otherwise stated, these materials are distributed on an 'AS IS' basis, WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, AND XOMA HEREBY DISCLAIMS ALL SUCH WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR NON-INFRINGEMENT. Please see the software license and related terms between Arana and XOMA for the specific language governing rights and limitations under that license and those terms."

(iii) For any Modifications, Arana must cause the modified files to carry notices stating that Arana changed the files and the date of such change.

(iv) Arana will use commercially reasonable and diligent efforts to protect XOMA's proprietary interests in and to the Software, the Source Code and XOMA's Applicable Patent Rights by, as appropriate, ensuring that there is password protection of any computer or network containing any copies of the Covered Code or the Covered Software. In addition, Arana will prohibit its employees from disclosing to unauthorized Third Parties the Covered Code or the Covered Software except under the conditions required by this Section 8 and the acknowledgement that the Software and the Source Code constitute Confidential Information of XOMA under this Agreement.

(d) Arana Exclusive Rights. Arana shall own all Modifications to the Source Code or the Software designated in item A.1 of Schedule 1.55 as non-encrypted created by Arana pursuant to this Section 8 and shall have no obligation to share or provide copies or updates thereof to XOMA.

(e) Representations and Warranties Regarding Software and Source Code. XOMA represents and warrants that (i) the Source Code and the Software were made by XOMA employees and constitute a "work made for hire" and were not authored or distributed to Arana in violation of any agreements between XOMA and any Third Party, including any "open source" licenses, and (ii) it is not actually aware of any intellectual property rights of a Third Party that are infringed by the use of the Software in accordance with this Agreement.

(f) Limitations on Warranties and Support. XOMA's only obligations to provide to Arana updates to, revisions to or modifications of any of the Transferred Materials shall be those expressly provided in this Section 8. Arana shall be responsible for providing, at its cost, any Third Party hardware or software required to deploy and operate the Systems. The Covered Code or the Covered Software may contain in whole or in part pre-release, untested or not fully tested works, may contain errors that could cause failures or loss of data, and may be incomplete or contain inaccuracies. Arana expressly acknowledges and agrees that use of the Covered Code or the Covered Software, or any portion thereof, is at Arana's sole and entire risk. UNLESS OTHERWISE STATED, THE SOURCE CODE AND THE SOFTWARE ARE PROVIDED "AS IS" AND WITHOUT WARRANTY, UPGRADES OR SUPPORT OF ANY KIND. UNLESS OTHERWISE STATED, XOMA, ITS LICENSOR(S) AND CONTRIBUTORS (COLLECTIVELY REFERRED TO AS "XOMA" FOR THE PURPOSES OF THIS SECTION 8(f)) EXPRESSLY DISCLAIM ALL WARRANTIES AND/OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT AND OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS. XOMA DOES NOT WARRANT AGAINST INTERFERENCE WITH ARANA'S ENJOYMENT OF THE COVERED CODE AND THE COVERED SOFTWARE, THAT THE FUNCTIONS CONTAINED IN THE COVERED CODE OR THE COVERED SOFTWARE WILL MEET ARANA'S REQUIREMENTS, THAT THE OPERATION OF THE COVERED CODE OR THE COVERED SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE COVERED CODE OR THE COVERED SOFTWARE WILL BE CORRECTED. Arana acknowledges that neither the Covered Code nor the Covered Software is intended for use in the operation of nuclear facilities, aircraft navigation, communication systems or air traffic control machines, in which case the failure of the Covered Code or the Covered Software could lead to death, personal injury or severe physical or environmental damage.

(g) Government End Users. Each of the Covered Code and the Covered Software is a "commercial item" as defined in FAR 2.101. Government software and technical data rights in the Covered Code or the Covered Software include only those rights customarily provided to the public as defined in this Section 8. This customary commercial license in technical data and software is provided in accordance with FAR 12.211 (Technical Data) and 12.212 (Computer Software) and, for Department of Defense purchases, DFAR 252.227-7015 (Technical Data — Commercial Items) and 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). Accordingly, all U.S. Government End Users acquire the Covered Code or the Covered Software with only those rights set forth herein.

Section 9. UPFRONT FEE

In consideration for the obligation to deliver a copy of [*] in accordance with the [*] Specifications, Arana shall pay XOMA a one-time, fee of Six Million United States Dollars (US$6,000,000), of which (a) Four Million United States Dollars (US$4,000,000) shall be payable on or not later than [*] following receipt by Arana of the Transferred Materials delivered pursuant to Section 3(a), and (b) Two Million United States Dollars (US$2,000,000) shall be payable on the first anniversary of the receipt by Arana of the Transferred Materials delivered pursuant to Section 3(a), [*] in both cases subject to receipt of an invoice issued by XOMA.

Section 10. MILESTONES

In consideration for the obligation to deliver the Discovery Know-How relating to [*] and the Systems and the transfers and grants of rights relating to the BCE Patent Rights and the TAE Technology, Arana shall pay as follows:

(a) For each Royalty-Bearing Discovery Product, on a Royalty-Bearing Discovery Product-by-Royalty-Bearing Discovery Product basis, Arana shall pay XOMA the amounts set forth below:

Event	Payment
First dosing in a Phase 1 Trial	[*]
First dosing in a Phase 2 Trial	[*]
First dosing in a Phase 3 Trial	[*]
Acceptance of first filing of BLA	[*]

[*]

(b) For each TAE Product, on a TAE Product-by-TAE Product basis, Arana shall pay XOMA the amounts set forth below:

Event	Payment
First dosing in a Phase 1 Trial	[*]
First dosing in a Phase 2 Trial	[*]
First dosing in a Phase 3 Trial	[*]
Acceptance of first filing of BLA	[*]

provided that in no event shall a milestone payment be payable under this paragraph (b) with respect to a TAE Product as to which milestone payments are also payable pursuant to paragraph (a) above.

(d) For the avoidance of doubt, the milestone payments due for each Licensed Product shall be paid only once per such Licensed Product.

Section 11. ROYALTY PAYMENTS

In consideration for the obligation to deliver the Discovery Know-How relating to [*] and the Systems and the transfers and grants of rights relating to the BCE Patent Rights and the TAE Technology, Arana shall pay as follows:

(a) Rates. Arana shall pay XOMA a running royalty of:

(i) [*] of the Net Sales of each Royalty-Bearing Discovery Product [*];

(ii) [*]

(iii) [*] of the Net Sales of each TAE Product; provided that in no event shall a royalty be payable under this clause (iii) with respect to a TAE Product as to which a royalty is also payable pursuant to clause (i) or clause (ii) above.

(b) Multiple Antibodies. For the avoidance of doubt, the royalty rates specified in Section 11(a) apply regardless of the number of Antibodies comprised in a Licensed Product.

(c) Term. The obligation to pay royalties on Net Sales of Discovery Products shall commence on a country-by-country basis upon the First Commercial Sale of each Discovery Product in such country and shall continue on a country-by-country basis [*]. The obligation to pay royalties on Net Sales of TAE Products shall commence on a country-by-country basis upon the First Commercial Sale of each TAE Product in such country and shall continue on a country-by-country basis [*].

Section 12. REPORTING AND RECORD KEEPING

(a) Milestone Reporting. During the term of this Agreement, Arana shall within [*] after the achievement of any milestone event referred to in Section 10, furnish to XOMA a written notice indicating the milestone achieved and, if applicable, the relevant indication, label expansion and/or Regulatory Authority. Milestone payments for each milestone event shall be due simultaneously with Arana's report under this Section 12(a) for such milestone event.

(b) Royalty Reporting.

(i) All amounts payable to XOMA under Section 11 shall be paid on a [*] basis. Arana shall, within [*] after the end of each [*], deliver to XOMA a written report of the amount due to XOMA, pursuant to Section 11, for the Net Sales in such calendar quarter, indicating [*]. Royalty payments for each calendar quarter shall be due simultaneously with Arana's report under this Section 12(b) for such quarter.

(ii) Arana shall provide XOMA a [*] flash statement of the amount of gross sales of each Licensed Product in the Territory during the applicable [*]. Arana shall require any Arana Licensees to account for their Net Sales and to provide such reports with respect thereto so that Arana can fulfill the above-mentioned obligations in this Section 12(b).

(iii) Royalties payable on Net Sales in countries other than the United States shall be calculated in accordance with the standard exchange rate conversion practices used by Arana for financial accounting purposes in respect of the calculation of Net Sales. If no royalty or payment is due for any royalty period hereunder, Arana shall so report.

(c) Record Keeping. Arana shall keep and shall require any Arana Licensees to keep (all in accordance with GAAP), for at least [*] after prepared, complete and accurate books and records in sufficient detail to properly reflect all gross sales and Net Sales and to enable the royalties payable hereunder to be determined. Arana shall include in each agreement with each applicable Arana Licensee a provision requiring such Arana Licensee to make reports to Arana, to keep and maintain records of sales made pursuant to such agreement and to grant access to such records by XOMA's independent registered public accounting firm to the same extent required of Arana under this Agreement.

Section 13. OTHER PAYMENT-RELATED PROVISIONS

(a) Audit. Upon the written request of XOMA (such request to be made no more than once every calendar year), Arana shall permit an independent registered public accounting firm selected by XOMA and acceptable to Arana, which acceptance shall not be unreasonably withheld or delayed, to have access, at reasonable times and during normal business hours, to such records of Arana as may be reasonably necessary to verify the accuracy of an Arana payment report hereunder; *provided* that such records shall be limited to those prepared since the beginning of the then current calendar year or during the immediately preceding [*]. Each Party shall use commercially reasonable efforts to schedule all such verifications within [*] after XOMA makes its written request. All such verifications shall be conducted not more than [*] in, or with respect to, each calendar year. The report of XOMA's independent registered public accounting firm shall be made available to both Parties. Subject to Arana's rights under Section 18(h), in the event XOMA's independent registered public accounting firm concludes that additional amounts were owed to XOMA for such period, the additional amounts shall be paid by Arana within [*] of the date XOMA delivers to Arana such written report so concluding, unless such report contains manifest error. In the event XOMA's independent registered public accounting firm concludes that there was an overpayment to XOMA during such period, the overpayment shall be repaid by XOMA within [*] of the date XOMA received such written report so concluding, unless such report contains manifest error. The fees charged by such independent registered public accounting firm shall be paid by XOMA unless such audit discloses a payment deficiency of more than [*] of the amount due under this Agreement for the period in question, in which case Arana will bear the full cost of such audit. Each Party agrees that all information subject to review under this Section 13(a), or under any agreement with an Arana Licensee, is confidential and that XOMA shall cause its independent registered public accounting firm to retain all such information in confidence. XOMA's independent registered public accounting firm shall only report to XOMA as to the computation of royalties or charges and invoices payable under this Agreement, as applicable, and shall not disclose to XOMA any other information of Arana or any Arana Licensee.

(b) Taxes. All payments pursuant to Section 9 shall be made free and clear of any taxes imposed by or under the authority of any government or public authority (including without limitation any withholding or similar tax). If any Law requires the withholding of amounts of income or other taxes from any other payments made by Arana to XOMA under this Agreement, (i) Arana will (A) make such withholding payments as required by Law and subtract such amounts from the payments due to XOMA; and (B) submit proof of payment of the withholding tax to XOMA at the time of making payment of the balance to XOMA; and (ii) the Parties will use all commercially reasonable efforts to enable XOMA to obtain the benefit of any Law or treaty that minimizes or removes the obligation to withhold taxes.

(c) Blocked Currency. If by Law conversion into United States dollars or transfer of funds of a convertible currency to the United States is restricted or forbidden, the Party owing such payment shall give the Party to which such payment is owed prompt written notice and shall make such payment due under this Agreement through such means or methods as are lawful in such country as the Party to which such payment is owed may reasonably designate. Failing the designation by the Party to which such payment is owed of such lawful means or methods within [*] after such written notice is given to such Party, the Party owing such payment shall deposit such royalty payment in local currency to the credit of the Party to which such payment is owed in a recognized banking institution designated by such Party, or if none is designated by such Party within the [*] period described above, in a recognized banking institution selected by the Party owing such payment and identified in a written notice to other Party, and such deposit shall fulfill all obligations of the Party owing such payment to the other Party with respect to such payment.

(d) Interest on Late Payments. Any failure by a Party to make a payment when due shall obligate such Party to pay interest to the receiving Party at a rate equal to [*]. The Applicable Interest Rate shall be calculated from the date payment was due until actually received by the receiving Party based on actual number of days lapsed and a 360-day year.

(e) Method of Payment. Except as provided in Section 13(c), payments to be made by one Party to the other under this Agreement shall be payable in United States dollars and shall be paid by wire transfer in immediately available funds to such bank account as is designated in writing by such Party. Attached hereto as Schedule 13(e) is such bank account information for payments to be made to XOMA hereunder, until such time as XOMA designates a different bank account as provided herein.

(f) Certain Acknowledgements. Arana acknowledges and agrees that the amount of milestones and royalties due hereunder and the duration of the royalty payments herein have been chosen for the convenience of the Parties as payment for use of the Transferred Materials during the term of this Agreement under the terms and conditions hereof.

Section 14. CONFIDENTIALITY

(a) Nondisclosure Obligations.

(i) General. Except as otherwise provided in this Section 14, during the term of this Agreement and for a period of [*] thereafter, or longer if required by any agreement with a Third Party relating to such Confidential Information, each Receiving Party shall maintain the Confidential Information of each Disclosing Party in confidence and use it only for purposes specifically authorized under this Agreement. Upon the expiration or termination of this Agreement, each Party shall promptly inform the other Party in writing if any Confidential Information the other Party received from such Party hereunder is covered by such a Third Party agreement with such Party and if the term of confidentiality for such Confidential Information will extend beyond such [*] period.

(ii) Limitations. To the extent it is reasonably necessary or appropriate to fulfill its obligations or exercise its rights under this Agreement and subject to advance written notification to the Disclosing Party: (A) a Party may disclose Confidential Information it is otherwise obligated not to disclose under this Section 14(a), to its Affiliates, Arana Licensees (where Arana is the Receiving Party), a Third Party to which XOMA or an Affiliate of XOMA licenses or grants rights, as part of a bona fide collaboration, development, commercialization or marketing arrangement (where XOMA is the Receiving Party), consultants, outside contractors and clinical investigators, on a strict need-to-know basis for the purposes contemplated by this Agreement and on condition that such entities or persons agree to keep the Confidential Information confidential for the same time periods and to the same extent as such Party is required to keep the Confidential Information confidential hereunder; and (B) a Party or any Arana Licensees may disclose, using appropriate measures to preserve confidentiality, such Confidential Information to government or other regulatory authorities to the extent that such disclosure is reasonably necessary to obtain authorizations to conduct clinical trials of, and/or to commercially market, Licensed Products. Furthermore, a Receiving Party may request permission from the Disclosing Party to disclose such Confidential Information to the extent that such disclosure is reasonably necessary to obtain patents which such Receiving Party is permitted to obtain hereunder, which permission shall not be unreasonably withheld or delayed.

(iii) Required Disclosure. Subject to Section 14(c)(i), a Receiving Party may disclose Confidential Information pursuant to interrogatories, requests for information or documents, subpoena, civil investigative demand issued by a court or governmental agency or as otherwise required by Law; *provided*, *however*, that the Receiving Party shall notify the Disclosing Party promptly upon receipt thereof, giving (where practicable) the Disclosing Party sufficient advance notice to permit it to oppose, limit or seek confidential treatment for such disclosure; and *provided*, *further*, that the Receiving Party shall furnish only that portion of the Confidential Information which it is advised by counsel is legally required whether or not a protective order or other similar order is obtained by the Disclosing Party. Nothing in this Section 14(a)(iii) prevents or restricts Arana or its Affiliates from making disclosure required by the listing rules of a stock exchange on which its shares are listed, *provided* that Arana shall use its commercially reasonable efforts to notify XOMA prior to making any such required disclosure.

(b) Injunctive Relief. The Parties hereto understand and agree that remedies at law may be inadequate to protect against any breach of any of the provisions of this Section 14 by either Party or their employees, agents, officers or directors or any other person acting in concert with it or on its behalf. Accordingly, each Party shall be entitled to the granting of injunctive relief by a court of competent jurisdiction against any action that constitutes any such breach of this Section 14.

(c) Terms of this Agreement. The terms of this Agreement shall be treated as the Confidential Information of Arana and XOMA and shall not be disclosed without the written permission of XOMA or Arana, as the case may be, except (i) as required by securities or other applicable laws or stock exchange rules, (ii) to a party's accountants, attorneys and financial and other professional advisors, (iii) so long as such disclosure is subject to confidentiality undertakings at least as stringent as those in this Agreement, to actual or prospective collaboration partners, (where collaboration is permitted under this Agreement) acquirers, investors or underwriters, or (iv) as otherwise provided herein. The Parties hereby agree to the release of a press release in the form attached hereto as Schedule 14(c) upon full execution of this Agreement and that the fact of the consummation of this Agreement, as well as the terms that are expressly described in such press release, shall be deemed to be in the public domain. If either Party desires to release a separate announcement relating to this Agreement, it shall first allow the other Party [*] to approve in writing such proposed announcement; *provided* that such approval shall not be unreasonably withheld or delayed. Nothing herein shall be deemed to prohibit, restrict or limit any disclosure that is consistent in all material respects with prior disclosures.

Section 15. REPRESENTATIONS AND WARRANTIES

(a) Representations, Warranties and Covenants of Arana. Arana represents and warrants to and covenants with XOMA that:

(i) Arana is duly organized, validly existing and in good standing under the laws of Australia;

(ii) Arana has the full legal right, authority and power to enter into this Agreement, and to extend the rights and licenses granted to XOMA in this Agreement;

(iii) Arana has taken all necessary action to authorize the execution, delivery and performance of this Agreement;

(iv) upon the execution and delivery of this Agreement, this Agreement shall constitute a valid and binding obligation of Arana, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' and contracting Parties' rights generally and except as enforceability may be subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law); and

(v) the performance of Arana's obligations under this Agreement will not conflict with Arana's organizational documents or result in a breach of any agreements, contracts or other arrangements to which it is a Party or violate any court or administrative order by which it is bound.

(b) Representations, Warranties and Covenants of XOMA. XOMA represents and warrants to and covenants with Arana that:

(i) XOMA is duly organized, validly existing and in good standing under the laws of Delaware;

(ii) XOMA has the full legal right, authority and power to enter into this Agreement, and to extend the rights and licenses granted to Arana in this Agreement;

(iii) XOMA has taken all necessary corporate action to authorize the execution, delivery and performance of this Agreement;

(iv) upon the execution and delivery of this Agreement, this Agreement shall constitute a valid and binding obligation of XOMA, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' and contracting Parties' rights generally and except as enforceability may be subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law);

(v) the performance of its obligations under this Agreement will not conflict with XOMA's organizational documents or result in a breach of any agreements, contracts or other arrangements, to which it is a Party or violate any court or administrative order by which it is bound;

[*]

(c) Limited Liability. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER ARANA NOR XOMA (A) MAKES ANY WARRANTY, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OR (B) WILL BE LIABLE WITH RESPECT TO ANY MATTER ARISING UNDER THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS.

Section 16. INDEMNITY

(a) Arana Indemnity Obligations. Subject to Section 16(c), Arana agrees to defend, indemnify and hold XOMA, its Affiliates and their respective employees, directors, officers and agents harmless from all claims, losses, damages or expenses (including reasonable attorneys' fees and costs of litigation) arising as a result of (i) any use of the Transferred Materials; (ii) actual or asserted violations of any applicable law or regulation by Arana, any Arana Licensees and their respective Affiliates by virtue of which any Licensed Products manufactured, distributed or sold by Arana, any Arana Licensees or their respective Affiliates pursuant to this Agreement shall be alleged or determined to be adulterated, misbranded, mislabeled or otherwise not in compliance with any applicable law or regulation; (iii) claims for bodily injury, death or property damage attributable to the manufacture, distribution, sale or use of any Licensed Products by Arana, any Arana Licensees or their respective Affiliates; (iv) a recall of a Licensed Product

manufactured, distributed or sold by Arana, any Arana Licensees or their respective Affiliates ordered by a governmental agency or required by a confirmed Licensed Product failure; (v) Arana's breach of any of its representations, warranties or covenants hereunder; or (vi) gross negligence or fraud by Arana, its Affiliates or any of their respective employees, directors, officers or agents in relation to actions or activities under this Agreement.

(b) XOMA Indemnity Obligations. Subject to Section 16(c), XOMA agrees to defend, indemnify and hold Arana, its Affiliates and their respective employees, directors, officers and agents harmless from all claims, losses, damages or expenses (including reasonable attorneys' fees and costs of litigation) arising as a result of (i) [*]; (ii) XOMA's breach of any of its representations, warranties or covenants hereunder; or (iii) gross negligence or fraud by XOMA, its Affiliates or any of their respective employees, directors, officers or agents in relation to actions or activities under this Agreement.

(c) Limitation on Indemnity Obligations. Neither Party, its Affiliates or their respective employees and agents shall be entitled to the indemnities set forth in Sections 16(a) or 16(b) respectively, to the comparative extent the claim, loss, damage or expense for which indemnification is sought (i) was caused by a grossly negligent, reckless or intentional act or omission by such Party, its directors, officers, employees or authorized agents; or (ii) arose as a direct result of such Party's breach of any of its representations, warranties or covenants hereunder.

(d) Procedure. If a Party or any of its Affiliates or their respective employees or agents (collectively, the "Indemnitee") intends to claim indemnification under this Section 16, the Indemnitee shall promptly notify the other Party (the "Indemnitor") of any loss, claim, damage, liability or action in respect of which the Indemnitee intends to claim such indemnification, and the Indemnitor shall assume the defense thereof with counsel selected by the Indemnitor and reasonably acceptable to the Indemnitee; *provided*, *however*, that an Indemnitee shall have the right to retain its own counsel, with the fees and expenses to be paid by the Indemnitee, if representation of such Indemnitee by the counsel retained by the Indemnitor would be inappropriate due to actual or potential differing interests between such Indemnitee and any other Party represented by such counsel in such proceedings. The Indemnitor shall have the right to settle or compromise any claims for which it is providing indemnification under this Section 16; *provided* that the consent of the Indemnitee (which shall not be unreasonably withheld or delayed) shall be required in the event any such settlement or compromise would adversely affect the interests of the Indemnitee. The indemnity agreement in this Section 16 shall not apply to amounts paid in settlement of any loss, claim, damage, liability or action if such settlement is effected without the consent of the Indemnitor. The failure to deliver notice to the Indemnitor within a reasonable time after the commencement of any such action, if prejudicial to the Indemnitor's ability to defend such action, shall relieve such Indemnitor of any liability to the Indemnitee under this Section 16 resulting from such failure, but the omission so to deliver notice to the Indemnitor will not relieve it of any liability that it may have to any Indemnitee otherwise than under this Section 16. The Indemnitee under this Section 16, its employees and agents, shall cooperate fully with the Indemnitor and its legal representatives in the investigation of any action, claim or liability covered by this indemnification.

Section 17. EXPIRATION AND TERMINATION

(a) Term of Agreement. The term of this Agreement shall commence on the Effective Date and shall continue until the latest of the following to occur: (i) payment by Arana and receipt by XOMA of the last amount to be paid by Arana to XOMA pursuant to the terms hereof; (ii) cessation by Arana, its Affiliates and Arana Licensees of the use of [*] or (iii) the cessation by Arana, its Affiliates and Arana Licensees of the exercise of the rights granted to them pursuant to Sections 5(a) and 5(b). Arana agrees to notify XOMA promptly upon any cessation of such use or exercise of rights.

(b) Events of Default.

(i) An "Event of Default" by either Party shall have occurred upon (i) the occurrence of a material breach of this Agreement if such Party fails to remedy such breach within [*] after written notice thereof by the non-breaching Party ([*] in the event of a Party's failure to make a payment required hereunder) or, if remediation of such breach (other than a payment breach) within [*] is not practicable, if such Party fails to commence and diligently pursue such remediation during such [*] period, or (ii) the commencement of any proceeding in or for bankruptcy, insolvency, dissolution or winding up by or against such Party that is not dismissed or otherwise disposed of within [*] thereafter.

(ii) In partial consideration for the grant of rights hereunder, Arana agrees that, except to the extent compelled to do so by legal process and subject to any specific contractual obligations of Arana existing on the Effective Date in circumstances constituting, in the reasonable, written opinion of counsel to Arana, a breach thereof, it will not contest, direct another to contest or knowingly assist another in contesting the validity or enforceability of any of the Patent Rights licensed hereunder. The Parties agree that this covenant is a material term of this Agreement, and breach of this covenant will constitute a material breach of this Agreement.

(c) Effect of an Event of Default. In the event of an Event of Default, the non-defaulting Party shall have the right, at its option exercisable in its sole discretion, in addition to any other rights or remedies available to it at law or in equity and subject to the limitations set forth in Sections 15(c) and 18(h) hereof, to, by written notice to the other Party, terminate this Agreement in its entirety.

(d) Effect of Expiration or Termination of Agreement. The expiration or termination of this Agreement shall not relieve the Parties of any obligation accruing prior to such expiration or termination. In no way limiting the generality of the foregoing, the provisions of Sections 1, 5(c), 5(f), 6, 10, 11, 12, 13, 14, 15, 16, 17(d) and 18 shall survive the expiration or termination of this Agreement. For the avoidance of doubt, and subject to obtaining a license of any necessary Patent Rights (including without limitation from XOMA), Arana may continue to develop and commercialize existing Licensed Products or potential Licensed Products subject to Arana's payment obligations under this Agreement.

Section 18. MISCELLANEOUS

(a) Force Majeure. Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party, including but not limited to fire, floods, embargoes, war, acts of war (whether war is declared or not), insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, acts of God or acts, omissions or delays in acting by any governmental authority; *provided*, *however*, that the Party so affected shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either Party shall provide the other Party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure. The Parties shall mutually seek a resolution of the delay or the failure to perform as noted above.

(b) Assignment. This Agreement may not be assigned or otherwise transferred, in whole or in part, by either Party without the consent of the other Party; *provided*, *however*, that either Arana or XOMA may, without such consent, assign its rights and obligations under this Agreement (i) to any Affiliate, or (ii) in connection with a merger, consolidation or sale of such portion of a Party's assets that includes rights under this Agreement to an unrelated Third Party; *provided*, *further*, that such Party's rights and obligations under this Agreement shall be assumed by its successor in interest in any such transaction and shall not be transferred separate from all or substantially all of its other business assets, including those business assets that are the subject of this Agreement. Any purported assignment in violation of the preceding sentence shall be void. Any permitted assignee shall assume all obligations of its assignor under this Agreement, unless the Parties otherwise agree; *provided*, *however*, that this section will not relieve the assignor from any of its obligations as a surety even after the assignment.

(c) Bankruptcy. All rights and licenses granted under this Agreement by one Party to the other Party are, and shall otherwise be deemed to be, for purposes of Section 365(n) of Title XI of the United States Code (the "Bankruptcy Code"), licenses of rights to "intellectual property" as defined under Section 101(56) of the Bankruptcy Code. The Parties agree that the licensing Party under this Agreement shall retain and may fully exercise all of its rights and elections under the Bankruptcy Code in the event of a bankruptcy by the other Party. The Parties further agree that in the event of the commencement of a bankruptcy proceeding by or against one Party under the Bankruptcy Code, the other Party, to the extent permitted under applicable Laws, shall be entitled to complete access to any such intellectual property pertaining to the rights granted in the licenses hereunder of the Party by or against whom a bankruptcy proceeding has been commenced and all embodiments of such intellectual property.

(d) Severability. Each Party hereby agrees that it does not intend to violate any public policy, Law, treaty or decision of any government agency or executive body thereof of any country or community or association of countries. Should one or more provisions of this Agreement be or become invalid, the Parties hereto shall substitute, by mutual consent, valid provisions for such invalid provisions which valid provisions in their economic effect are sufficiently

similar to the invalid provisions that it can be reasonably assumed that the Parties would have entered into this Agreement with such valid provisions in lieu of such invalid provisions. In case such valid provisions cannot be agreed upon, the invalidity of one or several provisions of this Agreement shall not affect the validity of this Agreement as a whole, unless the invalid provisions are of such essential importance to this Agreement that it is to be reasonably assumed that the Parties would not have entered into this Agreement without the invalid provisions.

(e) Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by one of the Parties hereto to the other shall be in writing, delivered personally or by facsimile (and promptly confirmed by telephone, personal delivery or courier) or courier, postage prepaid (where applicable), addressed to such other Party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor and shall be effective upon receipt by the addressee.

If to Arana:

Arana Therapeutics Limited
Level 2
37 Epping Road
Macquarie Park
New South Wales 2113
Australia
Attention: Company Secretary
Telephone: +61 (2) 8061 9900
Facsimile: +61 (2) 8061 9999

If to XOMA:

XOMA Development Corporation
2910 Seventh Street
Berkeley, California 94710
USA
Attention: Legal Department
Telephone: +1 (510) 204-7200
Facsimile: +1 (510) 649-7571

with a copy (which shall not constitute notice) to:

Cahill Gordon & Reindel LLP
80 Pine Street
New York, New York 10005
USA
Attention: Geoffrey E. Liebmann
Telephone: +1 (212) 701-3000
Facsimile: +1 (212) 269-5420

(f) Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of [*], without reference to the conflicts of law principles thereof; *provided*, that the interpretation and application of provisions hereof relating to the existence, ownership, validity or scope of the intellectual property rights of either Party, as well as any dispute relating to such provisions or rights, shall be governed by and construed in accordance with the laws of the State of New York.

(g) Forum Selection; Consent to Jurisdiction. Subject to Section 18(h), any litigation based hereon, or arising out of, under, or in connection with this Agreement, shall be brought and maintained exclusively in the courts located within London, England; *provided,* that any litigation based on, or arising out of, under or in connection with the interpretation and application of provisions hereof relating to the existence, ownership, validity or scope of the intellectual property rights of either Party shall be brought and maintained exclusively in the courts located within New York, New York. The Parties hereby expressly and irrevocably submit to the jurisdiction of the courts located within London, England and New York, New York, as applicable, for the limited purpose of any such litigation as set forth above. The Parties further irrevocably consent to the service of process by registered mail, postage prepaid, or by personal service. The Parties hereby expressly and irrevocably waive, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any such litigation brought in any such court referred to above and any claim that any such litigation has been brought in an inconvenient forum.

(h) Dispute Resolution.

(i) In the event of any controversy or claim arising out of or relating to this Agreement the Parties hereby agree that they will first attempt in good faith to resolve such controversy or claim promptly by negotiations. If such a controversy or claim should arise hereunder, the matter shall be referred to the chief executive officers of XOMA and Arana, or their respective designees (the "Representatives"). If the matter has not been resolved within [*] of the first meeting of the Representatives (which period may be extended by mutual agreement) concerning such matter, either Party may initiate arbitration by giving notice to that effect to the other Party simultaneously with filing a notice with the International Chamber of Commerce or its successor organization ("ICC") in accordance with its International Arbitration Rules. Such dispute shall then be settled by arbitration in London, England or, in the case of any dispute based on, or arising out of, under or in connection with the provisions hereof relating to the intellectual property rights of either Party, in New York, New York, to be conducted in the English language and in accordance with the International Arbitration Rules of the ICC or other rules agreed to by the Parties, by a panel of three neutral arbitrators who shall be selected by the Parties using the procedures for arbitrator selection of the ICC.

(A) The panel shall render its decision and award, including a statement of reasons upon which such award is based, within [*] 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, 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 18(g).

(B) Except as provided in Section 18(h)(ii), the procedures specified in this Section 18(h) shall be the sole and exclusive procedures for the resolution of disputes between the Parties arising out of or relating to this Agreement; *provided* that a Party, without prejudice to the above procedures, may seek injunctive relief or other provisional judicial relief if in its sole judgment such action is necessary to avoid irreparable damage. Despite such actions seeking injunctive or other provisional judicial relief, the Parties will continue to participate in good faith in the procedures specified in this Section 18(h).

(C) The arbitrators shall issue with the rulings a written determination as to how the fees and expenses of the arbitration, along with the reasonable legal fees and expenses of each Party (including all attorneys' fees, witness fees and expenses), shall be allocated between the Parties. The arbitrators shall allocate such fees and expenses in a way that bears a reasonable relationship to the outcome of the arbitral proceeding, with the Party prevailing on more issues, or issues of greater value or gravity, recovering a relatively larger share of its legal fees and expenses.

(ii) Without limiting or otherwise restricting the Parties' respective rights and obligations expressly set forth in the other provisions of this Agreement, the Parties agree that any dispute between them over the inventorship, ownership, validity, enforceability or infringement of any Patent Rights related to the Collaboration (including without limitation all Patent Rights in respect of or arising out of the use of the Transferred Materials) and Controlled by either Party that cannot be resolved between them after following the procedures set forth in the first two sentences of Section 18(h)(i) shall be presented only to a court of competent jurisdiction for resolution pursuant to Section 18(g).

(iii) The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

(i) Entire Agreement. This Agreement, together with the schedules, exhibits and appendices hereto and any confidentiality agreement(s) executed in contemplation of this Agreement, contains the entire understanding of the Parties with respect to the subject matter hereof. All express or implied agreements and understandings, either oral or written, heretofore made are expressly merged in and made a part of this Agreement. This Agreement may be amended, or any term hereof modified, only by a written instrument duly executed by both Parties hereto.

(j) Headings. The captions to the several Sections hereof and Schedules hereto are not a part of this Agreement, but are merely guides or labels to assist in locating and reading the several Sections hereof and Schedules hereto.

(k) No Partnership. It is expressly agreed that the relationship between Arana, on the one hand, and XOMA, on the other hand, shall not constitute a partnership, joint venture or agency. Subject to Section 14(c), neither Arana, on the one hand, nor XOMA, on the one hand, shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on the other, without the prior consent of the other Party to do so.

(l) Exports. The Parties acknowledge that the export of technical data, materials or products is subject to the exporting Party receiving any necessary export licenses and that the Parties cannot be responsible for any delays attributable to export controls which are beyond the reasonable control of either Party. Arana and XOMA agree not to export or re-export, directly or indirectly, any information, technical data, the direct product of such data, samples or equipment received or generated under this Agreement in violation of any applicable export control laws or governmental regulations. Arana and XOMA agree to obtain similar covenants from their licensees, sublicensees, or corporate partners, as the case may be, and contractors with respect to the subject matter of this Section 18(l).

(m) Waiver. The waiver by either Party hereto of any right hereunder or the failure to perform or of a breach by the other Party shall not be deemed a waiver of any other right hereunder or of any other breach or failure by said other Party whether of a similar nature or otherwise.

(n) 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. An executed counterpart may be delivered by facsimile or other electronic means.

(o) Business Days. Where an act is required to be performed or a payment required to be made on a day that is not a business day in the principal place of business of the Party required to perform such act or make such payment, the act will be required to be performed or the payment will be required to be made on the following business day.

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IN WITNESS WHEREOF, the undersigned parties have agreed to the foregoing as of the date first written above.

ARANA THERAPEUTICS LIMITED

By: _____
Name:
Title: Director

By: _____
Name:
Title: Director

XOMA DEVELOPMENT CORPORATION

By: _____
Name:
Title:

Bacterial Cell Expression Patent Rights

A. Title: Modular Assembly of Antibody Genes, Antibodies Prepared Thereby and Use

Inventors: Robinson, Liu, Horwitz, Wall, Better

1) Based on PCT/US86/02269, which is a continuation-in-part of U.S. Application No. 06/793,980 filed November 1, 1985 (abandoned).

COUNTRY	APPLICATION NO.	PATENT NO.
Australia	65981/86	AU 606,320
Denmark	3385/87	DK 175680
Canada	521,909	Abandoned
Europe	86906676.1	0247091 Abandoned
Europe	92115754.1	Abandoned
Japan	505887/1986	Abandoned
Taiwan	75105650	51922
*United States	06/793,980	Abandoned
*United States	U.S. National Phase of PCT/US86/02269	Abandoned

* Cases abandoned in favor of a continuing application.

2) Based on PCT/US88/02514, which corresponds to U.S. Application No. 07/077,528, which is a continuation-in-part PCT/US86/02269 (abandoned), which is a continuation-in-part of U.S. Application No. 06/793,980 (abandoned).

COUNTRY	APPLICATION NO.	PATENT NO.
Australia	23244/88	AU 632,462
Canada	572,398	CA 1,341,235
Denmark	192/90	DK 174824
Denmark	200301155	DK 175654
Denmark	200301156	DK 175581
Europe	EP 88907510.7	EP 0371998
Austria	EP 88907510.7	AT 0102249
Belgium	EP 88907510.7	BE 0371998
France	EP 88907510.7	FR 0371998
Germany	EP 88907510.7	DE 3888186.1
Italy	EP 88907510.7	IT 0371998
Luxembourg	EP 88907510.7	LU 0371998
Netherlands	EP 88907510.7	NL 0371998
Sweden	EP 88907510.7	SE 0371998
Switzerland/Liechtenstein	EP 88907510.7	CH 0371998

United Kingdom	EP 88907510.7	GB 0371998
Europe	EP 93100041.8	EP 0550400
Austria	EP 93100041.8	AT0140266E
Belgium	EP 93100041.8	BE 0550400
France	EP 93100041.8	FR 0550400
Germany	EP 93100041.8	DE 3855421.6
Italy	EP 93100041.8	IT 0550400
Luxembourg	EP 93100041.8	LU 0550400
Netherlands	EP 93100041.8	NL 0550400
Sweden	EP 93100041.8	SE 0550400
Switzerland/ Liechtenstein	EP 93100041.8	CH 0550400
United Kingdom	EP 93100041.8	GB 0550400
Europe	EP 95119798.7	EP 0731167
Austria	EP 95119798.7	AT 0197315
Belgium	EP 95119798.7	BE 0731167
France	EP 95119798.7	FR 0731167
Germany	EP 95119798.7	DE 3856440.8
Italy	EP 95119798.7	IT 0731167
Luxembourg	EP 95119798.7	LU 0731167
Netherlands	EP 95119798.7	NL 0731167
Sweden	EP 95119798.7	SE 0731167
Switzerland/ Liechtenstein	EP 95119798.7	CH 0731167
United Kingdom	EP 95119798.7	GB 0731167
Japan	506481/88	JP 2991720
*United States	07/077,528	

* Cases abandoned in favor of a continuing application.

3) Based on U.S. Application No. 07/501,092 filed March 29, 1990, which is a continuation-in-part of U.S. Application No. 07/077,528 (Modular Assembly of Antibody Genes, Antibodies Prepared Thereby and Use; Robinson, Liu, Horwitz, Wall, Better) and of U.S. Application No. 07/142,039 (Novel Plasmid Vector with Pectate Lyase Signal Sequence; Lei, Wilcox).

COUNTRY	APPLICATION NO.	PATENT NO.
*United States	07/501,092	Abandoned
*United States	07/870,404	Abandoned
*United States	07/987,555	Abandoned
*United States	08/020,671	Abandoned
United States	08/235,225	US 5,618,920
United States	08/299,085	US 5,595,898
United States	08/450,731	US 5,693,493
United States	08/466,203	US 5,698,417

United States	08/467,140	US 5,698,435
United States	08/472,691	US 6,204,023
*United States	09/722,315	Abandoned
*United States	09/722,425	Abandoned
*United States	10/040,945	Abandoned
United States	11/582,563	Abandoned

* Cases abandoned in favor of a continuing application.

B. Title: Novel Plasmid Vector with Pectate Lyase Signal Sequence (PelB)

Inventors: Lei, Wilcox

Based on U.S. Application No. 07/142,039 filed January 11, 1988 and PCT/US89/00077.

COUNTRY	APPLICATION NO.	PATENT NO.
Australia	29377/89	AU 627443
Canada	587,885	CA 1,338,807
Europe	EP 89901763.6	EP 0396612
Austria	EP 89901763.6	AT 0140731
Belgium	EP 89901763.6	BE 0396612
France	EP 89901763.6	FR 0396612
Germany	EP 89901763.6	DE 689 26 882
Italy	EP 89901763.6	IT 0396612
Luxembourg	EP 89901763.6	LU 0396612
Netherlands	EP 89901763.6	NL 0396612
Sweden	EP 89901763.6	SE 0396612
Switzerland/Liechtenstein	EP 89901763.6	CH 0396612
United Kingdom	EP 89901763.6	GB 0396612
Japan	501661/89	JP 2980626
*United States	07/142,039	Abandoned
United States	08/472,696	US 5,846,818
United States	08/357,234	US 5,576,195

* Cases abandoned in favor of a continuing application.

C. Title: Methods and Cells for Expression of Recombinant Protein Products (Ara)

Inventor: Better

Based on PCT/US01/08754, which claims priority to U.S. Provisional Application Nos. 60/192,129 filed March 24, 2000 and 60/192,238 filed March 27, 2000

COUNTRY	APPLICATION NO.	PATENT NO.
Australia	2001249265	AU 2001249265
Canada	2,404,046	2,404,046
Europe	01922467.4	EP 1268823
Austria	01922467.4	AT 1268823
Belgium	01922467.4	BE 1268823
Cyprus	01922467.4	CY 1268823
Denmark	01922467.4	DK 1268823
Finland	01922467.4	FI 1268823
France	01922467.4	FR 1268823
Germany	01922467.4	DE 60131261.9-08
Greece	01922467.4	GR 1268823
Ireland	01922467.4	IE 1268823
Italy	01922467.4	IT 1268823
Luxembourg	01922467.4	LU 1268823
Monaco	01922467.4	MC 1268823
Netherlands	01922467.4	NL 1268823
Portugal	01922467.4	PT 1268823
Spain	01922467.4	ES 1268823
Sweden	01922467.4	SE 1268823
Switzerland	01922467.4	CH 1268823
Turkey	01922467.4	TR 1268823
United Kingdom	01922467.4	GB 1268823
[*]	[*]	[*]
Hong Kong	07021559.5-08109183.0	Pending – Published 1120824A
Japan	2001-570798	Pending – Published 2003-528616
*United States	60/192,129	Abandoned
*United States	60/192,238	Abandoned
United States	09/811,933	US 6,803,210
United States	10/963,414	Abandoned

* Cases abandoned in favor of a continuing application.

[*]

Schedule 1.26

Discovery Patent Rights

[*]

Schedule 1.55

Systems

A. Materials/Know-How

[*]

B. Patent Rights

[*]

[*]

Schedule 1.63

Targeted Affinity Enhancement Technology

A. Materials/Know-How

[*]

B. Patent Rights

[*]

Schedule 1.70

[*] Specifications

[*]

Schedule 3(a)

[*] - Quantities and Additional Information

[*]

[*]

[*]

Schedule 4(a)

Services

A. Description of Services to be Performed:

1. [*]
2. Technical support for the TAE Technology
3. Technical support for the Systems

B. Compensation:

[*]

Schedule 13(e)

Wire Transfer Instructions for XOMA

[*]

Schedule 14(c)

Form of Press Release

XOMA Announces $6 Million Antibody Discovery Collaboration with Arana Therapeutics

BERKELEY, Calif., September 9, 2009 — XOMA Ltd. (Nasdaq: XOMA) and Arana Therapeutics Limited, a wholly-owned subsidiary of Cephalon, Inc. (Nasdaq: CEPH) have entered into a collaboration 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 has agreed to pay XOMA a fee of $6 million and XOMA will be entitled to milestone payments and royalties on product sales. Under the terms of the collaboration, XOMA will be fully reimbursed for all services it may provide to Arana under the agreement.

“We selected XOMA because of their ability to provide a complete suite of validated technologies that will further enable us to accelerate our antibody development programs toward the clinic,” said Steffen Nock, Acting Chief Executive Officer of Arana. “We believe the advantages of these technologies, including XOMA’s next-generation antibody libraries, will increase our capacity to cost-effectively develop novel therapeutics.”

“We are pleased to partner with Arana, a company with a strong presence and capabilities in the antibody field,” said Steven B. Engle, XOMA’s Chairman and Chief Executive Officer. “This monetization of our proprietary technologies and products demonstrates the value of our extensive antibody expertise and increases the return on our research and development efforts.”

XOMA has developed integrated capabilities in antibody discovery, engineering and manufacturing, including maintaining the largest collection of commercially available antibody phage display libraries. The company also has expertise in the construction of large, novel and diverse libraries for screening and optimization that enable the selection of antibodies with very specific binding, affinity and potency characteristics to an antigen of choice.

The new, proprietary antibody library covered by the agreement with Arana, recently validated by XOMA, is one of a series of proprietary antibody libraries being developed by XOMA scientists to overcome existing limitations in library design by combining “best-in-class” techniques with XOMA’s own proprietary and patent-protected technologies. Access to multiple libraries may offer a number of benefits to XOMA and its partners because it enables the use of libraries best suited to the needs of a particular discovery project. This increases the probability of technical and business success in finding rare and unique functional antibodies directed to targets of interest.

About XOMA

XOMA discovers, develops and manufactures therapeutic antibodies designed to treat inflammatory, autoimmune, infectious and oncological diseases. The Company’s proprietary product pipeline includes XOMA 052, an anti-IL-1 beta antibody, and XOMA 3AB, a biodefense anti-botulism antibody candidate.

XOMA has multiple revenue streams resulting from the licensing of its antibody technologies, product royalties, development collaborations, and biodefense contracts. XOMA’s technologies have contributed to the success of marketed antibody products, including LUCENTIS(r) (ranibizumab injection) for wet age-related macular degeneration and CIMZIA(r) (certolizumab pegol) for rheumatoid arthritis and Crohn’s disease.

The company has a premier antibody discovery and development platform that incorporates leading, unmatched capabilities in antibody phage display and a unique collection of antibody display libraries, as well as XOMA’s proprietary Targeted Affinity Enhancement technology for antibody humanization and bacterial cell expression and manufacturing technologies. Bacterial cell expression is a key breakthrough biotechnology for the discovery and manufacturing of antibodies and other proteins. As a result, more than 50 pharmaceutical and biotechnology companies have signed BCE licenses.

The company’s integrated processes use proprietary informatics systems that:

- Increase efficiencies for data management and analysis

- Support rational data-driven decisions thus reducing costly errors
- Increase capacity for multiple antibody programs with limited resources
- Accelerate product development and
- Support intellectual property filings.

In addition to developing its own products, XOMA develops products with premier pharmaceutical companies including Novartis AG, Schering-Plough Research Institute and Takeda Pharmaceutical Company Limited. XOMA has a fully integrated product development infrastructure and a team of approximately 190 employees at its Berkeley, California location. For more information, please visit http://www.xoma.com.

Forward-looking Statements

Certain statements contained herein concerning product development and capabilities of XOMA's technologies 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. These risks, including those related to XOMA's ability to renegotiate the requirements of its loan agreements; the declining and 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); uncertainties regarding the status of biotechnology patents; uncertainties as to the cost of protecting intellectual property; changes in the status of the existing collaborative and licensing relationships; the ability of collaborators, licensees and other third parties to meet their obligations; market demand for products; scale up and marketing capabilities; competition; international operations; share price volatility; XOMA's financing needs and opportunities; and risks associated with XOMA's status as a Bermuda company, are described in more detail in XOMA's most recent annual report on Form 10-K and in other SEC filings. Consider such risks carefully in considering XOMA's prospects.

The XOMA Ltd. logo is available at http://www.globenewswire.com/newsroom/prs/?pkgid=5960

CONTACT: XOMA, Ltd.
Company and Investor Contact:
Carol DeGuzman
510-204-7270
deguzman@xoma.com
Porter Novelli Life Sciences
Media Contact:
Carolyn Hawley
619-849-5375
chawley@pnlifesciences.com

Exhibit 10.36

At Market Issuance Sales Agreement

July 14, 2009

Wm Smith & Co.
1700 Lincoln Street, Suite 2545
Denver CO 80203

Ladies and Gentlemen:

XOMA Ltd., a Bermuda company (the "Company"), confirms its agreement (this "Agreement") with Wm Smith & Co., a Colorado corporation ("Wm Smith"), as follows:

1. Issuance and Sale of Shares. The Company agrees that, from time to time during the term of this Agreement, on the terms and subject to the conditions set forth herein, it may issue and sell through Wm Smith, acting as agent and/or principal, up to 25,000,000 of the Company's common shares (the "Shares"), par value $0.0005 per share (the "Common Shares"). Notwithstanding anything to the contrary contained herein, the parties hereto agree that compliance with the limitations set forth in this Section 1 on the number of Shares issued and sold under this Agreement shall be the sole responsibility of the Company and that Wm Smith shall have no obligation in connection with such compliance. The issuance and sale of Shares through Wm Smith will be effected pursuant to the Registration Statement (as defined below) filed by the Company and declared effective by the Securities and Exchange Commission (the "Commission"), although nothing in this Agreement shall be construed as requiring the Company to use the Registration Statement to issue Common Shares. Wm Smith and the Company are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

The Company has filed, in accordance with the provisions of the Securities Act of 1933, as amended, and the rules and regulations thereunder (collectively, the "Securities Act"), with the Commission a registration statement on Form S-3 (File No. 333-148342), including a base prospectus, with respect to equity and other offerings, including the Shares, and which incorporates by reference documents that the Company has filed or will file in accordance with the provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (collectively, the "Exchange Act"). The Company will prepare a prospectus supplement (the "Prospectus Supplement") to the base prospectus included as part of such registration statement. The Company will furnish to Wm Smith, for use by Wm Smith, copies of the prospectus included as part of such registration statement, as supplemented by the Prospectus Supplement, relating to the Shares. Except where the context otherwise requires, such registration statement, as amended when it became effective, including all documents filed as part thereof or incorporated by reference therein, and including any information contained in a Prospectus (as defined below) subsequently filed with the Commission pursuant to Rule 424(b) under the Securities Act and also including any other registration statement filed pursuant to Rule 462(b) under the Securities Act, collectively, is herein called the "Registration Statement," and the base prospectus, including all documents incorporated therein by reference, included in the Registration Statement, as it may be supplemented by the Prospectus Supplement, in the form in which such prospectus and/or Prospectus Supplement have most recently been filed by the Company with the

Commission pursuant to Rule 424(b) under the Securities Act is herein called the "Prospectus." Any reference herein to the Registration Statement, the Prospectus or any amendment or supplement thereto shall be deemed to refer to and include the documents incorporated by reference therein, and any reference herein to the terms "amend," "amendment" or "supplement" with respect to the Registration Statement or the Prospectus shall be deemed to refer to and include the filing after the execution hereof of any document with the Commission deemed to be incorporated by reference therein. For purposes of this Agreement, all references to the Registration Statement, the Prospectus or to any amendment or supplement thereto shall be deemed to include any copy filed with the Commission pursuant to its IDEA system (formerly known as EDGAR) ("IDEA").

2. Placements. Each time that the Company wishes to issue and sell Shares hereunder (each, a "Placement"), it will notify Wm Smith by email notice (or other method mutually agreed to in writing by the Parties) of the number of Shares (the "Placement Shares") to be issued, the time period during which sales are requested to be made, any limitation on the number of Shares that may be sold in any one day or in any one transaction and any minimum price below which sales may not be made (a "Placement Notice"), the form of which is attached hereto as Schedule 1. The Placement Notice shall originate from any of the individuals from the Company set forth on Schedule 3 (with a copy to each of the other individuals from the Company listed on such schedule), and shall be addressed to each of the individuals from Wm Smith set forth on Schedule 3, as such Schedule 3 may be amended from time to time. The Placement Notice shall be effective unless and until (i) Wm Smith declines to accept the terms contained therein as a result of any suspension or limitation of trading in the Placement Shares or in securities generally on the Exchange (as defined below) or any occurrence or event that causes a material adverse change in the operation of the Company, (ii) the entire amount of the Placement Shares have been sold, (iii) the Company suspends or terminates the Placement Notice or (iv) this Agreement has been terminated under the provisions of Section 12. The amount of any discount, commission or other compensation to be paid by the Company to Wm Smith in connection with the sale of the Placement Shares shall be calculated in accordance with the terms set forth in Schedule 2. It is expressly acknowledged and agreed that neither the Company nor Wm Smith will have any obligation whatsoever with respect to a Placement or any Placement Shares unless and until the Company delivers a Placement Notice to Wm Smith and Wm Smith does not decline such Placement Notice pursuant to the terms set forth above, and then only upon the terms specified therein and herein. In the event of a conflict between the terms of this Agreement and the terms of a Placement Notice, the terms of the Placement Notice will control.

3. Sale of Placement Shares by Wm Smith. Subject to the terms and conditions herein set forth, upon the Company's issuance of a Placement Notice, and unless the sale of the Placement Shares described therein has been declined, suspended, or otherwise terminated in accordance with the terms of this Agreement, Wm Smith will use its commercially reasonable efforts consistent with its normal trading and sales practices to sell such Placement Shares up to the amount specified, and otherwise in accordance with the terms of such Placement Notice. Wm Smith will provide written confirmation to the Company no later than the opening of the Trading Day (as defined below) immediately following the Trading Day on which it has made sales of Placement Shares hereunder setting forth the number of Placement Shares sold on such day, the compensation payable by the Company to Wm Smith pursuant to Section 2 with respect

to such sales, and the Net Proceeds (as defined below) payable to the Company. Wm Smith may sell Placement 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 (the "Exchange"), on any other existing trading market for the Common Shares or to or through a market maker. Wm Smith may also sell Placement Shares in privately negotiated transactions, subject to approval by the Company. The Company acknowledges and agrees that (i) there can be no assurance that Wm Smith will be successful in selling Placement Shares, and (ii) Wm Smith will incur no liability or obligation to the Company or any other person or entity if it does not sell Placement Shares for any reason other than a failure by Wm Smith to use its commercially reasonable efforts consistent with its normal trading and sales practices to sell such Placement Shares as required under this Section 3. For the purposes hereof, "Trading Day" means any day on which Common Shares are purchased and sold on the principal market on which the Common Shares are listed or quoted.

4. Suspension of Sales. The Company (for any reason) or Wm Smith (for any of the reasons set forth in clause (i) of Section 2) may, upon notice to the other party in writing (including by email correspondence to each of the individuals of the other Party set forth on Schedule 3, if receipt of such correspondence is actually acknowledged by any of the individuals to whom the notice is sent, other than via auto-reply) or by telephone (confirmed immediately by verifiable facsimile transmission or email correspondence to each of the individuals of the other Party set forth on Schedule 3), suspend any sale of Placement Shares; provided, however, that such suspension shall not affect or impair either Party's obligations with respect to any Placement Shares sold hereunder prior to the receipt of such notice. Each of the Parties agrees that no such notice under this Section 4 shall be effective against the other unless it is made to at least one of the individuals named on Schedule 3 hereto (representing such other Party), as such Schedule may be amended from time to time.

5. Settlement.

(a) Settlement of Placement Shares. Unless otherwise specified in the applicable Placement Notice, settlement for sales of Placement Shares will occur on the third (3rd) Trading Day (or such earlier day as is industry practice for regular-way trading) (each, a "Settlement Date") following the respective Point of Sale (as defined below). The amount of proceeds to be delivered to the Company on a Settlement Date against receipt of the Placement Shares sold (the "Net Proceeds") will be equal to the aggregate sales price received by Wm Smith at which such Placement Shares were sold, after deduction for (i) Wm Smith's commission, discount or other compensation for such sales payable by the Company pursuant to Section 2 hereof, (ii) any other amounts due and payable by the Company to Wm Smith hereunder pursuant to Section 7(g) (Expenses) hereof, and (iii) any transaction fees imposed by any governmental or self-regulatory organization in respect of such sales to the extent such amounts have been paid by Wm Smith.

(b) Delivery of Placement Shares. On or before each Settlement Date, the Company will, or will cause its transfer agent to, issue and electronically transfer the Placement Shares being sold by crediting Wm Smith's or its designee's account at The Depository Trust Company through its Deposit and Withdrawal at Custodian System ("DWAC") or by such other means of delivery as may be mutually agreed upon by the parties hereto which in all cases shall

be freely tradable, transferable, registered shares in good deliverable form. On each Settlement Date, Wm Smith will deliver the related Net Proceeds in same day funds to the account specified on Schedule 4 or such other account designated by the Company on, or prior to, the Settlement Date. Wm Smith will be responsible for obtaining DWAC instructions or instructions for delivery by other means with regard to the transfer of Placement Shares being sold. The Company agrees that if the Company, or its transfer agent (if applicable), defaults in its obligation to deliver Placement Shares on a Settlement Date, in addition to and in no way limiting the rights and obligations set forth in Section 10(a) (Indemnification and Contribution) here, it will (i) hold Wm Smith harmless against any loss, claim, damage, or expense (including reasonable legal fees and expenses), as incurred, arising out of or in connection with such default by the Company and (ii) pay to Wm Smith any commission, discount, or other compensation to which it would otherwise have been entitled absent such default except, in each case, to the extent such failure was caused by the gross negligence or willful misconduct of Wm Smith.

6. Representations and Warranties of the Company. The Company represents and warrants to, and agrees with, Wm Smith that as of the date of this Agreement and as of each Representation Date (as defined in Section 7(m) below) on which a certificate is required to be delivered pursuant to Section 7(m) of this Agreement, as the case may be, except as may be disclosed in the Registration Statement or a Disclosure Schedule delivered in connection herewith:

(a) Registration Statement and Prospectus. The Company and, assuming no act or omission on the part of Wm Smith that would make such statement untrue, the transactions contemplated by this Agreement meet the requirements for and comply with the conditions for the use of Form S-3 under the Securities Act. The Registration Statement has been filed with the Commission and has been declared effective under the Securities Act. The Prospectus Supplement will name Wm Smith as an underwriter, acting as principal and/or agent, that the Company might engage. The Company has not received any order of the Commission preventing or suspending the use of the Registration Statement, or threatening or instituting proceedings for that purpose. The Registration Statement and the offer and sale of Shares as contemplated hereby meet the requirements of Rule 415 under the Act and comply in all material respects with said Rule. Copies of the Registration Statement, the Prospectus, and any such amendments or supplements and all documents incorporated by reference therein that were filed with the Commission on or prior to the date of this Agreement have been delivered, or are available through IDEA, to Wm Smith and their counsel. The Company has not distributed and, prior to the later to occur of each Settlement Date and completion of the distribution of the Placement Shares, will not distribute any offering material in connection with the offering or sale of the Placement Shares other than the Registration Statement and the Prospectus and any Issuer Free Writing Prospectus (as defined below) to which Wm Smith has consented (such consent not to be unreasonably withheld). The Common Shares are currently listed on the NASDAQ Global Market under the trading symbol “XOMA”. Except as disclosed in the Registration Statement, the Company has not, in the 12 months preceding the date hereof, received notice from the Exchange to the effect that the Company is not in compliance with the listing or maintenance requirements.

(b) No Misstatement or Omission. The Registration Statement, when it became or becomes effective, and the Prospectus, and any amendment or supplement thereto, on the date of such Prospectus or amendment or supplement, conformed or will conform in all material respects with the requirements of the Securities Act. At each Settlement Date, the Registration Statement and the Prospectus, as of such date, will conform in all material respects with the requirements of the Act. The Registration Statement, when it became effective, did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. The Prospectus and any amendment or supplement thereto, on the date thereof and at each Point of Sale, did not or will not include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The documents incorporated by reference in the Prospectus or any Prospectus Supplement did not, and any further documents filed and incorporated by reference therein will not, when filed with the Commission, contain an untrue statement of a material fact or omit to state a material fact required to be stated in such document or necessary to make the statements in such document, in the light of the circumstances under which they were made, not misleading. The foregoing shall not apply to statements in, or omissions from, any such document made in reliance upon, and in conformity with, information furnished to the Company by Wm Smith specifically for use in the preparation thereof. "Point of Sale" means, for a Placement, the time at which an acquiror of Placement Shares entered into a contract, binding upon such acquiror, to acquire such Shares.

(c) Conformity with Securities Act and Exchange Act. The documents incorporated by reference in the Registration Statement, the Prospectus or any amendment or supplement thereto, when such documents were or are filed with the Commission under the Securities Act or the Exchange Act or became or become effective under the Securities Act, as the case may be, conformed or will conform in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable.

(d) Financial Information. The consolidated financial statements and the related notes thereto included or incorporated by reference in the Registration Statement and the Prospectus comply in all material respects with the applicable requirements of the Act and the Exchange Act, as applicable, and present fairly, the financial position of the Company as of the dates indicated and the results of its operations and the changes in its consolidated cash flows for the periods specified; such financial statements have been prepared in conformity with generally accepted accounting principles applied on a consistent basis throughout the periods covered thereby (except (i) as may be otherwise indicated in such financial statements or the notes thereto or (ii) in the case of unaudited interim financial statements, to the extent that they may not include footnotes or may be condensed or summary statements), and the other financial information included or incorporated by reference in the Registration Statement and the Prospectus has been derived from the accounting records of the Company and presents fairly the information shown thereby. Any pro forma financial statements or data included or incorporated by reference in the Registration Statement and the Prospectus comply in all material respects with the requirements of Regulation S-X of the Securities Act, including, without limitation, Article 11 thereof, and the assumptions used in the preparation of such pro forma financial statements and data are reasonable, the pro forma adjustments used therein are appropriate to give effect to the circumstances referred to therein and the pro forma adjustments have been properly applied to the historical amounts in the compilation of those statements and data. No other financial statements or schedules of the Company or any other entity are required by the

Act to be included in the Registration Statement or the Prospectus. All disclosures contained in the Registration Statement, the Pricing Disclosure Materials and the Prospectus regarding "non-GAAP financial measures" (as such term is defined by Item 10 of Regulation S-K under the Act) comply with Regulation G of the Exchange Act and Item 10 of Regulation S-K under the Act, to the extent applicable. The Company does not have any material liabilities or obligations, direct or contingent (including any off-balance sheet obligations and any "variable interest entities" within the meaning of Financial Accounting Standards Board Interpretation No. 46), not disclosed in the Registration Statement, the Pricing Disclosure Materials and the Prospectus.

(e) Conformity with IDEA Filing. The Prospectus delivered to Wm Smith for use in connection with the sale of the Placement Shares pursuant to this Agreement will be identical to the versions of the Prospectus created to be transmitted to the Commission for filing via IDEA, except to the extent permitted by Regulation S-T.

(f) Organization. The Company has been duly continued into and is validly existing as a company in good standing under the laws of Bermuda. The Company is, and will be, duly licensed or qualified as a foreign corporation for transaction of business and in good standing under the laws of each other jurisdiction in which its ownership or lease of property or the conduct of its businesses requires such license or qualification, and has all corporate power and authority necessary to own or hold its properties and to conduct its business as described in the Registration Statement and the Prospectus, except where the failure to be so qualified or in good standing or have such power or authority would not, individually or in the aggregate, have a material adverse effect or would reasonably be expected to have a material adverse effect on or affecting the business, properties, consolidated financial position or results of operations of the Company and its subsidiaries taken as a whole (a "Material Adverse Effect").

(g) Subsidiaries. The Company has no subsidiaries (as defined in the Securities Act) other than those listed in Section 6(g) of the Disclosure Schedule hereto.

(h) No Violation. The Company is not (i) in violation of its charter or by-laws or similar organizational documents; or (ii) in violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority, except, in the case of clause (ii) above, for any such violation that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(i) No Material Adverse Change. Except as set forth in, incorporated by reference into or otherwise contemplated by the Registration Statement or the Prospectus, since the date of the most recent financial statements of the Company included or incorporated by reference in the Registration Statement and the Prospectus and prior to each Settlement Date, (i) there has not been and will not have been any change in the share capital of the Company (except for changes in the number of issued and outstanding Common Shares of the Company due to the issuance of shares upon the exercise or conversion of securities exercisable for, or convertible into, Common Shares outstanding on the date hereof) or long-term debt of the Company or any dividend or distribution of any kind declared, set aside for payment, paid or made by the Company on any class of capital stock, that has resulted in or that would reasonably be expected to result in a Material Adverse Effect to the Company taken as a whole; (ii) other than this Agreement, the Company has not entered and will not enter into any transaction or

agreement, not in the ordinary course of business, that is material to the Company and its subsidiaries taken as a whole or incurred and will not incur any liability or obligation, direct or contingent, not in the ordinary course of business, that is material to the Company and its subsidiaries taken as a whole; (iii) there has not been any material adverse change in the business, properties, financial position, or results of operations of the Company, taken as a whole; and (iv) the Company has not sustained any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor disturbance or dispute or any action, order or decree of any court or arbitrator or governmental or regulatory authority.

(j) Capitalization. The issued and outstanding share capital of the Company has been validly issued, is fully paid and nonassessable and, other than as disclosed in or contemplated by the Registration Statement or the Prospectus, is not subject to any statutory preemptive rights or similar rights. The Company has an authorized, issued and outstanding capitalization as set forth in the Registration Statement and the Prospectus as of the dates referred to therein (other than the grant of additional options under the Company's existing stock option plans, or changes in the number of issued and outstanding Common Shares of the Company due to the issuance of shares upon the exercise or conversion of securities exercisable for, or convertible into, Common Shares outstanding on the date hereof) and such authorized share capital conforms to the description thereof set forth in the Registration Statement and the Prospectus. The description of the securities of the Company in the Registration Statement and the Prospectus is complete and accurate in all material respects. Except as disclosed in or contemplated by the Registration Statement or the Prospectus, as of the date referred to therein, the Company does not have outstanding any options to purchase, or any rights or warrants to subscribe for, or any securities or obligations convertible into, or exchangeable for, or any contracts or commitments to issue or sell, any Common Shares or other securities.

(k) Authorization; Enforceability. This Agreement has been duly authorized, executed and delivered by the Company and is a legal, valid and binding agreement of the Company enforceable in accordance with its terms, except to the extent that (i) enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general equitable principles and (ii) the indemnification and contribution provisions of Section 10 hereof may be limited by federal or state securities laws and public policy considerations in respect thereof.

(l) Authorization of Placement Shares. The Placement Shares, when issued and delivered pursuant to the terms approved by the Board of Directors or a duly designated committee thereof, against payment therefor as provided herein, will be duly and validly authorized and issued and fully paid and nonassessable, free and clear of any pledge, lien, encumbrance, security interest or other claim, including any statutory or contractual preemptive rights or other similar rights, and will be registered pursuant to Section 12 of the Exchange Act. The Placement Shares, when issued, will conform in all material respects to the description thereof set forth in or incorporated into the Prospectus.

(m) No Consents Required. No consent, approval, authorization, order, registration or qualification of or with any court or arbitrator or governmental or regulatory authority is required for the execution, delivery and performance by the Company of this

Agreement and the issuance and sale by the Company of the Placement Shares, except for the registration of the Placement Shares under the Act, the filing of the Registration Statement and the Prospectus and such consents, approvals, authorizations, orders and registrations or qualifications as may be required under applicable state securities laws or by the by-laws and rules of the Financial Industry Regulatory Authority ("FINRA") or the Exchange in connection with the sale of the Placement Shares by Wm Smith or by the Bermuda Monetary Authority.

(n) No Preferential Rights. Except as set forth in, incorporated by reference into or otherwise contemplated by the Registration Statement and the Prospectus, (i) no person, as such term is defined in Rule 1-02 of Regulation S-X promulgated under the Securities Act (each, a "Person"), has the right, contractual or otherwise, to cause the Company to issue or sell to such Person any Common Shares or other securities of the Company, (ii) no Person has any preemptive rights, or any other rights (whether pursuant to a "poison pill" provision or otherwise) to purchase from the Company any Common Shares or other securities of the Company, (iii) no Person has the right to act as an underwriter or as a financial advisor to the Company in connection with the offer and sale of the Shares, and (iv) no Person has the right, contractual or otherwise, to require the Company to register under the Securities Act any Common Shares or other securities of the Company, or to include any such shares or other securities in the Registration Statement or the offering contemplated thereby, whether as a result of the filing or effectiveness of the Registration Statement or the sale of the Placement Shares as contemplated thereby or otherwise.

(o) Independent Public Accountant. Ernst & Young LLP, whose report on the consolidated financial statements of the Company is filed with the Commission as part of the Registration Statement and the Prospectus for the period ended December 31, 2008 (the "Accountant"), whose report on the consolidated financial statements of the Company is filed with the Commission as part of the Prospectus for the periods December 31, 2007 and December 31, 2008, are and, during the periods covered by their respective reports, were independent public accountants within the meaning of the Securities Act and the Public Company Accounting Oversight Board (United States). To the Company's knowledge, the Accountant is not in violation of the auditor independence requirements of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act") with respect to the Company.

(p) Enforceability of Agreements. Except as disclosed in the Registration Statement and Prospectus, the Company has not sent or received any communication regarding termination of, or intent not to renew, any of the contracts or agreements referred to or described in, or filed as an exhibit to, the Registration Statement and Prospectus, and no such termination or non-renewal has been threatened by the Company or, to the Company's knowledge, any other party to any such contract or agreement.

(q) No Litigation. Except as set forth in the Registration Statement or the Prospectus, there are no legal, governmental or regulatory actions, suits or proceedings pending, nor, to the Company's knowledge, any legal, governmental or regulatory investigations, to which the Company is a party or to which any property of the Company is the subject that, individually or in the aggregate, if determined adversely to the Company, would reasonably be expected to have a Material Adverse Effect or materially and adversely affect the ability of the Company to perform its obligations under this Agreement; and to the Company's knowledge, no such actions, suits or proceedings are threatened or contemplated by any governmental or regulatory authority or threatened by others.

(r) Licenses and Permits. Except as set forth in the Registration Statement or the Prospectus, the Company possesses or has obtained, and at each Settlement Date will possess and will have obtained, all licenses, certificates, consents, orders, approvals, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate federal, state, local or foreign governmental or regulatory authorities that are necessary for the ownership or lease of its properties or the conduct of its business as described in the Registration Statement and the Prospectus (the "Permits"), except where the failure to possess, obtain or make the same would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as disclosed in the Registration Statement or the Prospectus, the Company has not received written notice of any proceeding relating to revocation or modification of any such Permit and does not have any reason to believe that such Permit will not be renewed in the ordinary course, except where the failure to obtain any such renewal would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(s) Market Capitalization. As of the close of trading on the Exchange on the Trading Day immediately prior to the date of each Placement Notice (i) the aggregate market value of the outstanding voting and non-voting common equity (as defined in Securities Act Rule 405) of the Company held by persons other than affiliates of the Company (pursuant to Securities Act Rule 144, those that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the Company) (the "Non-Affiliate Shares"), was equal to or greater than $75 million (calculated by multiplying (x) the price at which the common equity of the Company was last sold on the Exchange on the Trading Day immediately prior to the date of this Agreement times (y) the number of Non-Affiliate Shares); or (ii) the aggregate market value of securities sold by or on behalf of the Company during the previous 12 calendar months, including the Placement Shares, is no more than one-third the aggregate market value of the Non-Affiliate Shares.

(t) No Material Defaults. The Company has not defaulted on any installment on indebtedness for borrowed money or on any rental on one or more long-term leases, which defaults, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. The Company has not filed a report pursuant to Section 13(a) or 15(d) of the Exchange Act since the filing of its last Annual Report on Form 10-K, indicating that it (i) has failed to pay any dividend or sinking fund installment on preferred stock or (ii) has defaulted on any installment on indebtedness for borrowed money or on any rental on one or more long-term leases, which defaults, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(u) Certain Market Activities. Neither the Company, nor any of its respective directors, officers or controlling persons has taken, directly or indirectly, any action designed, or that has constituted or might reasonably be expected to cause or result in, under the Exchange Act or otherwise, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Placement Shares.

(v) Broker/Dealer Relationships. Neither the Company nor any of its related entities (i) is required to register as a "broker" or "dealer" in accordance with the provisions of the Exchange Act or (ii) directly or indirectly through one or more intermediaries, controls or is a "person associated with a member" or "associated person of a member" (within the meaning of Article I of the NASD Manual administered by FINRA).

(w) No Reliance. The Company has not relied upon Wm Smith or legal counsel for Wm Smith for any legal, tax or accounting advice in connection with the offering and sale of the Placement Shares.

(x) Taxes. The Company has filed all federal, state, local and foreign tax returns which have been required to be filed and paid all taxes shown thereon through the date hereof, to the extent that such taxes have become due and are not being contested in good faith. Except as otherwise disclosed in or contemplated by the Registration Statement or the Prospectus, no tax deficiency has been determined adversely to the Company which has had, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Company has no knowledge of any federal, state or other governmental tax deficiency, penalty or assessment which has been or might be asserted or threatened against it which could have a Material Adverse Effect.

(y) Intellectual Property. Except as set forth in the Registration Statement or the Prospectus, the Company owns or possesses adequate enforceable rights to use all patents, patent applications, trademarks (both registered and unregistered), service marks, trade names, trademark registrations, service mark registrations, copyrights, licenses and know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures) (collectively, the "Intellectual Property"), necessary for the conduct of its business as conducted as of the date hereof, except to the extent that the failure to own or possess adequate rights to use such Intellectual Property would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; the Company has not received any written notice of any claim of infringement or conflict which asserted Intellectual Property rights of others, which infringement or conflict, if the subject of an unfavorable decision, would result in a Material Adverse Effect; to the Company's knowledge, there are no pending or threatened judicial proceedings or interference proceedings challenging the Company's rights in or to or the validity of the scope of any of the Company's patents, patent applications or proprietary information; to the Company's knowledge no other entity or individual has any right or claim in any of the Company's patents, patent applications or any patent to be issued therefrom by virtue of any contract, license or other agreement entered into between such entity or individual and the Company or by any non-contractual obligation, other than by written licenses granted by the Company; the Company has not received any written notice of any claim challenging the rights of the Company in or to any Intellectual Property owned, licensed or optioned by the Company which claim, if the subject of an unfavorable decision would result in an Material Adverse Effect.

(z) Compliance Program. The Company has established and administers a compliance program applicable to the Company, to assist the Company and the directors, officers and employees of the Company in complying with applicable regulatory guidelines.

(aa) Environmental Laws. Except as set forth in the Registration Statement or the Prospectus, the Company (i) is in compliance with any and all applicable federal, state, local and foreign laws, rules, regulations, decisions and orders relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants (collectively, "Environmental Laws"); (ii) has received and is in compliance with all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses as described in the Registration Statement and the Prospectus; and (iii) has not received notice of any actual or potential liability for the investigation or remediation of any disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants, except, in the case of any of clauses (i), (ii) or (iii) above, for any such failure to comply or failure to receive required permits, licenses, other approvals or liability as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(bb) Disclosure Controls. The Company maintains systems of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company has established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15 and 15d-15) for the Company and designed such disclosure controls and procedures to ensure that material information relating to the Company is made known to the certifying officers by others within those entities, particularly during the period in which the Company's Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, is being prepared. The Company's certifying officers have evaluated the effectiveness of the Company's controls and procedures as of a date within 90 days prior to the filing date of the Form 10-K for the year ended December 31, 2008 (such date, the "Evaluation Date"). Since the Evaluation Date, there have been no significant changes in the Company's internal controls (as such term is defined in Item 307(b) of Regulation S-K under the Act) or, to the Company's knowledge, in other factors that could significantly affect the Company's internal controls.

(cc) Sarbanes-Oxley. To the knowledge of the Company, there is and has been no failure on the part of the Company and any of the Company's directors or officers, in their capacities as such, to comply with any applicable provisions of the Sarbanes-Oxley Act and the rules and regulations promulgated thereunder. Each of the principal executive officer and the principal financial officer of the Company (or each former principal executive officer of the Company and each former principal financial officer of the Company as applicable) has made all certifications required by Sections 302 and 906 of the Sarbanes-Oxley Act with respect to all reports, schedules, forms, statements and other documents required to be filed by it or furnished by it to the Commission. For purposes of the preceding sentence, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in the Sarbanes-Oxley Act.

(dd) Finder's Fees. The Company has not incurred any liability for any finder's fees, brokerage commissions or similar payments in connection with the transactions herein contemplated, except as may otherwise exist with respect to Wm Smith pursuant to this Agreement.

(ee) Labor Disputes. No labor disturbance by or dispute with employees of the Company exists or, to the knowledge of the Company, is threatened which would reasonably be expected to result in a Material Adverse Effect

(ff) Investment Company Act. The Company, after giving effect to the offering and sale of the Placement Shares, will not be an "investment company" or an entity "controlled" by an "investment company," as such terms are defined in the Investment Company Act of 1940, as amended (the "Investment Company Act").

(gg) Underwriter Agreements. Except as set forth in, incorporated by reference into or otherwise contemplated by the Registration Statement, the Company is not a party to any agreement with an agent or underwriter for any other "at-the-market" or continuous equity transaction.

(hh) Wm Smith Purchases. The Company acknowledges and agrees that Wm Smith has informed the Company that Wm Smith may, to the extent permitted under the Securities Act and the Exchange Act, purchase and sell Common Shares for its own account while this Agreement is in effect, provided, that (i) no such purchase or sales shall take place while a Placement Notice is in effect (except to the extent Wm Smith may engage in sales of Placement Shares purchased or deemed purchased from the Company as a "riskless principal" or in a similar capacity) and (ii) the Company shall not be deemed to have authorized or consented to any such purchases or sales by Wm Smith.

(ii) Margin Rules. Neither the issuance, sale and delivery of the Shares pursuant to this Agreement nor the application of the proceeds thereof by the Company as described in the Registration Statement and the Prospectus will constitute a violation by the Company of Regulation T, U or X of the Board of Governors of the Federal Reserve System or any other regulation of such Board of Governors.

(jj) Insurance. The Company carries, or is covered by, insurance in such amounts and covering such risks as the Company reasonably believe are adequate for the conduct of its properties and as is customary for companies engaged in similar businesses in similar industries.

(kk) No Improper Practices. Except as set forth in, incorporated by reference into or otherwise contemplated by the Prospectus, there are no material outstanding loans or advances or material guarantees of indebtedness by the Company to or for the benefit of any of its officers or directors or any of the members of the families of any of them.

(ll) Status Under the Securities Act. The Company was not and is not an ineligible issuer as defined in Rule 405 under the Securities Act at the times specified in Rules 164 and 433 under the Act in connection with the offering of the Shares.

(mm) No Misstatement or Omission in an Issuer Free Writing Prospectus. Each issuer free writing prospectus, as defined in Rule 405 under the Act (an "Issuer Free Writing Prospectus," and together with the Preliminary Prospectus the "Pricing Disclosure Materials"), when considered together with the Pricing Disclosure Materials as of the applicable Point of Sale, did not or will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the Company makes no representation or warranty with respect to any statement contained in any Issuer Free Writing Prospectus in reliance upon and in conformity with information concerning Wm Smith and furnished by Wm Smith to the Company expressly for use in the Issuer Free Writing Prospectus.

(nn) Conformity of Issuer Free Writing Prospectus. Each Issuer Free Writing Prospectus conformed or will conform in all material respects to the requirements of the Act on the date of first use, and the Company has complied or will comply with any filing requirements applicable to such Issuer Free Writing Prospectus pursuant to the Act. Each Issuer Free Writing Prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Shares, did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement or the Prospectus, including any document incorporated by reference therein that has not been superseded or modified. The Company has not made any offer relating to the Shares that would constitute an Issuer Free Writing Prospectus without the prior written consent of Wm Smith. The Company has retained in accordance with the Act all Issuer Free Writing Prospectuses that were not required to be filed pursuant to the Act.

(oo) Pricing Disclosure Materials. The Pricing Disclosure Materials did not, as of the applicable Point of Sale contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the Company makes no representation or warranty with respect to any statement contained in the Pricing Disclosure Materials in reliance upon and in conformity with information concerning Wm Smith and furnished in writing by Wm Smith to the Company expressly for use in the Pricing Disclosure Materials.

(pp) No Conflicts. Neither the execution of this Agreement, nor the issuance, offering or sale of the Shares, nor the consummation of any of the transactions contemplated herein and therein, nor the compliance by the Company with the terms and provisions hereof and thereof will conflict with, or will result in a breach of, any of the terms and provisions of, or has constituted or will constitute a default under, or has resulted in or will result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company pursuant to the terms of any contract or other agreement to which the Company may be bound or to which any of the property or assets of the Company is subject, except (i) such conflicts, breaches or defaults as may have been waived and (ii) such conflicts, breaches and defaults that would not have a Material Adverse Effect; nor will such action result (x) in any violation of the provisions of the organizational or governing documents of the Company, or (y) in any material violation of the provisions of any statute or any order, rule or regulation applicable to the Company or of any court or of any federal, state or other regulatory authority or other government body having jurisdiction over the Company.

(qq) Share Transfer Taxes. On each Settlement Date, all share transfer or other taxes (other than income taxes) which are required to be paid in connection with the sale and transfer of the Shares to be sold hereunder will be, or will have been, fully paid or provided for by the Company and all laws imposing such taxes will be or will have been fully complied with.

7. Covenants of the Company. The Company covenants and agrees with Wm Smith that:

(a) Registration Statement Amendments. After the date of this Agreement and during any period in which a Prospectus relating to any Placement Shares is required to be delivered by Wm Smith under the Securities Act (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act): (i) the Company will notify Wm Smith promptly of the time when any subsequent amendment to the Registration Statement, other than documents incorporated by reference, has been filed with the Commission and/or has become effective or any subsequent supplement to the Prospectus has been filed and of any request by the Commission for any amendment or supplement to the Registration Statement or Prospectus or for additional information, (ii) the Company will prepare and file with the Commission, promptly upon Wm Smith's request, any amendments or supplements to the Registration Statement or Prospectus that, in Wm Smith's reasonable opinion, may be necessary in connection with the distribution of the Placement Shares by Wm Smith (provided, however, that the failure of Wm Smith to make such request shall not relieve the Company of any obligation or liability hereunder, or affect Wm Smith's right to rely on the representations and warranties made by the Company in this Agreement and provided, further, that the only remedy Wm Smith shall have with respect to the failure to make such filing shall be to cease making sales under this Agreement until such amendment or supplement is filed); (iii) the Company will not file any amendment or supplement to the Registration Statement or Prospectus relating to the Placement Shares or a security convertible into the Placement Shares unless a copy thereof has been submitted to Wm Smith within a reasonable period of time before the filing and Wm Smith has not reasonably objected thereto (provided, however, that the failure of Wm Smith to make such objection shall not relieve the Company of any obligation or liability hereunder, or affect Wm Smith's right to rely on the representations and warranties made by the Company in this Agreement and provided, further, that the only remedy Wm Smith shall have with respect to the failure by the Company to obtain such consent shall be to cease making sales under this Agreement) and the Company will furnish to Wm Smith at the time of filing thereof a copy of any document that upon filing is deemed to be incorporated by reference into the Registration Statement or Prospectus, except for those documents available via IDEA; and (iv) the Company will cause each amendment or supplement to the Prospectus to be filed with the Commission as required pursuant to the applicable paragraph of Rule 424(b) of the Securities Act or, in the case of any document to be incorporated therein by reference, to be filed with the Commission as required pursuant to the Exchange Act, within the time period prescribed (the determination to file or not file any amendment or supplement with the Commission under this Section 7(a), based on the Company's reasonable opinion or reasonable objections, shall be made exclusively by the Company).

(b) Notice of Commission Stop Orders. The Company will advise Wm Smith, promptly after it receives notice thereof, of the issuance or threatened issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement, of the suspension of the qualification of the Placement Shares for offering or sale in any jurisdiction, or of the initiation or threatening of any proceeding for any such purpose; and it will promptly use its commercially reasonable efforts to prevent the issuance of any stop order or to obtain its withdrawal if such a stop order should be issued. The Company will advise Wm Smith promptly after it receives any request by the Commission for any amendments to the Registration Statement or any amendment or supplements to the Prospectus or any Issuer Free Writing Prospectus or for additional information related to the offering of the Shares or for additional information related to the Registration Statement, the Prospectus or any Issuer Free Writing Prospectus.

(c) Delivery of Prospectus; Subsequent Changes. During any period in which a Prospectus relating to the Placement Shares is required to be delivered by Wm Smith under the Securities Act with respect to the offer and sale of the Placement Shares, (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act), the Company will comply in all material respects with all requirements imposed upon it by the Securities Act, as from time to time in force, and to file on or before their respective due dates all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Sections 13(a), 13(c), 14, 15(d) or any other provision of or under the Exchange Act. If the Company has omitted any information from the Registration Statement pursuant to Rule 430A under the Act, it will use commercially reasonable efforts to comply with the provisions of and make all requisite filings with the Commission pursuant to said Rule 430A and to notify Wm Smith promptly of all such filings. If during such period any event occurs as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances then existing, not misleading, or if during such period it is necessary to amend or supplement the Registration Statement or Prospectus to comply with the Securities Act, the Company will promptly notify Wm Smith to suspend the offering of Placement Shares during such period and the Company will promptly amend or supplement the Registration Statement or Prospectus (at the expense of the Company) so as to correct such statement or omission or effect such compliance; provided, however, that the Company may delay any such amendment or supplement, if in the judgment of the Company, it is in the best interests of the Company to do so.

(d) Listing of Placement Shares. During any period in which the Prospectus relating to the Placement Shares is required to be delivered by Wm Smith under the Securities Act with respect to the offer and sale of the Placement Shares, the Company will use commercially reasonable efforts to cause the Placement Shares to be listed on the Exchange and to qualify the Placement Shares for sale under the securities laws of such jurisdictions as Wm Smith reasonably designates and to continue such qualifications in effect so long as required for the distribution of the Placement Shares; provided, however, that the Company shall not be required in connection therewith to qualify as a foreign corporation or dealer in securities or file a general consent to service of process in any jurisdiction.

(e) Delivery of Registration Statement and Prospectus. The Company will furnish to Wm Smith and its counsel (at the expense of the Company) copies of the Registration Statement, the Prospectus (including all documents incorporated by reference therein) and all amendments and supplements to the Registration Statement or Prospectus that are filed with the Commission during any period in which a Prospectus relating to the Placement Shares is required to be delivered under the Securities Act (including all documents filed with the Commission during such period that are deemed to be incorporated by reference therein), in each case as soon as reasonably practicable and in such quantities as Wm Smith may from time to time reasonably request and, at Wm Smith's request, will also furnish copies of the Prospectus to each exchange or market on which sales of the Placement Shares may be made; provided, however, that the Company shall not be required to furnish any document (other than the Prospectus) to Wm Smith to the extent such document is available on IDEA.

(f) Earnings Statement. The Company will make generally available to its security holders as soon as practicable, but in any event not later than 18 months after the end of the Company's current fiscal quarter, an earnings statement covering a 12-month period that satisfies the provisions of Section 11(a) and Rule 158 of the Securities Act.

(g) Expenses. The Company, whether or not the transactions contemplated hereunder are consummated or this Agreement is terminated, in accordance with the provisions of Section 12 hereunder, will pay all expenses incident to the performance of its obligations hereunder, including, but not limited to, expenses relating to (i) the preparation, printing and filing of the Registration Statement and each amendment and supplement thereto, of each Prospectus and of each amendment and supplement thereto, (ii) the preparation, issuance and delivery of the Placement Shares, (iii) the qualification of the Placement Shares under securities laws in accordance with the provisions of Section 7(d) of this Agreement, including filing fees, (iv) to the extent required by Section 7(e), the printing and delivery to Wm Smith of copies of the Prospectus and any amendments or supplements thereto, and of this Agreement, (v) the fees and expenses incurred in connection with the listing or qualification of the Placement Shares for trading on the Exchange, (vi) filing fees and expenses, if any, of the Commission and the FINRA Corporate Financing Department. The Company shall also reimburse Wm Smith for its reasonable, out-of-pocket legal expenses actually incurred in connection with the negotiation and execution of this Agreement in an amount not to exceed $20,000. Wm Smith will pay all other expenses incident to the performance of its obligations hereunder.

(h) Use of Proceeds. The Company will use the Net Proceeds as described in the Prospectus in the section entitled "Use of Proceeds."

(i) Notice of Other Sales. Without the prior written consent of Wm Smith (not to be unreasonably withheld), the Company will not, directly or indirectly, offer to sell, sell, contract to sell, grant any option to sell or otherwise dispose of any Common Shares (other than the Shares offered pursuant to the provisions of this Agreement) or securities convertible into or exchangeable for Common Shares, warrants or any rights to purchase or acquire, Common Shares at any time that sales of the Shares have been made but not settled or at any time the Company has outstanding with Wm Smith any instructions to sell Shares but such instructions have not been fulfilled, suspended or cancelled (or, if the Placement Notice has been terminated or suspended prior to the sale of all Shares covered by a Placement Notice, the date of such

suspension or termination); and will not directly or indirectly in any other "at-the-market" or continuous equity transaction offer to sell, sell, contract to sell, grant any option to sell or otherwise dispose of any Common Shares (other than the Shares offered pursuant to the provisions of this Agreement) or securities convertible into or exchangeable for Common Shares, warrants or any rights to purchase or acquire, Common Shares prior to the later of the termination of this Agreement and the sixtieth (60th) day immediately following the final Settlement Date with respect to Placement Shares sold pursuant to such Placement Notice; provided, however, that such restrictions will not be required in connection with the Company's issuance or sale of (i) Common Shares, options to purchase Common Shares or Common Shares issuable upon the exercise of options, pursuant to any employee or director share option or benefits plan, share ownership plan or dividend reinvestment plan (but not shares subject to a waiver to exceed plan limits in its dividend reinvestment plan) of the Company whether now in effect or hereafter implemented, (ii) Common Shares issuable upon conversion of securities or the exercise of warrants, options or other rights in effect or outstanding, and disclosed in filings by the Company available on IDEA or otherwise in writing to Wm Smith and (iii) Common Shares pursuant to that certain Common Share Purchase Agreement, dated October 21, 2008, by and between Azimuth Opportunity Ltd. and XOMA Ltd at any time that Placement Notice is pending.

(j) Change of Circumstances. The Company will, at any time that sales of the Shares have been made but not settled or at any time the Company has outstanding with Wm Smith any instructions to sell Shares but such instructions have not been fulfilled, suspended or cancelled (or, if the Placement Notice has been terminated or suspended prior to the sale of all Shares covered by a Placement Notice, the date of such suspension or termination) advise Wm Smith promptly after it shall have received notice or obtained knowledge thereof, of any information or fact that would alter or affect in any material respect any opinion, certificate, letter or other document required to be provided to Wm Smith pursuant to this Agreement.

(k) Due Diligence Cooperation. The Company will cooperate with any reasonable due diligence review conducted by Wm Smith or its agents in connection with the transactions contemplated hereby, including, without limitation, providing information and making available documents and senior corporate officers, during regular business hours and at the Company's principal offices, as Wm Smith may reasonably request.

(l) Required Filings Relating to Placement of Placement Shares. The Company agrees that on such dates as the Securities Act shall require, the Company will (i) file a prospectus supplement with the Commission under the applicable paragraph of Rule 424(b) under the Securities Act (each and every filing under Rule 424(b), a "Filing Date"), which prospectus supplement will set forth, within the relevant period, the maximum amount of Placement Shares to be sold through Wm Smith, the compensation payable by the Company to Wm Smith with respect to such Placement Shares and such other information that the Company deems necessary, and (ii) deliver such number of copies of each such prospectus supplement to each exchange or market on which such sales were effected as may be required by the rules or regulations of such exchange or market.

(m) Representation Dates; Certificate. During the term of this Agreement, on the date of each Placement Notice given hereunder and each time the Company (i) files the Prospectus relating to the Placement Shares or amends or supplements the Registration Statement or the Prospectus relating to the Placement Shares (other than a prospectus supplement filed in accordance with Section 7(l) of this Agreement) by means of a post-effective amendment, sticker, or supplement but not by means of incorporation of document(s) by reference to the Registration Statement or the Prospectus relating to the Placement Shares; (ii) files an annual report on Form 10-K under the Exchange Act; (iii) files its quarterly reports on Form 10-Q under the Exchange Act or (iv) files a report on Form 8-K containing amended financial information (other than an earnings release, to "furnish" information pursuant to Items 2.02 or 7.01 of Form 8-K or to provide disclosure pursuant to Item 8.01 of Form 8-K relating to the reclassifications of certain properties as discontinued operations in accordance with Statement of Financial Accounting Standards No. 144) under the Exchange Act (each date of filing of one or more of the documents referred to in clauses (i) through (iv) shall be a "Representation Date"); the Company shall furnish Wm Smith with a certificate, in the form attached hereto as Exhibit 7(m). The requirement to provide a certificate under this Section 7(m) shall be waived for any Representation Date occurring at a time at which no Placement Notice is pending, which waiver shall continue until the earlier to occur of the date the Company delivers a Placement Notice hereunder (which for such calendar quarter shall be considered a Representation Date) and the next occurring Representation Date; provided, however, that such waiver shall not apply for any Representation Date on which the Company files its annual report on Form 10-K. Notwithstanding the foregoing, if the Company subsequently decides to sell Placement Shares following a Representation Date when the Company relied on such waiver and did not provide Wm Smith with a certificate under this Section 7(m), then before the Company delivers the Placement Notice or Wm Smith sells any Placement Shares, the Company shall provide Wm Smith with a certificate, in the form attached hereto as Exhibit 7(m), dated the date of the Placement Notice.

(n) Legal Opinion. No later than ten Trading Days following the date of each Placement Notice given hereunder, the Company shall cause to be furnished to Wm Smith a written opinion of Conyers Dill and Pearman ("Bermuda Company Counsel"), or other counsel reasonably satisfactory to Wm Smith, in form and substance satisfactory to Wm Smith and its counsel, dated the date of the Placement Notice, substantially similar to the form attached hereto as Exhibit 7(n)(1)(A) and a written opinion of Cahill Gordon & Reindel LLP ("Company Counsel"), or other counsel reasonably satisfactory to Wm Smith, in form and substance satisfactory to Wm Smith and its counsel, dated the date of the Placement Notice, substantially similar to the form attached hereto as Exhibit 7(n)(1)(B), respectively, modified, as necessary, to relate to the Registration Statement and the Prospectus as then amended or supplemented; provided, however, the Company shall be required to furnish to Wm Smith no more than one opinion from each Counsel hereunder per calendar quarter; provided, further, that in lieu of such opinions for subsequent Placement Notices, counsel may furnish Wm Smith with a letter (a "Reliance Letter") to the effect that Wm Smith may rely on a prior opinion delivered under this Section 7(n) to the same extent as if it were dated the date of such letter (except that statements in such prior opinion shall be deemed to relate to the Registration Statement and the Prospectus as amended or supplemented as of the date of the Placement Notice).

(o) Comfort Letter. No later than ten Trading Days following the date the Company files this Agreement and thereafter within five Trading Days following each subsequent date the Company files an annual report on Form 10-K under the Exchange Act,

during any period in which the Prospectus relating to the Placement Shares is required to be delivered by Wm Smith (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Act) and with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit 7(m) for which no waiver is applicable, the Company shall cause its independent accountants to furnish Wm Smith letters (the "Comfort Letters"), dated the date the Comfort Letter is delivered; provided, that if requested by Wm Smith, the Company shall cause a Comfort Letter to be furnished to Wm Smith within ten Trading Days of the date of occurrence of any restatement of the Company's financial statements. The Comfort Letter from the Company's independent accountants shall be in a form and substance satisfactory to Wm Smith, (i) confirming that they are an independent public accounting firm within the meaning of the Securities Act and the PCAOB, (ii) stating, as of such date, the conclusions and findings of such firm with respect to the financial information and other matters ordinarily covered by accountants' "comfort letters" to underwriters in connection with registered public offerings (the first such letter, the "Initial Comfort Letter") and (iii) updating the Initial Comfort Letter with any information that would have been included in the Initial Comfort Letter had it been given on such date and modified as necessary to relate to the Registration Statement and the Prospectus, as amended and supplemented to the date of such letter.

(p) Market Activities. The Company will not, directly or indirectly, (i) take any action designed to cause or result in, or that constitutes or might reasonably be expected to constitute, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Shares or (ii) sell, bid for, or purchase the Shares, or pay anyone any compensation for soliciting purchases of the Shares other than Wm Smith.

(q) Investment Company Act. The Company will conduct its affairs in such a manner so as to reasonably ensure that it will not be or become, at any time prior to the termination of this Agreement, an "investment company," as such term is defined in the Investment Company Act, assuming no change in the Commission's current interpretation as to entities that are not considered an investment company.

(r) No Offer to Sell. Other than an Issuer Free Writing Prospectus approved in advance by the Company and Wm Smith in its capacity as principal or agent hereunder, neither Wm Smith nor the Company (including its agents and representatives, other than Wm Smith in its capacity as such) will make, use, prepare, authorize, approve or refer to any written communication (as defined in Rule 405 under the Act), required to be filed with the Commission, that constitutes an offer to sell or solicitation of an offer to buy Shares hereunder.

8. Covenants of Wm Smith.

(a) Wm Smith covenants and agrees that it is duly registered as a broker-dealer under FINRA, the Exchange Act and the applicable statutes and regulations of each state in which the Shares will be offered and sold, except such states in which Wm Smith is exempt from registration or such registration is not otherwise required. Wm Smith shall continue, for the term of this Agreement, to be duly registered as a broker-dealer under FINRA, the Exchange Act and the applicable statutes and regulations of each state in which the Shares will be offered and sold, except such states in which Wm Smith is exempt from registration or such registration is not otherwise required, during the term of this Agreement.

(b) Wm Smith covenants and agrees that neither Wm Smith nor any of its affiliates nor any entity managed or controlled by Wm Smith or any of its affiliates shall enter into a short position with respect to Common Shares of the Company, including in any account of Wm Smith's or in any account directly or indirectly managed or controlled by Wm Smith or any of its affiliates or any entity managed or controlled by Wm Smith or any of its affiliates.

9. Conditions to Wm Smith's Obligations. The obligations of Wm Smith hereunder with respect to a Placement will be subject to the continuing accuracy and completeness of the representations and warranties made by the Company herein, to the due performance by the Company of its obligations hereunder, to the completion by Wm Smith of a due diligence review satisfactory to Wm Smith in its reasonable judgment, and to the continuing satisfaction (or waiver by Wm Smith in its sole discretion) of the following additional conditions:

(a) Registration Statement Effective. The Registration Statement shall have become effective and shall be available for the (i) resale of all Placement Shares issued to Wm Smith and not yet sold by Wm Smith and (ii) the sale of all Placement Shares contemplated to be issued by any Placement Notice.

(b) No Material Notices. None of the following events shall have occurred and be continuing: (i) receipt by the Company of any request for additional information from the Commission or any other federal or state governmental authority during the period of effectiveness of the Registration Statement, the response to which would require any post-effective amendments or supplements to the Registration Statement or the Prospectus; (ii) the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose; (iii) receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Placement Shares for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; or (iv) the occurrence of any event that makes any material statement made in the Registration Statement or the Prospectus or any material document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in the Registration Statement, related Prospectus or documents so that, in the case of the Registration Statement, it will not contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and, that in the case of the Prospectus, it will not contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(c) No Misstatement or Material Omission. The Registration Statement or Prospectus, or any amendment or supplement thereto, shall not contain an untrue statement of fact that in Wm Smith's reasonable opinion based on advice of counsel is material, or omits to state a fact that in Wm Smith's reasonable opinion is material based on advice of counsel and is required to be stated therein or is necessary to make the statements therein not misleading.

(d) Material Changes. Except as contemplated in the Prospectus, or disclosed in the Company's reports filed with the Commission, there shall not have been any downgrading in or withdrawal of the rating assigned to any of the Company's securities (other than asset backed securities) by any rating organization or a public announcement by any rating organization that it has under surveillance or review its rating of any of the Company's securities (other than asset backed securities), the effect of which, in the case of any such action by a rating organization described above, in the reasonable judgment of Wm Smith (without relieving the Company of any obligation or liability it may otherwise have), is so material as to make it impracticable or inadvisable to proceed with the offering of the Placement Shares on the terms and in the manner contemplated in the Prospectus.

(e) Legal Opinion. Wm Smith shall have received the opinions of Company Counsel and Bermuda Company Counsel required to be delivered pursuant Section 7(n) on or before the date on which such delivery of such opinion is required pursuant to Section 7(n).

(f) Comfort Letter. Wm Smith shall have received the Comfort Letter required to be delivered pursuant Section 7(o) on or before the date on which such delivery of such opinion is required pursuant to Section 7(o).

(g) Representation Certificate. Wm Smith shall have received the certificate required to be delivered pursuant to Section 7(m) on or before the date on which delivery of such certificate is required pursuant to Section 7(m).

(h) No Suspension. Trading in the Shares shall not have been suspended on the Exchange.

(i) Securities Act Filings Made. All filings with the Commission required by Rule 424 under the Securities Act to have been filed prior to the issuance of any Placement Notice hereunder shall have been made within the applicable time period prescribed for such filing by Rule 424.

(j) Approval for Listing. The Company shall have submitted a notification for listing of the Placement Shares on the Exchange at, or prior to, the issuance of any Placement Notice.

(k) No Termination Event. There shall not have occurred any event that would permit Wm Smith to terminate this Agreement pursuant to Section 12(a).

10. Indemnification and Contribution.

(a) Company Indemnification. The Company agrees to indemnify and hold harmless Wm Smith, the directors, officers, partners, employees and agents of Wm Smith and each person, if any, who (i) controls Wm Smith within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, or (ii) is controlled by or is under common control with Wm Smith (a "Wm Smith Affiliate") from and against any and all losses, claims, liabilities, expenses and damages (including, but not limited to, any and all reasonable investigative, legal and other expenses incurred in connection with, and any and all reasonable amounts paid in settlement (in accordance with Section 10(c)) of, any action, suit or proceeding

between any of the indemnified parties and any indemnifying parties or between any indemnified party and any third party, or otherwise, or any claim asserted), as and when incurred, to which Wm Smith, or any such person, may become subject under the Securities Act, the Exchange Act or other federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, liabilities, expenses or damages arise out of or are based, directly or indirectly, on (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or the Prospectus or any amendment or supplement to the Registration Statement or the Prospectus or in any Issuer Free Writing Prospectus or in any application or other document executed by or on behalf of the Company or based on written information furnished by or on behalf of the Company filed in any jurisdiction in order to qualify the Shares under the securities laws thereof or filed with the Commission, (ii) the omission or alleged omission to state in any such document a material fact required to be stated in it or necessary to make the statements in it not misleading or (iii) any breach by any of the indemnifying parties of any of their respective representations, warranties and agreements contained in this Agreement; provided, however, that this indemnity agreement shall not apply to the extent that such loss, claim, liability, expense or damage arises from the sale of the Placement Shares pursuant to this Agreement and is caused directly or indirectly by an untrue statement or omission made in reliance on and in conformity with information relating to Wm Smith or otherwise from the gross negligence or willful misconduct of Wm Smith. This indemnity agreement will be in addition to any liability that the Company might otherwise have.

(b) Wm Smith Indemnification. Wm Smith agrees to indemnify and hold harmless the Company and its directors and each officer of the Company who signed the Registration Statement, and each person, if any, who (i) controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act or (ii) is controlled by or is under common control with the Company (a "Company Affiliate") against any and all loss, liability, claim, damage and expense described in the indemnity contained in Section 10(a), as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendments thereto) or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with information relating to Wm Smith and furnished to the Company by Wm Smith or otherwise from the gross negligence or willful misconduct of Wm Smith.

(c) Procedure. Any party that proposes to assert the right to be indemnified under this Section 10 will, promptly after receipt of notice of commencement of any action against such party in respect of which a claim is to be made against an indemnifying party or parties under this Section 10, notify each such indemnifying party of the commencement of such action, enclosing a copy of all papers served, but the omission so to notify such indemnifying party will not relieve the indemnifying party from (i) any liability that it might have to any indemnified party otherwise than under this Section 10 and (ii) any liability that it may have to any indemnified party under the foregoing provision of this Section 10 unless, and only to the extent that, such omission results in the forfeiture of substantive rights or defenses by the indemnifying party. If any such action is brought against any indemnified party and it notifies the indemnifying party of its commencement, the indemnifying party will be entitled to participate in and, to the extent that it elects jointly with any other indemnifying party similarly notified, to assume the defense of the action, with counsel reasonably satisfactory to the indemnified party, and after notice from the indemnifying party to the indemnified party of its

election to assume the defense, the indemnifying party will not be liable to the indemnified party for any legal or other expenses except as provided below and except for the reasonable costs of investigation subsequently incurred by the indemnified party in connection with the defense. The indemnified party will have the right to employ its own counsel in any such action, but the fees, expenses and other charges of such counsel will be at the expense of such indemnified party unless (1) the employment of counsel by the indemnified party has been authorized in writing by the indemnifying party, (2) the indemnified party has reasonably concluded (based on advice of counsel) that there may be legal defenses available to it or other indemnified parties that are different from or in addition to those available to the indemnifying party, (3) a conflict or potential conflict exists (based on advice of counsel to the indemnified party) between the indemnified party and the indemnifying party (in which case the indemnifying party will not have the right to direct the defense of such action on behalf of the indemnified party) or (4) the indemnifying party has not in fact employed counsel to assume the defense of such action within a reasonable time after receiving notice of the commencement of the action, in each of which cases the reasonable fees, disbursements and other charges of counsel will be at the expense of the indemnifying party or parties. It is understood that the indemnifying party or parties shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees, disbursements and other charges of more than one separate firm admitted to practice in such jurisdiction at any one time for all such indemnified party or parties. All such fees, disbursements and other charges will be reimbursed by the indemnifying party promptly as they are incurred. An indemnifying party will not, in any event, be liable for any settlement of any action or claim effected without its written consent. No indemnifying party shall, without the prior written consent of each indemnified party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding relating to the matters contemplated by this Section 10 (whether or not any indemnified party is a party thereto), unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising or that may arise out of such claim, action or proceeding and does not include an admission of fault or culpability or a failure to act by or on behalf of such indemnified party.

(d) Contribution. In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in the foregoing paragraphs of this Section 10 is applicable in accordance with its terms but for any reason is held to be unavailable from the Company or Wm Smith, the Company and Wm Smith will contribute to the total losses, claims, liabilities, expenses and damages (including any investigative, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted, but after deducting any contribution received by the Company from persons other than Wm Smith, such as persons who control the Company within the meaning of the Securities Act, officers of the Company who signed the Registration Statement and directors of the Company, who also may be liable for contribution) to which the Company and Wm Smith may be subject in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and Wm Smith on the other. The relative benefits received by the Company on the one hand and Wm Smith on the other hand shall be deemed to be in the same proportion as the total net proceeds from the sale of the Placement Shares (before deducting expenses) received by the Company bear to the total compensation received by Wm Smith (before deducting expenses) from the sale of Placement Shares on behalf of the Company. If, but only if, the allocation provided by the foregoing sentence is not

permitted by applicable law, the allocation of contribution shall be made in such proportion as is appropriate to reflect not only the relative benefits referred to in the foregoing sentence but also the relative fault of the Company, on the one hand, and Wm Smith, on the other, with respect to the statements or omission that resulted in such loss, claim, liability, expense or damage, or action in respect thereof, as well as any other relevant equitable considerations with respect to such offering. Such relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or Wm Smith, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and Wm Smith agree that it would not be just and equitable if contributions pursuant to this Section 10(d) were to be determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, liability, expense, or damage, or action in respect thereof, referred to above in this Section 10(d) shall be deemed to include, for the purpose of this Section 10(d), any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim to the extent consistent with Section 10(c) hereof. Notwithstanding the foregoing provisions of this Section 10(d), Wm Smith shall not be required to contribute any amount in excess of the commissions received by it under this Agreement and no person found guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 10(d), any person who controls a party to this Agreement within the meaning of the Securities Act, and any officers, directors, partners, employees or agents of Wm Smith, will have the same rights to contribution as that party, and each officer of the Company who signed the Registration Statement will have the same rights to contribution as the Company, subject in each case to the provisions hereof. Any party entitled to contribution, promptly after receipt of notice of commencement of any action against such party in respect of which a claim for contribution may be made under this Section 10(d), will notify any such party or parties from whom contribution may be sought, but the omission to so notify will not relieve that party or parties from whom contribution may be sought from any other obligation it or they may have under this Section 10(d) except to the extent that the failure to so notify such other party materially prejudiced the substantive rights or defenses of the party from whom contribution is sought. Except for a settlement entered into pursuant to the last sentence of Section 10(c) hereof, no party will be liable for contribution with respect to any action or claim settled without its written consent if such consent is required pursuant to Section 10(c) hereof.

11. Representations and Agreements to Survive Delivery. The indemnity and contribution agreements contained in Section 10 of this Agreement and all representations and warranties of the Company herein or in certificates delivered pursuant hereto shall survive, as of their respective dates, regardless of (i) any investigation made by or on behalf of Wm Smith, any controlling persons, or the Company (or any of their respective officers, directors or controlling persons), (ii) delivery and acceptance of the Placement Shares and payment therefor or (iii) any termination of this Agreement.

12. Termination.

(a) Wm Smith shall have the right by giving notice as hereinafter specified at any time to terminate this Agreement if (i) any Material Adverse Effect has occurred that, in the reasonable judgment of Wm Smith, may materially impair the ability of Wm Smith to sell the Placement Shares hereunder, (ii) the Company shall have failed, refused or been unable to perform any agreement on its part to be performed hereunder; provided, however, in the case of any failure of the Company to deliver (or cause another person to deliver) any certification, opinion, or letter required under Sections 7(m), 7(n), or 7(o), Wm Smith's right to terminate shall not arise unless such failure to deliver (or cause to be delivered) continues for more than thirty days from the date such delivery was required; or (iii) any suspension or limitation of trading in the Placement Shares or in securities generally on the Exchange shall have occurred. Any such termination shall be without liability of any party to any other party except that the provisions of Section 7(g) (Expenses), Section 9 (Indemnification), Section 11 (Survival of Representations), Section 17 (Applicable Law; Consent to Jurisdiction) and Section 18 (Waiver of Jury Trial) hereof shall remain in full force and effect notwithstanding such termination. If Wm Smith elects to terminate this Agreement as provided in this Section 12(a), Wm Smith shall provide the required notice as specified in Section 13 (Notices).

(b) The Company shall have the right, by giving 60 days notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement. Any such termination shall be without liability of any party to any other party except that the provisions of Section 7(g), Section 10, Section 11, Section 17 and Section 18 hereof shall remain in full force and effect notwithstanding such termination.

(c) Wm Smith shall have the right, by giving 60 days notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement. Any such termination shall be without liability of any party to any other party except that the provisions of Section 7(g), Section 10, Section 11, Section 17 and Section 18 hereof shall remain in full force and effect notwithstanding such termination.

(d) Unless earlier terminated pursuant to this Section 12, this Agreement shall automatically terminate upon the issuance and sale of the maximum amount of the Shares set forth in Section 1 through Wm Smith on the terms and subject to the conditions set forth herein; provided that the provisions of Section 7(g), Section 10, Section 11, Section 17 and Section 18 hereof shall remain in full force and effect notwithstanding such termination.

(e) This Agreement shall remain in full force and effect unless terminated pursuant to Sections 12(a), (b), (c), or (d) above or otherwise by mutual agreement of the parties; provided, however, that any such termination by mutual agreement shall in all cases be deemed to provide that Section 7(g), Section 10, Section 11, Section 17 and Section 18 shall remain in full force and effect.

(f) Any termination of this Agreement shall be effective on the date specified in such notice of termination; provided, however, that such termination shall not be effective until the close of business on the date of receipt of such notice by Wm Smith or the Company, as the case may be. If such termination shall occur prior to the Settlement Date for any sale of Placement Shares, such Placement Shares shall settle in accordance with the provisions of this Agreement.

13. Notices. All notices or other communications required or permitted to be given by any party to any other party pursuant to the terms of this Agreement shall be in writing, unless otherwise specified, and if sent to Wm Smith, shall be delivered to:

Wm Smith & Co.
1700 Lincoln Street, Suite 2545
Denver, CO 80203
Attention: William S. Smith
Facsimile: 303-831-0881

with a copy to:

Holme Roberts & Owen LLP
1700 Lincoln Street, Suite 4100
Denver, CO 80203
Attention: Garth B. Jensen
Facsimile: 303-866-0200

and if to the Company, shall be delivered to:

XOMA Ltd.
2910 Seventh Street
Berkeley, CA 94710
Attention: Christopher J. Margolin
Facsimile: (510) 649-7471

with a copy to:

Cahill Gordon & Reindel LLP
80 Pine Street
New York, New York 10005
Attention: Geoffrey E. Liebmann
Facsimile: (212) 269-5420

Each party to this Agreement may change such address for notices by sending to the parties to this Agreement written notice of a new address for such purpose. Each such notice or other communication shall be deemed given (i) when delivered personally or by verifiable facsimile transmission (with an original to follow) on or before 4:30 p.m., New York City time, on a Business Day or, if such day is not a Business Day, on the next succeeding Business Day, (ii) on the next Business Day after timely delivery to a nationally-recognized overnight courier and (iii) on the Business Day actually received if deposited in the U.S. mail (certified or registered mail, return receipt requested, postage prepaid). For purposes of this Agreement, "Business Day" shall mean any day on which the Exchange and commercial banks in the City of New York are open for business.

An electronic communication ("Electronic Notice") shall be deemed written notice for purposes of this Section 13 if sent to the electronic mail address specified by the receiving party under separate cover. Electronic Notice shall be deemed received at the time the party sending

Electronic Notice receives verification of receipt by the receiving party. Any party receiving Electronic Notice may request and shall be entitled to receive the notice on paper, in a nonelectronic form ("Nonelectronic Notice") which shall be sent to the requesting party within ten (10) days of receipt of the written request for Nonelectronic Notice.

14. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Company and Wm Smith and their respective successors and the affiliates, controlling persons, officers and directors referred to in Section 10 hereof. References to any of the parties contained in this Agreement shall be deemed to include the successors and permitted assigns of such party. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party; provided, however, that Wm Smith may assign its rights and obligations hereunder to an affiliate of Wm Smith without obtaining the Company's consent.

15. Adjustments for Stock Splits. The parties acknowledge and agree that all share-related numbers contained in this Agreement shall be adjusted to take into account any share subdivision, bonus issue or similar event effected with respect to the Shares.

16. Entire Agreement; Amendment; Severability. This Agreement (including all schedules and exhibits attached hereto and Placement Notices issued pursuant hereto) constitutes the entire agreement and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the parties hereto with regard to the subject matter hereof. Neither this Agreement nor any term hereof may be amended except pursuant to a written instrument executed by the Company and Wm Smith. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as written by a court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the terms and provisions herein shall be construed as if such invalid, illegal or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the parties as reflected in this Agreement.

17. Applicable Law; Consent to Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of New York without regard to the principles of conflicts of laws. Each party hereby irrevocably submits to the non-exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection with any transaction contemplated hereby, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof (certified or registered mail, return receipt requested) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law.

18. Waiver of Jury Trial. The Company and Wm Smith each hereby irrevocably waives any right it may have to a trial by jury in respect of any claim based upon or arising out of this agreement or any transaction contemplated hereby.

19. 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. Delivery of an executed Agreement by one party to the other may be made by facsimile transmission.

[Remainder of Page Intentionally Blank]

If the foregoing correctly sets forth the understanding between the Company and Wm Smith, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding agreement between the Company and Wm Smith.

Very truly yours,

XOMA Ltd.

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

ACCEPTED as of the date first-above written:

WM SMITH & CO.

By: _____
Name: Patrice McNicoll
Title: Managing Director

SCHEDULE 1

FORM OF PLACEMENT NOTICE

From: [ ]

To: Wm Smith & Co.
Attention: William Smith and Patrice McNicoll

Subject: At Market Issuance—Placement Notice

Gentlemen:

Pursuant to the terms and subject to the conditions contained in the At Market Issuance Sales Agreement between XOMA Ltd. (the "Company"), and Wm Smith & Co. ("Wm Smith") dated July 14, 2009, the Company hereby requests that Wm Smith sell up to____ shares of the Company's common shares, par value $0.0005 per share, at a minimum market price of $____ per share, during the time period beginning [month, day, time] and ending [month, day, time].

SCHEDULE 2

Compensation

The Company shall pay to Wm Smith in cash, upon each sale of Shares pursuant to this Agreement an amount equal to 3% of the gross proceeds but no less than $0.02 per share from each sale of Shares pursuant to this Agreement.

SCHEDULE 3

Company

Christopher J Margolin	margolin@xoma.com
Fred Kurland	
Steve Engle	

Wm Smith

Bill Smith	bsmith@wmsmith.com
Patrice McNicoll	pMcNicoll@wmsmith.com

SCHEDULE 4

Account Information

Disclosure Schedule
Section 6(g)

Subsidiaries

XOMA (Bermuda) Ltd.
XOMA Development Corporation
XOMA Ireland Limited
XOMA Technology Ltd.
XOMA (US) LLC
XOMA Limited (UK)

EXHIBIT 7(m)

Form of Representation Date Certificate

This Officers Certificate (this "Certificate") is executed and delivered in connection with Section 7(m) of the At Market Issuance Sales Agreement (the "Agreement"), dated July 14, 2009, and entered into between XOMA Ltd. (the "Company") and Wm Smith & Co. ("Wm Smith"). All capitalized terms used but not defined herein shall have the meanings given to such terms in the Agreement

The undersigned, a duly appointed and authorized officer of the Company, having been authorized by the Company to execute this certificate, hereby certifies as follows:

1. As of the date of this Certificate, (i) the Registration Statement does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading and (ii) neither the Prospectus nor the Pricing Disclosure Materials contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading and (iii) no event has occurred as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein not untrue or misleading.

2. Each of the representations and warranties of the Company contained in the Agreement were, when originally made, and are, as of the date of this Certificate, true and correct in all material respects.

3. Each of the covenants required to be performed by the Company in the Agreement on or prior to the date of the Agreement, this Representation Date, and each such other date as set forth in the Agreement, has been duly, timely and fully performed in all material respects and each condition required to be complied with by the Company on or prior to the date of the Agreement, this Representation Date, and each such other date as set forth in the Agreement or in the Waivers has been duly, timely and fully complied with in all material respects.

4. Except as set forth in, incorporated by reference into or otherwise contemplated by the Registration Statement or the Prospectus, since the date of the most recent financial statements of the Company included or incorporated by reference in the Registration Statement and the Prospectus there has not been any material adverse change in the business, properties, financial position, or results of operations of the Company, taken as a whole.

5. No stop order suspending the effectiveness of the Registration Statement or of any part thereof has been issued, and no proceedings for that purpose have been instituted or are pending or threatened by any securities or other governmental authority (including, without limitation, the Commission).

6. No order suspending the effectiveness of the Registration Statement or the qualification or registration of the Shares under the securities or Blue Sky laws of any jurisdiction are

in effect and no proceeding for such purpose is pending before, or threatened, to the Company's knowledge or in writing by, any securities or other governmental authority (including, without limitation, the Commission).

The undersigned has executed this Officer's Certificate as of the date first written above.

XOMA LTD.

By: _____
Name: _____
Title: _____

EXHIBIT 7(n)(1)(A)

Form Of Legal Opinion of Conyers Dill & Pearman

Capitalized terms used and not defined herein shall have the meanings ascribed to them in the At Market Issuance Sales Agreement (the "Agreement")

(i) The Common Shares have been duly authorized in accordance with the Company's memorandum of continuance and bye-laws.

(ii) When issued and paid in accordance with the terms of the Agreement, the Common Shares will be validly issued, fully paid and non-assessable (meaning that no further sums are required to be paid by the holders thereof in connection with the issue of such shares).

(iii) The Company has been duly continued to Bermuda and is existing under the laws of Bermuda in good standing (meaning solely that it has not failed to make any filing with any Bermuda governmental authority, or to pay any Bermuda government fee or tax, which would make it liable to be struck off the Register of Companies and thereby cease to exist under the laws of Bermuda).

(iv) The Company has the necessary corporate power and authority to enter into and perform its obligations under the Agreement. The execution and delivery of the Agreement by the Company and the performance by the Company of its obligations thereunder, will not violate the memorandum of continuance or bye-laws of the Company nor any applicable law, regulation, order or decree in Bermuda.

(v) The Company has taken all corporate action required to authorise its execution, delivery and performance of the Agreement. The Agreement has been duly executed and delivered by or on behalf of the Company, and constitutes the valid and binding obligations of the Company in accordance with the terms thereof.

EXHIBIT 7(n)(1)(B)

Form Of Legal Opinion of Cahill Gordon & Reindel LLP

Capitalized terms used and not defined herein shall have the meanings ascribed to them in the At Market Issuance Sales Agreement (the "Agreement")

(i) Assuming the due authorization, execution and delivery thereof by the Company and the Wm Smith, the Agreement constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

(ii) The Registration Statement, Prospectus and the Prospectus Supplement (other than the financial statements and schedules and other financial data included or incorporated by reference therein, as to which we express no opinion), as of their respective effective and issue dates, complied as to form in all material respects with the requirements of the Securities Act and the rules and regulations thereunder.

The opinion of counsel shall include, or will be accompanied by letter containing, standard Rule 10b-5 negative assurance language.

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 quarterly report on Form 10-Q 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 officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

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

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

Date: November 9, 2009

/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 quarterly report on Form 10-Q 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 officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

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

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

Date: November 9, 2009

/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 quarterly report of the Company on Form 10-Q for the period ended September 30, 2009, 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: November 9, 2009

/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 quarterly report of the Company on Form 10-Q for the period ended September 30, 2009, 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: November 9, 2009

/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.

Exhibit 99.1

XOMA Reports 2009 Third Quarter Financial Results

BERKELEY, Calif., November 9, 2009: XOMA Ltd. (Nasdaq: XOMA), a leader in the discovery and development of therapeutic antibodies, today announced its financial results for the third quarter and nine months ended September 30, 2009 and provided a general business update. XOMA has made significant progress in 2009 toward its objective of becoming a company focused on proprietary product development and has done so while generating revenues from its technology licensing collaborations, royalties and biodefense businesses in difficult circumstances that included the removal of royalty generating RAPTIVA® from the market and a particularly challenging economic environment. The following are XOMA's key accomplishments in 2009.

- **Proprietary pipeline**: The company has advanced XOMA 052, its anti-inflammatory antibody to interleukin-1 beta (IL-1 beta), through the completion of successful Phase 1 trials and into Phase 2 development in Type 2 diabetes and cardiometabolic diseases. XOMA reported new preclinical results showing the benefit of XOMA 052 in reducing the buildup of plaque which can lead to hardening of the arteries and heart attack. Preclinical results with another IL-1 targeting agent have shown beneficial effects in cardiac remodeling which may reduce the risk of congestive heart failure following heart attack. These results provide direct evidence of the potential for IL-1 inhibition to beneficially impact major cardiovascular diseases. Based on these developments and its Phase 1 results, XOMA has expanded its XOMA 052 development strategy to cardiovascular diseases. XOMA has also advanced its XOMA 3AB anti-botulism antibody for biodefense into pre-IND studies and continues to develop its proprietary preclinical pipeline in inflammatory, cardiometabolic, infectious and oncologic diseases.
- **Antibody collaboration revenues**: Collaboration, licensing and biodefense revenues totaled $48 million in the first nine months of 2009. With the signing of new agreements with Kaketsuken and the Cephalon subsidiary Arana Therapeutics, actual and anticipated non-royalty revenues now total $62 million for the year thus far.
- **Marketed product royalties**: Royalties for LUCENTIS®, CIMZIA® and RAPTIVA®, including a one-time prepayment of $25 million for future LUCENTIS royalties, generated revenues of $28.9 million through September 30, 2009.
- **Total revenues**: For the nine months ended September 30, 2009, XOMA recorded revenues of $76.8 million, compared with $31.1 million for the same period of 2008.

Total revenues in the 2009 third quarter were $27.4 million, compared to $7.9 million in the 2008 third quarter. The company had net income $1.5 million or $0.01 per share in the 2009 third quarter, compared with a net loss of $20.4 million, or $0.15 per share, for the third quarter of 2008. The improvement was primarily due to increased revenues as a result of the sale of the LUCENTIS® royalty interest and decreased operating expenses.

Total operating expenses were $20.6 million in the 2009 third quarter, compared with $26.4 million for the third quarter of 2008. This decrease was primarily due to reduced expenses arising from the workforce reduction in January 2009, particularly in manufacturing and related areas and associated selling, general and administrative support, as well as multiple cost control initiatives.

At September 30, 2009, XOMA had unrestricted cash, cash equivalents and short-term investments of $27.7 million, compared with $10.8 million at December 31, 2008. In September 2009, the company fully repaid principal and accrued interest totaling $44.4 million on its loan with Goldman Sachs Specialty Lending Holdings, Inc. (Goldman Sachs).

“We are excited about the new cardiovascular results from preclinical and clinical studies with XOMA 052 and other IL-1 targeting agents and our expanded strategy for XOMA 052 in cardiovascular diseases. This adds substantial value to XOMA 052. We are also pleased to have exceeded expectations for generating revenues during the first three quarters of this year,” said Steven B. Engle, XOMA’s Chairman and Chief Executive Officer. “Based on our cash reserves, anticipated revenues from collaborations including a XOMA 052 corporate partnership, licensing transactions and biodefense contracts, we believe XOMA has sufficient cash resources to meet its anticipated net cash needs into 2011.

“We continue to make progress in our discussions with potential partners,” Mr. Engle continued. “Importantly, new cardiovascular results combined with previous data greatly increase the value of XOMA 052. As a result, partners need additional time to review the new data. As might be expected, with our financial flexibility and depending on ongoing discussions, we may complete a partnership in the original time frame, or it may take some additional time for partners to fully value XOMA 052’s potential beyond diabetes.”

Recent Highlights

- **XOMA 052 Phase 2 clinical development program initiated in Type 2 diabetes and cardiometabolic diseases:** Based on positive results in two Phase 1 studies conducted in 98 patients, XOMA initiated its Phase 2a program with an extended safety and biological activity study in Type 2 diabetes patients for which interim results may be available by the third quarter of 2010. XOMA also plans to conduct a Phase 2a cardiometabolic study intended to provide more details about beta cell and endothelial functions. XOMA anticipates initiating this trial in the first quarter of 2010. These and other studies will more fully characterize the multiple biological activities of XOMA 052, collect additional safety data and provide results supporting design of pivotal Phase 3 trials.
- **XOMA 052 demonstrates statistically significant reduction in the formation of plaque in preclinical studies:** Preclinical results with XOMA 052 in an animal model of cardiovascular disease were presented in October at the 2009 Annual Meeting of the Society for Leukocyte Biology, International Cytokine Society, & International Society for Interferon and Cytokine Research (Tri-Society). The presentation included results of studies in the apolipoprotein E (ApoE) “knockout” mouse model, a well-validated model of atherosclerosis that follows a similar pattern of progression to that in humans. The studies demonstrated that mice treated with a murine equivalent of XOMA 052 had a statistically significant reduction in the formation of plaque in the aorta, and trends toward improved lipid profiles, compared to mice receiving a control antibody. These results demonstrate for the first time that XOMA 052 has a direct, beneficial effect on plaque build-up in an animal model of cardiovascular disease.
- **XOMA expands XOMA 052 development strategy into cardiovascular disease indications:** New findings on the reduction of cholesterol, plaque damage to the heart after heart attack, biomarker results from the XOMA 052 Phase 1 trials and other studies of IL-1 targeting agents indicate that XOMA 052 is likely to have positive benefits in cardiovascular disease. The combination of these findings has led XOMA to expand the cardiovascular disease development strategy for XOMA 052 and greatly increases the potential value of XOMA 052.

- **Results presented at international diabetes meeting demonstrate XOMA 052's unique regulatory mechanism of action in regulating IL-1 beta signaling:** At the European Association for the Study of Diabetes annual meeting in September, XOMA reported results demonstrating that XOMA 052 regulates IL-1 beta signaling, reducing pathologically high levels that cause disease while allowing normal and beneficial low levels. This regulatory mechanism of action for XOMA 052 differs from some antibodies to IL-1 which are designed to completely block all contact between target and receptor, and if shown in clinical studies, may confer safety advantages in chronic diseases including diabetes and cardiovascular diseases.
- **New indication for XOMA 052 in Type 1 diabetes to be evaluated in Phase 2 clinical trial funded by Juvenile Diabetes Research Foundation:** The study is designed to measure the effects of treatment with XOMA 052 over six months on beta cell function and insulin production in 24 patients with well-controlled Type 1 diabetes who have had the disease for at least two years. It will test the novel hypothesis that inhibiting the activity of IL-1 beta may prevent ongoing beta cell death at later stages of disease, when most beta cells have been destroyed, and allow beta cell regeneration to prevail and repopulate the pancreas. It is complementary to ongoing trials with IL-1 and immune modulating agents at earlier disease stages. The Juvenile Diabetes Research Foundation International is the largest Type 1 diabetes patient advocacy organization in the world.
- **New antibody technology collaborations provide $14 million:** XOMA signed agreements with Cephalon's subsidiary, Arana Therapeutics, and Kaketsuken, a private research institute based in Japan, covering multiple proprietary XOMA antibody research and development technologies, including XOMA's new antibody phage display libraries, and suites of integrated information and data management systems. These are the second and third technology collaborations XOMA has initiated this year, the three of which together are expected to generate fee revenue totaling $43 million and potential future milestone and royalty payments.
- **New contracts for federal government biodefense and public health programs to provide $3.9 million:** XOMA was awarded two new subcontracts from the National Institutes of Allergy and Infectious Disease of the National Institutes of Health to develop and optimize novel antibody drugs against important biodefense and public health threats. One contract, for $2.2 million, is for the development of a novel antibody that has been shown by Dana-Farber Cancer Institute and Harvard Medical School researchers to neutralize group 1 influenza A viruses, including the H1N1 and the H5N1 strains. The other contract provides $1.7 million for the development of an antibody to the virus that causes SARS, a highly contagious infectious disease that often leads to pneumonia and may be fatal.
- **First European patent granted covering XOMA 052:** The patent, granted by the European Patent Office, provides protection through 2026 for XOMA 052 as well as nucleic acids, expression vectors and production cell lines for the manufacture of XOMA 052.

Additional Financial Results

XOMA's total revenues in the third quarter of 2009 included $22.3 million in royalty income, $3.7 million in contract and other revenue, and $1.4 million in license and collaborative fees. In the 2008 third quarter, revenues included $4.6 million in royalties, $2.0 million in contract and other revenue, and $1.3 million in license and collaborative fees. The increase in royalty revenue was primarily due to the sale to Genentech of XOMA's royalty interest in LUCENTIS®.

XOMA receives royalties based on U.S. sales of CIMZIA®, which is marketed by UCB SA for the treatment of moderate to severe rheumatoid arthritis, an estimated $10 billion overall market, and Crohn's disease. Royalties on sales of CIMZIA® in the third quarter of 2009 were $0.2 million, and are expected to increase as UCB continues the CIMZIA® launch in the U.S. rheumatoid arthritis market.

XOMA's research and development expense for the third quarter of 2009 was $13.4 million, compared with $19.7 million in the same period of 2008. This decrease was due to decreased personnel costs as a result of the January 2009 workforce reduction, and reduced spending resulting from multiple additional cost control initiatives. Selling, general and administrative expenses for the third quarter of 2009 were $7.2 million compared with $6.7 million for the same period last year.

Interest expense for the third quarter of 2009 was $1.3 million compared with $2.0 million for the same period of 2008. This decrease is primarily due to the repayment in full of the Goldman Sachs loan in September 2009 and a decrease in the outstanding principal balance of and interest rate on the Novartis note.

Loss on debt extinguishment for the third quarter of 2009 was $3.6 million related to the repayment of our Goldman Sachs loan. This loss includes a prepayment premium of $2.5 million and the recognition of unamortized debt issuance costs of $1.1 million.

Debt Obligations

In September 2009, XOMA fully repaid its term loan facility with Goldman Sachs, including the outstanding principal balance of $42.0 million and accrued interest of $2.4 million.

With this repayment, XOMA's sole debt obligation at the end of the third quarter is a $13.1 million long-term note due to Novartis. This note was established under a loan facility to facilitate XOMA's participation in its collaboration with Novartis including the development of HCD 122 which is in Phase 1a/2 clinical testing for lymphoma. The Novartis loan is secured by XOMA's interest in the collaboration and is due in 2015.

Liquidity and Capital Resources

Cash, cash equivalents and short-term investments at September 30, 2009 was $27.7 million compared with $10.8 million at December 31, 2008. In September 2009, in addition to the repayment of the Goldman Sachs loan, the company completed two common share financings under its committed equity line of credit facility with Azimuth Opportunity Ltd. that provided approximately $26.4 million in gross proceeds to the company. Approximately $12.3 million of these proceeds were used, together with other funds, to repay the Goldman Sachs loan.

Cash provided by operating activities during the first nine months of 2009 was $11.5 million compared with cash used in operating activities of $35.8 million during the first nine months of 2008. This change is primarily due to license and collaborative fees and the sale of the LUCENTIS® royalty interest to Genentech.

In the third quarter of 2009, XOMA entered into an At Market Issuance Sales Agreement with Wm Smith & Co. under which XOMA may issue up to 25 million of its common shares from time to time through Wm Smith as agent by means of one or more "at the market" offerings or, with XOMA's approval, in negotiated transactions. The company's equity line of credit facility with Azimuth is no longer in effect and no additional shares can be issued under it.

A more detailed tabulation of XOMA's financial results appears below, and a more complete discussion is included in the company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2009.

Guidance

The company will not be providing guidance on revenues or cash receipts for 2009 so as to best manage its ongoing negotiations for XOMA 052 and technology licensing and in light of general economic and market conditions.

The company expects that cash used in operating activities for 2009 may range from $5 million to cash neutral or positive. This guidance is updated from its prior estimate that cash used in operating activities for 2009 may range from $15 million to cash neutral.

Investor Conference Call

XOMA will host a conference call and webcast to discuss its third quarter 2009 financial results today, November 9, 2009, at 9:00 a.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 January 8, 2010. Telephone numbers for the live audiocast are 888-677-8749 (U.S./Canada) and 913-312-1468 (international). A telephonic replay will be available beginning approximately two hours after the conclusion of the call until close of business on November 18, 2009. Telephone numbers for the replay are 888-203-1112 (U.S./Canada) and 719-457-0820 (international), passcode 1808574.

About XOMA

XOMA discovers, develops and manufactures novel antibody therapeutics for its own proprietary pipeline as well as through license and collaborative agreements with pharmaceutical and biotechnology companies, and under its contracts with the U.S. government. The company's proprietary product pipeline includes:

- XOMA 052, an anti-IL-1 beta antibody in Phase 2 development for Type 2 diabetes, Type 1 diabetes and cardiovascular disease, with potential for the treatment of a wide range of inflammatory diseases
- XOMA 3AB, an antibody candidate in pre-IND studies to neutralize the botulinum toxin, among the most deadly potential bioterror threats, under development through funding provided by the National Institutes of Allergy and Infectious Diseases of the National Institutes of Health
- A preclinical pipeline with candidates in development for inflammatory, inflammatory, cardiometabolic, infectious and oncologic diseases.

In addition to its proprietary pipeline, XOMA develops products with premier pharmaceutical companies including Novartis AG, Schering-Plough Research Institute and Takeda Pharmaceutical Company Limited. XOMA has multiple revenue streams resulting from the licensing of its antibody technologies, product royalties, development collaborations and biodefense contracts. XOMA's technologies have contributed to the success of marketed antibody products, including LUCENTIS(R) (ranibizumab injection) for wet age-related macular degeneration and CIMZIA(R) (certolizumab pegol) for rheumatoid arthritis and Crohn's disease.

The company has a premier antibody discovery and development platform that incorporates an unmatched collection of antibody phage display libraries and proprietary Human Engineering(TM), affinity maturation, Bacterial Cell Expression (BCE) and manufacturing technologies. BCE is a key breakthrough biotechnology for the discovery and manufacturing of antibodies and other proteins. As a result, more than 50 pharmaceutical and biotechnology companies have signed BCE licenses, and several licensed product candidates are in clinical development.

XOMA has a fully integrated product development infrastructure, extending from pre-clinical science to approval, and a team of about 200 employees at its Berkeley, California location. For more information, please visit http://www.xoma.com.

The XOMA Ltd. logo is available at http://www.globenewswire.com/newsroom/prs/

Forward-Looking Statements

Certain statements contained herein concerning the anticipated levels of cash inflows, cash utilization, cash expenditures and reductions in cash expenditures; sales of approved products; timing of initiation, completion or availability of results of clinical trials, effects of or possible dosing of XOMA 052; entry into a XOMA 052 development partnership; 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 inflows, cash utilization, cash expenditures and reductions in cash expenditures 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; sales of approved products may be lower than anticipated as a result of actions or inaction by the third parties responsible for selling such products; the timing of initiation, completion or availability of results of clinical trials may be delayed or may never occur as a result of unavailability of resources, actions or inaction by our present or future collaboration partners, insufficient enrollment in such trials or unanticipated safety issues. The effects of XOMA 052 may differ in later preclinical or clinical data and dosing of XOMA 052 may be affected by later testing results; and a XOMA 052 partnership may not be entered into in the timeframes indicated or at all.

These and other risks, including those related to XOMA's inability to comply with NASDAQ's continued listing requirements; the declining and generally unstable nature of current economic 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 relationships; the ability of collaborators and other partners to meet their obligations; 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 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.

XOMA Ltd.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(unaudited)
(in thousands, except per share amounts)

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008	2009	2008
Revenues:				
License and collaborative fees	$ 1,421	$ 1,286	$ 29,276	$ 1,466
Contract and other revenue	3,688	1,979	18,662	14,728
Royalties	22,314	4,629	28,895	14,873
Total revenues	27,423	7,894	76,833	31,067
Operating expenses:				
Research and development	13,444	19,714	43,472	62,444
Selling, general and administrative	7,197	6,724	18,972	18,984
Restructuring	2	—	3,603	—
Total operating expenses	20,643	26,438	66,047	81,428
Income (loss) from operations	6,780	(18,544)	10,786	(50,361)
Other income (expense):				
Investment and interest income	9	182	47	797
Interest expense	(1,339)	(1,998)	(4,778)	(4,960)
Loss on debt extinguishment	(3,645)	—	(3,645)	(652)
Other income (expense)	103	(2)	1,240	(51)
Net income (loss) before taxes	1,908	(20,362)	3,650	(55,227)
Provision for income tax expense	370	—	6,083	—
Net income (loss)	$ 1,538	$ (20,362)	$ (2,433)	$ (55,227)
Basic and diluted net income (loss) per common share	$ 0.01	$ (0.15)	$ (0.02)	$ (0.42)
Shares used in computing basic net income (loss) per common share	167,254	132,364	153,170	132,270
Shares used in computing diluted net income (loss) per common share	172,762	132,364	153,170	132,270

XOMA Ltd.
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands)

	September 30, 2009 (unaudited)	December 31, 2008
ASSETS		
Current assets:		
Cash and cash equivalents	$ 27,726	$ 9,513
Short-term investments	—	1,299
Restricted cash	—	9,545
Trade and other receivables, net	3,203	16,686
Prepaid expenses and other current assets	1,331	1,296
Debt issuance costs	—	365
Total current assets	32,260	38,704
Property and equipment, net	21,794	26,843
Debt issuance costs – long-term	—	1,224
Other assets	402	402
Total assets	$ 54,456	$ 67,173
LIABILITIES AND SHAREHOLDERS' EQUITY (NET CAPITAL DEFICIENCY)		
Current liabilities:		
Accounts payable	$ 2,657	$ 9,977
Accrued liabilities	8,539	4,438
Accrued interest	118	1,588
Deferred revenue	8,317	9,105
Warrant liability	5,321	—
Other current liabilities	475	1,884
Total current liabilities	25,427	26,992
Deferred revenue – long-term	4,716	8,108
Interest bearing obligations – long-term	13,129	63,274
Other long-term liabilities	408	200
Total liabilities	43,680	98,574
Shareholders' equity (net capital deficiency)	10,776	(31,401)
Total liabilities and shareholders' equity (net capital deficiency)	$ 54,456	$ 67,173

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