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, 2010

or

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

Commission File No. 0-14710

XOMA Ltd.

(Exact name of registrant as specified in its charter)

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

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 2, 2010**
Common Shares, U.S. $0.0075 par value	**21,798,576**

XOMA Ltd.
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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, 2010 (unaudited)	December 31, 2009 (Note 1)
ASSETS		
Current assets:		
Cash and cash equivalents	$ 16,860	$ 23,909
Trade and other receivables, net	7,944	7,231
Prepaid expenses and other current assets	1,486	1,012
Total current assets	26,290	32,152
Property and equipment, net	16,179	20,270
Other assets	543	402
Total assets	$ 43,012	$ 52,824
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 5,706	$ 2,942
Accrued liabilities	8,187	8,639
Deferred revenue	2,152	2,114
Warrant liabilities	1,716	4,760
Other current liabilities	-	223
Total current liabilities	17,761	18,678
Deferred revenue – long-term	1,346	2,894
Interest bearing obligation - long-term	13,505	13,341
Other long-term liabilities	353	385
Total liabilities	32,965	35,298
Shareholders' equity:		
Preference shares, $0.05 par value, 1,000,000 shares authorized		
Series A, 210,000 designated, no shares issued and outstanding at September 30, 2010 and December 31, 2009	-	-
Series B, 8,000 designated, 2,959 shares issued and outstanding at September 30, 2010 and December 31, 2009 (aggregate liquidation preference of $29.6 million)	1	1
Common shares, $0.0075 par value, 46,666,666 shares authorized, 21,195,111 and 13,536,146 shares outstanding at September 30, 2010 and December 31, 2009, respectively	159	101
Additional paid-in capital	845,439	801,978
Accumulated deficit	(835,552)	(784,554)
Total shareholders' equity	10,047	17,526
Total liabilities and shareholders' equity	$ 43,012	$ 52,824

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

(Note 1) The condensed consolidated balance sheet as of December 31,2009 has been derived from the audited financial statements as of that date included in the Company's Annual Report on Form 10-K for the year ended December 31, 2009.

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

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Revenues:				
License and collaborative fees	$ 1,410	$ 1,421	$ 1,749	$ 29,276
Contract and other revenue	5,733	3,688	18,025	18,662
Royalties	3,754	22,314	4,267	28,895
Total revenues	10,897	27,423	24,041	76,833
Operating expenses:				
Research and development (including contract related of $4,013 and $2,575 for the three months ended September 30, 2010 and 2009, respectively, and $12,422 and $12,671 for the nine months ended September 30, 2010 and 2009, respectively)	21,345	13,444	58,278	43,472
Selling, general and administrative	6,152	7,197	16,731	18,972
Restructuring	45	2	45	3,603
Total operating expenses	27,542	20,643	75,054	66,047
(Loss) income from operations	(16,645)	6,780	(51,013)	10,786
Other income (expense):				
Investment and interest income	4	9	13	47
Interest expense	(104)	(1,339)	(281)	(4,778)
Loss on debt extinguishment	-	(3,645)	-	(3,645)
Other income	3,113	103	300	1,240
Net (loss) income before taxes	(13,632)	1,908	(50,981)	3,650
Provision for income tax expense	1	370	17	6,083
Net (loss) income	$ (13,633)	$ 1,538	$ (50,998)	$ (2,433)
Basic net (loss) income per common share	$ (0.69)	$ 0.14	$ (2.87)	$ (0.24)
Diluted net (loss) income per common share	$ (0.69)	$ 0.13	$ (2.87)	$ (0.24)
Shares used in computing basic net (loss) income per common share	19,802	11,150	17,742	10,211
Shares used in computing diluted net (loss) income per common share	19,802	11,517	17,742	10,211

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,	
	2010	**2009**
Cash flows from operating activities:		
Net loss	$ (50,998)	$ (2,433)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	4,349	5,284
Common shares contribution to 401(k) and management incentive plans	905	1,198
Share-based compensation expense	3,743	3,398
Accrued interest on interest bearing obligations	260	(1,221)
Revaluation of warrant liability	(4,811)	(1,220)
Amortization of discount, premium and debt issuance costs of interest bearing obligations	-	1,589
Warrant modification expense	4,500	-
Other non-cash adjustments	19	13
Changes in assets and liabilities:		
Receivables	(713)	13,483
Prepaid expenses and other assets	(615)	(35)
Accounts payable and accrued liabilities	2,217	(3,219)
Deferred revenue	(1,510)	(4,180)
Other liabilities	(256)	(1,201)
Net cash (used in) provided by operating activities	(42,910)	11,456
Cash flows from investing activities:		
Proceeds from maturities of investments	-	1,300
Transfer of restricted cash	-	9,545
Purchase of property and equipment	(277)	(247)
Net cash (used in) provided by investing activities	(277)	10,598
Cash flows from financing activities:		
Principal payments of debt	-	(50,394)
Proceeds from issuance of common shares	40,638	46,553
Payment for modification of warrants	(4,500)	-
Net cash provided by (used in) financing activities	36,138	(3,841)
Net (decrease) increase in cash and cash equivalents	(7,049)	18,213
Cash and cash equivalents at the beginning of the period	23,909	9,513
Cash and cash equivalents at the end of the period	$ 16,860	$ 27,726
Suppemental Cash Flow Information:		
Cash paid during the nine months ended September 30, 2010 for:		
Income taxes, including foreign withholding taxes	$ 16	$ 5,800
Interest	$ -	$ 5,508
Non-cash investing and financing activities:		
Issuance and extinguishment of warrant liabilities	$ 1,767	$ 6,541
Interest added to principal balance on Novartis note	$ 164	$ 249

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

XOMA Ltd.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(unaudited)

1. Description of Business

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

2. Basis of Presentation and Significant Accounting Policies

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, 2009, filed with the U.S. Securities and Exchange Commission (the "SEC") on March 11, 2010, as amended on April 30, 2010.

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, 2010, the consolidated results of the Company's operations for the three months and nine months ended September 30, 2010 and 2009, and the Company's cash flows for the nine months ended September 30, 2010 and 2009. The interim results of operations are not necessarily indicative of the results that may occur for the full fiscal year or future periods.

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

Liquidity and Financial Condition

In March of 2010, the Company received a Staff Determination letter from The NASDAQ Stock Market LLC ("NASDAQ") indicating that the Company had not regained compliance with the minimum $1.00 per share requirement for continued inclusion on The NASDAQ Global Market, pursuant to NASDAQ Listing Rule 5450(a)(1). On August 18, 2010, the Company effected a reverse split of its common shares in order to regain compliance and to better enable the Company to maintain the listing of its common shares on The NASDAQ Global Market. The Company's closing bid price exceeded the $1.00 per share threshold on each of the 10 consecutive trading days from August 18, 2010 through August 31, 2010. Accordingly, the Company has regained compliance and the delisting proceeding initiated by NASDAQ's letter is now closed. See *Note 2: Basis of Presentation and Significant Accounting Policies – Reverse Stock Split* for a further discussion.

In July of 2010, the Company entered into a common share purchase agreement with Azimuth Opportunity, Ltd. ("Azimuth") pursuant to which the Company obtained a committed equity line of credit under which the Company could sell up to $30 million of the Company's registered common shares to Azimuth. In August of 2010, XOMA sold a total of 3,421,407 common shares under this facility for aggregate proceeds of $14.2 million, representing the maximum number of shares that could be sold under the facility. See *Note 7: Long-Term Debt and Other Financings – Other Financings – Equity Line of Credit*for a further discussion.

The Company has incurred significant operating losses and negative cash flows from operations since its inception. As of September 30, 2010, the Company had an accumulated deficit of $835.6 million, cash and cash equivalents of $16.9 million and working capital of $8.5 million. Based on cash and cash equivalents on hand at September 30, 2010 and anticipated spending levels, funding from collaborators including a XOMA 052 corporate partnership, licensing transactions or biodefense contracts, 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 through the next twelve months.

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 restrictive covenants. 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 further reduce personnel-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.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosures. On an on-going basis, management evaluates its estimates including, but not limited to, those related to revenue recognition, 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.

Concentration of Risk

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

The Company has not experienced any significant credit losses and does not generally require collateral on receivables. For the nine months ended September 30, 2010, three customers represented 56%, 18%, and 14% of total revenue and as of September 30, 2010, there were receivables outstanding from three customers representing 60%, 26% and 7% of the accounts receivable balance. For the nine months ended September 30, 2009, three customers represented 42%, 37% and 10% of total revenues.

Recent Accounting Pronouncements

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

Accounting Standards Update No. 2009-13, Revenue Recognition Topic 605: *Multiple Deliverable Revenue Arrangements – A Consensus of the FASB Emerging Issues Task Force* ("ASU 2009-13") provides application guidance on whether multiple deliverables exist, how the deliverables should be separated and how the consideration should be allocated to one or more units of accounting. This update establishes a selling price hierarchy for determining the selling price of a deliverable. The selling price used for each deliverable will be based on vendor-specific objective evidence, if available, third-party evidence if vendor-specific objective evidence is not available, or estimated selling price if neither vendor-specific or third-party evidence is available. The Company plans to adopt this guidance on January 1, 2011 and does not expect the adoption will have a material effect on the Company's consolidated financial statements.

Significant Accounting Policies

Warrant Liabilities

In February of 2010, the Company issued warrants to purchase XOMA's common shares in connection with an underwritten offering. Refer to *Note 7: Long-term Debt and Other Financings – Other Financings* for additional disclosure relating to this transaction. The Company has accounted for the warrants issued in February of 2010 as a liability at fair value, due to a provision included in the warrant agreement that allows the warrant holders an option to require the Company (or its successor) to purchase their warrants for cash in an amount equal to their Black-Scholes Option Pricing Model (the "Black-Scholes Model") value, in the event of a change in control of the Company (the "Change in Control Provisions"). The fair value of the warrant liability is estimated using the Black-Scholes Model which requires inputs such as the expected term of the warrants, share price volatility and risk-free interest rate. These assumptions are reviewed on a quarterly basis and changes in the estimated fair value of the outstanding warrants are recognized in the other income (expense) line of the condensed consolidated statements of operations.

Also in February of 2010, the holders of warrants issued in May and June of 2009 agreed to amend the terms of their warrants to remove the provisions that would have required a reduction of the warrant exercise price and an increase in the number of shares issuable on exercise of the warrants each time the Company sold common shares at a price less than the exercise price of such warrants (the "Eliminated Adjustment Provisions"). Refer to *Note 7: Long-term Debt and Other Financings – Other Financings* for additional disclosures relating to these warrants. Prior to amendment, the Company recorded the warrants issued in May and June of 2009 as liabilities at fair value due to the Change in Control Provisions and the Eliminated Adjustment Provisions. These liabilities were estimated using the Monte Carlo Simulation Model ("Simulation Model"), which, in addition to the Black-Scholes Model inputs referred to above, required the Company to consider the probability and timing of future equity financings in the estimation to reflect the value of the Eliminated Adjustment Provisions. These assumptions were reviewed on a quarterly basis and changes in the estimated fair value of the outstanding warrants were recognized in the other income (expense) line.

After amendment on February 2, 2010, the Company continued to account for the warrants issued in May and June of 2009 as liabilities at fair value, due to the Change in Control Provisions. With the removal of the Eliminated Adjustment Provisions, the fair value of the warrants is now estimated using the Black-Scholes Model. The assumptions used in the Black-Scholes Model are reviewed on a quarterly basis and changes in the estimated fair value of the outstanding warrants are recognized in the other income (expense) line. As of March 31, 2010, all warrants issued in May of 2009 had been exercised and the related liability was fully extinguished and reclassified to additional paid-in capital in the Company's condensed consolidated balance sheet.

Reverse Stock Split

On August 18, 2010, the Company effected a reverse split of its common shares at a ratio of 1-for-15, pursuant to a previously obtained shareholder authorization. The primary objective in effecting the reverse stock split was to better enable the Company to maintain the listing of its common shares on The NASDAQ Global Market. As a result of the reverse stock split, every 15 of the Company's pre-split common shares, par value $0.0005 per share, were consolidated into 1 post-split common share, par value $0.0075 per share. The reverse stock split reduced the Company's issued and outstanding common shares as of August 18, 2010 from approximately 317,926,663 to approximately 21,195,111, excluding outstanding and unexercised share options and warrants. The reverse stock split did not affect any shareholder's ownership percentage of the Company's common shares, except to the limited extent that the reverse split resulted in any shareholder owning a fractional share. The Company's transfer agent aggregated all fractional shares following the reverse stock split and sold them into the market. The net proceeds from the sale were paid in cash to holders of fractional shares following the reverse stock split.

3. Condensed Consolidated Financial Statement Detail

Comprehensive Loss

Unrealized gain on the Company's available-for-sale securities is included in accumulated comprehensive loss. Comprehensive loss and its components for the three and nine months ended September 30, 2010 and 2009 was as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2010	2009	2010	2009
Net (loss) income	$ (13,633)	$ 1,538	$ (50,998)	$ (2,433)
Unrealized gain on securities available-for-sale	-	-	-	2
Comprehensive (loss) income	$ (13,633)	$ 1,538	$ (50,998)	$ (2,431)

Net (Loss) Income Per Common Share

Basic net (loss) income per common share is based on the weighted average number of common shares outstanding during the period. Diluted net (loss) income 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 decrease/increase the net (loss) income per share.

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

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2010	2009	2010	2009
Options for common shares	2,332	1,100	2,138	1,239
Convertible preference shares	254	-	254	254
Warrants for common shares	1,608	740	1,677	740
	4,194	1,840	4,069	2,233

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 (loss) per share	$ 1,538
Denominator	
Weighted average shares outstanding used for basic net income per share	11,150
Effect of dilutive share options	113
Effect of convertible preference shares	254
Weighted average shares outstanding and dilutive securities used for diluted net income per share	11,517

For the three and nine months ended September 30, 2010 and for the nine months ended September 30, 2009, all outstanding securities were considered anti-dilutive, and therefore the calculations of basic and diluted net loss per share were the same.

Cash and Cash Equivalents

At September 30, 2010 and December 31, 2009, cash equivalents consisted of overnight deposits, money market funds and repurchase agreements with maturities of less than 90 days at the date of purchase. Cash and cash equivalent balances were recorded at fair value as follows as of September 30, 2010 and December 31, 2009 (in thousands):

	September 30, 2010			
	Cost Basis	Unrealized Gains	Unrealized Losses	Estimated Fair Value
Cash	$ 2,665	$ -	$ -	$ 2,665
Cash equivalents	14,195	-	-	14,195
Total cash and cash equivalents	$ 16,860	$ -	$ -	$ 16,860

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

Receivables

Receivables consisted of the following at September 30, 2010 and December 31, 2009 (in thousands):

	September 30, 2010	December 31, 2009
Trade receivables, net	$ 7,357	$ 6,391
Other receivables	587	840
Total	$ 7,944	$ 7,231

Trade receivables at September 30, 2010 and December 31, 2009 include $2 million related to an antibody discovery collaboration entered into in October of 2009 with The Chemo-Sero-Therapeutic Research Institute, a Japanese research foundation known as Kaketsuken, which was received in October of 2010. Trade receivables at September 30, 2010, also include $0.9 million related to an incurred cost adjustment for work performed under the Company's multi-year contract funded by NIAID, a part of the NIH (Contract No. HHSN272200800028C). The revenue from this incurred cost adjustment has been deferred, as it may be subject to refund in future periods upon a final NIH audit.

Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consisted of the following at September 30, 2010 and December 31, 2009 (in thousands):

	September 30, 2010	December 31, 2009
Prepaid clinical trial expense	$ 418	$ -
Other prepaid expenses and current assets	1,068	1,012
Total	$ 1,486	$ 1,012

Accrued Liabilities

Accrued liabilities consisted of the following at September 30, 2010 and December 31, 2009 (in thousands):

	September 30, 2010	December 31, 2009
Accrued management incentive compensation	$ 3,053	$ 3,681
Accrued payroll and other benefits	2,714	2,691
Accrued professional fees	902	767
Accrued clinical trial costs	475	609
Other	1,043	891
Total	$ 8,187	$ 8,639

4. Licensing, Collaborative and Other Arrangements

UCB

In December of 1998, the Company licensed its bacterial cell expression technology to Celltech Therapeutics Ltd., now UCB Celltech, a branch of UCB, which utilizes this technology in the production of CIMZIA® for the treatment of moderate-to-severe Crohn's disease and moderate-to-severe rheumatoid arthritis. The license provides for a low single-digit royalty on sales of CIMZIA® in those countries where the bacterial cell expression technology is patented, which includes the U.S. and Canada. CIMZIA® has been approved in the U.S. for the treatment of Crohn's disease and in the U.S. and Canada for the treatment of rheumatoid arthritis. In August of 2010, the Company sold its royalty interest in CIMZIA® to an undisclosed buyer for gross proceeds of $4.0 million. In connection with this transaction, XOMA CDRA LLC, a wholly owned bankruptcy-remote entity, was established to hold the rights, title, and interests under the license agreement with UCB. As a bankruptcy-remote entity, XOMA CDRA LLC has a corporate existence, assets, properties, and creditors separate from the Company's. Accordingly, in calculating the value of its own assets, the Company has not ascribed any value to the assets owned by XOMA CDRA LLC, and the assets of XOMA CDRA LLC will not be available to pay any creditors of the Company. Through the nine months ended September 30, 2010, including the sale of its royalty interest in CIMZIA®, the Company recognized $4.2 million in revenue.

AVEO

In April of 2006, the Company entered into an agreement with AVEO pursuant to which the Company utilized its Human Engineering™ technology to humanize AVEO's AV-299 antibody product candidate. In September of 2006, following successful humanization of AV-299, the Company entered into a second agreement with AVEO to manufacture and supply AV-299 in support of early clinical trials. In the third quarter of 2010, the Company received a $0.8 million milestone payment related to AVEO's initiation of a Phase 2 clinical trial to evaluate AV-299 for the treatment of non-small cell lung cancer. The Company recognized this milestone payment as revenue in the third quarter of 2010.

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

Takeda

In November of 2006, the Company entered into a fully-funded collaboration agreement with Takeda Pharmaceutical Company Limited ("Takeda") for therapeutic monoclonal antibody discovery and development, which was expanded in the first quarter of 2009 to include access to multiple antibody technologies. In the first quarter of 2010, the Company received a $1 million payment from Takeda for achieving a pre-established, pre-clinical milestone under one of the Company's discovery and development programs with Takeda. The Company recognized this milestone payment in revenue in the first quarter of 2010.

Separately, another discovery and development program with Takeda under this collaboration was discontinued following the analysis of research data. The termination resulted in the recognition of the remaining unamortized balance in deferred revenue of $1.1 million in the first quarter of 2010 pertaining to the discontinued program as no continuing performance obligations exist.

5. Restructuring Charges

On January 15, 2009, the Company announced a workforce reduction of approximately 42%. As part of this workforce reduction, the Company recorded a charge of $3.3 million related to severance, other termination benefits and outplacement services, which were fully paid in 2009. The Company does not expect to incur any additional employee-related restructuring charges in connection with this workforce reduction.

As a result of the workforce reduction, in the second quarter of 2009, the Company vacated one of its leased buildings and recorded a restructuring charge of $0.5 million primarily related to the net present value of the net future minimum lease payments at the cease-use date, less the estimated future sublease income. The Company is currently seeking a sublease tenant. The remaining liability related to this lease was $0.3 million and $0.4 million at September 30, 2010 and December 31, 2009, respectively.

Additionally, as a result of the workforce reduction, the Company has temporarily vacated a building in order to optimize its facility usage. As manufacturing demand increases in the future, the Company plans to resume operations at this facility. As of September 30, 2010, the Company performed an analysis of the long-lived assets related to the vacant building, with an approximate net book value of $3.6 million. Based on estimated undiscounted future cash inflows, the Company has determined that there is no current impairment relating to these assets, and will continue to assess these assets for impairment at each future reporting period.

6. Fair Value Measurements

Fair value is defined as the price that would be received from selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. When determining the fair value measurements for assets and liabilities required to be recorded at fair value, the Company considers the principal or most advantageous market in which it would transact and consider assumptions that market participants would use when pricing the asset or liability, such as inherent risk, transfer restrictions and risk of nonperformance.

A fair value hierarchy was established which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. A financial instrument's categorization within the fair value hierarchy is based upon the lowest level of input that is significant to the fair value measurement. The three levels of inputs that may be used to measure fair value are as follows:

- Level 1: Quoted prices in active markets for identical assets or liabilities;
- Level 2: Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices in active markets for similar assets or liabilities, quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities; or
- Level 3: Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

The following tables set forth the Company's fair value hierarchy for its financial assets (cash equivalents) and liabilities measured at fair value on a recurring basis as of September 30, 2010 and December 31, 2009.

Financial assets carried at fair value as of September 30, 2010 and December 31, 2009 were classified as follows (in thousands):

	Fair Value Measurements at September 30, 2010 Using			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Repurchase agreements	$ 5,856	$ 5,856	$ -	$ -
Money market funds	8,339	8,339	-	-
Total	$ 14,195	$ 14,195	$ -	$ -

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

Financial liabilities carried at fair value as of September 30, 2010 and December 31, 2009 were classified as follows (in thousands):

	Fair Value Measurements at September 30, 2010 Using			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Warrants liabilities	$ 1,716	$ -	$ -	$ 1,716

	Fair Value Measurements at December 31, 2009 Using			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Warrants liabilities	$ 4,760	$ -	$ -	$ 4,760

As discussed in *Note 2: Basis of Presentation and Significant Accounting Policies – Significant Accounting Policies*, the fair value of the warrant liabilities was determined at September 30, 2010 using the Black-Scholes Model and at December 31, 2009 using the Simulation Model, both of which require inputs such as the expected term of the warrants, share price volatility and risk-free interest rate. These inputs are subjective and generally require significant analysis and judgment to develop.

The fair value of the warrant liabilities was estimated using the following range of assumptions at September 30, 2010 and December 31, 2009:

	September 30, 2010	December 31, 2009
Expected volatility	83.2% - 84.2%	77.0 - 77.7%
Risk-free interest rate	1.3%	2.4 - 2.7%
Expected term	4.2 - 4.4 years	4.4 - 5.0 years

The following table provides a summary of changes in the fair value of the Company's Level 3 financial liabilities for the nine month period ended September 30, 2010 (in thousands):

	Warrant Liabilities
Balance at December 31, 2009	$ 4,760
Initial fair value of warrants issued in February 2010	4,382
Reclassification of warrant liability to equity upon exercise of warrants	(2,615)
Net decrease in fair value of warrant liabilities on revaluation	(4,811)
Balance at September 30, 2010	$ 1,716

The net decrease in the estimated fair value of the warrant liabilities was recognized as income in the other income line of the condensed consolidated statements of operations.

The Company had long-term debt with a carrying amount of $13.5 million and $13.3 million at September 30, 2010 and December 31, 2009, respectively as further discussed below in *Note 7: Long-Term Debt and Other Financings.* The fair value of the Company's debt approximated $6.6 million and $4.7 million at September 30, 2010 and December 31, 2009 based on the net present value of future payments discounted at interest rates consistent with the current borrowing rates offered to the Company.

7. Long-Term Debt and Other Financings

Long-Term Debt

Novartis Note

In May of 2005, the Company executed a secured note agreement with Novartis (then Chiron Corporation), which is due and payable in full in June of 2015. Under the note agreement, the Company borrowed semi-annually to fund up to 75% of the Company's research and development and commercialization costs under its collaboration arrangement with Novartis, not to exceed $50 million in aggregate principal amount. Interest on the principal amount of the loan accrues at six-month LIBOR plus 2%, which was equal to 2.75% at September 30, 2010, and is payable semi-annually in June and December of each year. At the Company's election, the semi-annual interest payments can be added to the outstanding principal amount, in lieu of a cash payment, as long as the aggregate principal amount does not exceed $50 million. The Company has made this election for all interest payments thus far. Loans under the note agreement are secured by the Company's interest in the collaboration with Novartis, including any payments owed to it thereunder.

At September 30, 2010 and December 31, 2009, the outstanding principal balance under this note agreement was $13.5 million and $13.3 million. Pursuant to the terms of the arrangement as restructured in November of 2008, the Company will not make any additional borrowings on the Novartis note.

Interest expense and amortization of debt issuance costs for the Novartis note and Goldman Sachs Specialty Lending Holdings, Inc. ("Goldman Sachs") term loan, which was repaid in September of 2009, are shown below (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2010	2009	2010	2009
Interest expense				
Goldman Sachs term loan	$ -	$ 1,154	$ -	$ 3,932
Novartis note	95	110	260	352
Other	9	3	21	7
Total interest expense	$ 104	$ 1,267	$ 281	$ 4,291
Amortization of debt issuance costs				
Goldman Sachs term loan	$ -	$ 72	$ -	$ 487
Total amortization of debt issuance costs	$ -	$ 72	$ -	$ 487
Total interest expense	$ 104	$ 1,339	$ 281	$ 4,778

Other Financings

Underwritten Offering

In February of 2010, the Company completed an underwritten offering of 2.8 million units, with each unit consisting of one of the Company's common shares and a warrant to purchase 0.45 of a common share, for gross proceeds of approximately $21 million, before deducting underwriting discounts and commissions and estimated offering expenses of $1.7 million. The warrants, which represent the right to acquire an aggregate of up to 1.26 million common shares, are exercisable beginning six months and one day after issuance and have a five-year term and an exercise price of $10.50 per share. As of September 30, 2010 all of these warrants were outstanding.

As discussed in *Note 2: Basis of Presentation and Significant Accounting Policies–Significant Accounting Policies,* the fair value of the warrants at the issuance date was estimated using the Black-Scholes Model, and the Company recorded a warrant liability of $4.4 million. The Company revalued the warrant liability at September 30, 2010 and recorded decreases of $2.6 million and $2.9 million for the three and nine months ended September 30, 2010, respectively, in the other income line of the Company's condensed consolidated statement of operations.

Modification of May 2009 Warrants

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

As discussed in *Note 2: Basis of Presentation and Significant Accounting Policies–Significant Accounting Policies*, these warrants were recorded as a warrant liability at fair value, which, prior to amendment of the warrants, was estimated using the Simulation Model. The fair value of the warrant liability using the Simulation Model was $2.9 million on February 1, 2010, prior to amendment of the warrants, resulting in the Company recording an increase in the fair value of the warrant liability of $0.5 million in the other income (expense) line of the Company's condensed consolidated statement of operations. Subsequent to amendment of the warrant terms, on February 2, 2010, the fair value of the warrant liability using the Black-Scholes Model was $2.6 million, resulting in the Company recording a decrease in the fair value of the warrant liability of $0.3 million in the other income (expense) line.

In the first quarter of 2010, the holders of these warrants exercised all warrants, acquiring 392,157 common shares for an aggregate exercise price of $5,882.

Modification of June 2009 Warrants

In June of 2009, the Company issued warrants to certain institutional investors as part of a separate registered direct offering. The warrants represent the right to acquire an aggregate of up to 347,826 common shares over a five year period beginning December 11, 2009 at an exercise price of $19.50 per share. In February of 2010, the holders of these warrants agreed to amend the terms of their warrants to remove the Eliminated Adjustment Provisions and the Company made a cash payment of $4.5 million to these warrant holders, which was recorded in the other income (expense) line of the Company's condensed consolidated statement of operations. The exercise price of these warrants remained unchanged at $19.50 per share. As of September 30, 2010 all of these warrants were outstanding.

As discussed in *Note 2: Basis of Presentation and Significant Accounting Policies–Significant Accounting Policies*, the warrants are recorded as a warrant liability at fair value, which, prior to amendment of the warrants, was estimated using the Simulation Model. The fair value of the warrant liability using the Simulation Model was $3.3 million on February 1, 2010, prior to amendment of the warrants, resulting in the Company recording an increase in the fair value of the warrant liability of $0.9 million in the other income (expense) line. The Company revalued the warrants at September 30, 2010 using the Black-Scholes Model and recorded decreases of $0.5 million and $3.0 million for the three and nine months ended September 30, 2010, respectively, in the other income line.

ATM Agreement

In the third quarter of 2009, the Company entered into an At Market Issuance Sales Agreement (the "2009 ATM Agreement"), with Wm Smith & Co. ("Wm Smith"), under which the Company may sell up to 1.7 million of its common shares from time to time through Wm Smith, as its 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 pays Wm Smith a commission equal to 3% of the gross proceeds of all common shares sold through it as sales agent under the 2009 ATM Agreement but in no event less than $0.02 per share. Shares sold under the 2009 ATM Agreement are sold pursuant to a prospectus which forms a part of a registration statement declared effective by the SEC on May 29, 2008. From the inception of the 2009 ATM Agreement through September 30, 2010, the Company sold a total of 1,112,132 common shares through Wm Smith for aggregate gross proceeds of $10.7 million, including 842,091 common shares sold in the first nine months of 2010 for aggregate gross proceeds of $7.8 million. Total offering expenses incurred related to sales under the 2009 ATM Agreement from inception to September 30, 2010 were $0.4 million.

Equity Line of Credit

On July 23, 2010, XOMA entered into a common share purchase agreement (the "Purchase Agreement") with Azimuth, pursuant to which XOMA obtained a committed equity line of credit facility (the "Facility") under which it could sell up to $30 million of its registered common shares to Azimuth over a 12-month period, subject to certain conditions and limitations. The Purchase Agreement provided that XOMA could determine, in its sole discretion, the timing, dollar amount and floor price per share of each draw down under the Facility, subject to certain conditions and limitations and that the number and price of shares sold in each draw down were generally to be determined by a contractual formula designed to approximate fair market value, less a discount. The Purchase Agreement also provided that from time to time and in XOMA's sole discretion, XOMA could grant Azimuth the right to exercise one or more options to purchase additional common shares during each draw down pricing period for the amount of shares based upon the maximum option dollar amount and the option threshold price specified by XOMA. XOMA also agreed to issue 111,111 common shares to Azimuth upon execution of the agreement relating to the Facility, in consideration of Azimuth's execution and delivery of that agreement. Shares under the Facility and the shares XOMA agreed to issue to Azimuth upon execution of the agreement relating to the Facility were sold pursuant to a prospectus which forms a part of a registration statement declared effective by the SEC on May 29, 2008. In August of 2010, XOMA sold a total of 3,421,407 common shares under the Facility for aggregate gross proceeds of $14.2 million, representing the maximum number of shares that could be sold under the Facility.

8. Income Taxes

Income tax expense was not material in the three and nine months ended September 30, 2010.

The Company recognized $0.4 million in income tax benefit relating to refundable credits for the three months ended September 30, 2009.

The Company recognized $6.1 million in foreign income tax expense for the nine months ended September 30, 2009, primarily in connection with the expansion of the Company's existing collaboration with Takeda, which was signed in February of 2009. 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.

9. Share-Based Compensation

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

As previously disclosed, the options granted in February of 2009 as part of the annual incentive compensation review include an acceleration clause based on meeting certain performance measures. When management determined that it was probable that the performance measures would be achieved, the Company accelerated expense recognition in the third quarter of 2009 related to these options, with an estimated implicit service period of two years from the grant date.

As of September 30, 2010, the Company had approximately 0.7 million common shares reserved for future grant under its share option plans and Employee Share Purchase Plan ("ESPP").

The following table shows share-based compensation expense included in the condensed consolidated statements of operations for the three and nine months ended September 30, 2010 and 2009 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2010	2009	2010	2009
Research and development	$ 742	$ 720	$ 1,829	$ 1,671
Selling, general and administrative	920	793	1,914	1,727
Total share-based compensation expense	$ 1,662	$ 1,513	$ 3,743	$ 3,398

The valuation of share-based compensation awards is determined using the Black-Scholes Model. This model requires inputs such as the expected term of the option, expected volatility and risk-free interest rate. Further, the forfeiture rate also affects the amount of aggregate compensation. These inputs are subjective and generally require significant analysis and judgment to develop. While estimates of the expected term, volatility and forfeiture rate are derived primarily from the Company's historical data, the risk-free rate is based on the yield available on United States Treasury zero-coupon issues. The fair value of share-based awards was estimated based on the following weighted average assumptions for the three and nine months ended September 30, 2010 and 2009:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2010	2009	2010	2009
Dividend yield	0%	0%	0%	0%
Expected volatility	79%	80%	79%	74%
Risk-free interest rate	1.27%	2.28%	1.67%	1.81%
Expected life	5.6 years	5.6 years	5.3 years	5.6 years

Share option activity for the nine months ended September 30, 2010 was as follows:

	Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life	Aggregate Intrinsic Value (in thousands)
Options outstanding at December 31, 2009	1,520,102	$ 38.44		
Granted	954,131	7.19		
Exercised	(19)	8.40		
Forfeited, expired or cancelled	(146,195)	39.03		
Options outstanding at September 30, 2010	2,328,019	$ 25.59	7.88	$ -
Options exercisable at September 30, 2010	1,055,008	$ 40.84	6.65	$ -

The total intrinsic value of the options exercised for the nine months ended September 30, 2010 was not material.

At September 30, 2010, there was $5.4 million of unrecognized share-based compensation expense related to unvested share options with a weighted average remaining recognition period of 2.6 years.

10. 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, fraudulent concealment, wrongful death and other claims based on injuries alleged to have occurred as a result of three individuals' treatment with RAPTIVA ®. The complaint seeks unspecified compensatory and punitive damages. Since then, additional complaints have been filed in the same court, bringing the total number of pending cases to forty-nine. All of the complaints allege the same claims and seek the same types of damages based on injuries alleged to have occurred as a result of the plaintiffs' treatment with RAPTIVA®. The Company's agreement with Genentech provides for an indemnity of XOMA and payment of legal fees by Genentech which the Company believes is applicable to this matter. The Company believes the claims against it to be without merit and intends to defend against them vigorously.

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

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, 2009) during the nine months ended September 30, 2010.

11. Subsequent Events

In November of 2010, the Company announced that it has been awarded grants totaling approximately $1 million in connection with the Company's submission of four qualifying therapeutic discovery projects under the U.S. government's Patient Protection and Affordable Care Act of 2010.

On October 26, 2010, the Company entered into a new At Market Issuance Sales Agreement (the "2010 ATM Agreement") with Wm Smith and McNicoll, Lewis & Vlak LLC (the "Agents"), under which the Company may sell common shares from time to time through the Agents, as its agents for the offer and sale of the common shares, in an aggregate amount not to exceed the amount that can be sold under its registration statement on Form S-3 (File No. 333-148342) filed with the SEC on December 26, 2007. The Agents may sell the common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. The Agents may also sell the common shares in privately negotiated transactions, subject to the Company's prior approval. The Company will pay the Agents, collectively, a commission equal to 3% of the gross proceeds of the sales price of all common shares sold through them as sales agents under the 2010 ATM Agreement. Shares sold under the 2010 ATM Agreement are sold pursuant to a prospectus which forms a part of the registration statement referred to above.

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 are based upon our consolidated financial statements and the related disclosures, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires us to make estimates 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, but not limited to, those related to terms of revenue recognition, 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-interleukin-1 beta ("IL-1 beta") antibody, XOMA 3AB, a biodefense anti-botulism antibody candidate, and preclinical antibody discovery programs in several indications. We have a fully-integrated product development platform, extending from preclinical science to development and manufacturing. We have multiple revenue streams resulting from the licensing of our antibody technologies, biodefense contracts and discovery and development collaborations and product royalties. Our technologies have contributed to the success of marketed antibody products, including LUCENTIS® (ranibizumab injection) for wet age-related macular degeneration and CIMZIA® (certolizumab pegol) for rheumatoid arthritis and Crohn's disease.

We have established on-going technology licensing programs for certain of our proprietary technologies, which have attracted numerous significant licensees including Bayer Healthcare AG, Johnson & Johnson (formerly Centocor, Inc.), Merck & Co., Inc. ("Merck"), Pfizer Inc. and Takeda Pharmaceutical Company Limited ("Takeda"). We have a premier antibody discovery and development platform that includes multiple antibody discovery or phage display libraries that increase our ability and that of our collaboration partners to discover new therapeutic antibodies. Once an antibody is discovered, we use a number of proprietary technologies including our Human Engineering™, affinity maturation, bacterial cell expression and manufacturing technologies to enhance and improve the qualities of the antibodies for efficacy, safety, stability, productivity and cost. Some of XOMA's technologies are used widely across the industry and have generated significant revenues for the company. For example, bacterial cell expression technology is a key biotechnology for the discovery and manufacture of antibodies and other proteins. Thus far, 60 pharmaceutical and biotechnology companies have signed bacterial cell expression licenses with us, and a number of licensed product candidates are in clinical development.

Our biodefense initiatives currently include a multiple-year contract totaling up to $65 million, funded by the National Institute of Allergy and Infectious Diseases ("NIAID"), a part of the National Institutes of Health ("NIH"), to support our ongoing development of drug candidates toward clinical trials in the treatment of botulism poisoning. This contract is the third that NIAID has awarded us for the development of botulinum antitoxins and brings the program's total awards to nearly $100 million. We also develop products with premier pharmaceutical companies including Novartis AG ("Novartis"), AVEO Pharmaceuticals ("AVEO"), Schering-Plough Research Institute, a division of Schering Corporation, which is now a subsidiary of Merck (referred to herein as "Merck/Schering-Plough), and Takeda.

Significant Developments in 2010

Proprietary Pipeline

- In September of 2010, we announced that patient enrollment was completed for the Company's Phase 2a trial of XOMA 052 in patients with Type 2 diabetes. In the trial, 74 patients were enrolled and randomized at approximately a 3:1 ratio to receive three months of treatment with either XOMA 052 at a single dose level or placebo, respectively, along with metformin, the standard of care. After three months, patients in the active treatment arm are treated for an additional three months at either the same, a higher or a lower dose of XOMA 052. Patients in the placebo group also were continued for an additional three months. In addition to measuring HbA1c, outcomes to be evaluated include fasting blood glucose and levels of C-reactive protein, a biomarker of cardiovascular risk.

- In August of 2010, we announced that the U.S. Food and Drug Administration designated XOMA 052 an orphan drug for the treatment of Behcet's disease. U.S. orphan drug designation is granted by the FDA Office of Orphan Drug Products Development to novel drugs or biologics that may treat a condition affecting fewer than 200,000 persons in the United States. The designation offers a number of potential incentives, which may include, among others, a seven-year period of U.S. marketing exclusivity from the date of marketing authorization, written guidance on the non-clinical and clinical studies needed to obtain marketing approval, and tax credits for certain clinical research.

- In July of 2010, we announced that the Committee for Orphan Medical Products of the European Medicines Agency (EMA) adopted a positive opinion and recommended the granting of orphan medicinal product designation for XOMA 052 for the treatment of Behcet's disease, and in October 2010, the EMA formally granted such designation. The EMA's orphan drug program is designed to promote the development of drugs to treat life-threatening or chronically debilitating conditions with a prevalence of up to five in 10,000 persons in the European Union (EU). The designation generally provides EU market exclusivity for up to ten years following approval for the given indication. Other potential benefits include protocol assistance, direct access to centralized marketing authorization procedures and financial incentives.

- In June of 2010, we reached the enrollment goal of 325 patients for Phase 2b dose-ranging clinical trial of XOMA 052 in Type 2 diabetes patients. Enrollment has since been completed with a total of 420 patients. This and other 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 on measurements of HbA1c, FBG, and hsCRP, to select doses for pivotal Phase 3 studies.

- In June of 2010, we reported positive clinical results from a pilot clinical trial evaluating XOMA 052 in uveitis of Behcet’s disease, demonstrating rapid improvement in vision-threatening disease exacerbations in all seven treated patients. The results were reported at the Annual Congress of the European League Against Rheumatism.

- In April of 2010, we announced the issuance of two new U.S. patents, one covering methods of treating Type 2 diabetes with high affinity IL-1 beta antibodies and antibody fragments including XOMA 052, and one covering methods of treating IL-1 related inflammatory diseases including rheumatoid arthritis and osteoarthritis with XOMA 052 and other antibodies and antibody fragments with similar binding properties for human IL-1 beta.

- In March of 2010, we announced the initiation of a Phase 2 clinical trial of XOMA 052 in Type 1 diabetes patients funded by the Juvenile Diabetes Research Foundation.

Collaboration Revenue

- In the third quarter of 2010, we received a $0.8 million payment from AVEO resulting from AVEO’s initiation of a Phase 2 clinical trial to evaluate its AV-299 antibody for the treatment of non-small cell lung cancer.

- In the first quarter of 2010, we received a $1.0 million payment from Takeda for achieving a pre-established, pre-clinical milestone under our collaboration agreement.

Financings

- On July 23, 2010, we entered into a common share purchase agreement with Azimuth Opportunity, Ltd. (“Azimuth”) pursuant to which we obtained a committed equity line of credit under which we could sell up to $30 million of our registered common shares to Azimuth. In August of 2010, we sold a total of 3,421,407 common shares under this facility for aggregate proceeds of $14.2 million, representing the maximum number of shares that could be sold under this facility. See *Liquidity and Capital Resources – Equity Line of Credit* for a further discussion.

- In the first nine months of 2010, we sold 842,091 common shares through Wm Smith & Co. (“Wm Smith”), under our At Market Issuance Sales Agreement dated July 14, 2009 (the “2009 ATM Agreement”), for aggregate gross proceeds of $7.8 million. See *Liquidity and Capital Resources – ATM Agreement* for a further discussion.

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

- Also in February of 2010, the holders of the warrants issued in May and June of 2009 agreed to amend their warrants to remove the provisions that would have required a reduction of the warrant exercise price and an increase in the number of shares issuable on exercise of the warrants each time we sold common shares at a price less than the exercise price of such warrants (the "Eliminated Adjustment Provisions") and the exercise price of the warrants issued in May of 2009 was reduced from $15.30 per share to $0.015 per share and we made a $4.5 million payment to holders of the warrants issued in June of 2009. The exercise price of the warrants issued in June of 2009 remains unchanged at $19.50 per share. The holders of the warrants issued in May of 2009 subsequently exercised all their warrants, acquiring 392,157 common shares for an aggregate exercise price of $5,882.

Other

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

- In March of 2010, we received a Staff Determination letter from The NASDAQ Stock Market LLC ("NASDAQ") indicating that we had not regained compliance with the minimum $1.00 per share requirement for continued inclusion on The NASDAQ Global Market, pursuant to NASDAQ Listing Rule 5450(a)(1). On August 18, 2010, the Company effected a reverse split of its common shares in order to regain compliance and to better enable the Company to maintain the listing of its common shares on The NASDAQ Global Market. Our closing bid price exceeded the $1.00 per share threshold on each of the 10 consecutive trading days from August 18, 2010 through August 31, 2010. Accordingly, we have regained compliance and the delisting proceeding initiated by NASDAQ's letter is now closed.

Results of Operations

Revenues

Total revenues for the three and nine months ended September 30, 2010, and 2009, were as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2010	2009	2010	2009
License and collaborative fees	$ 1,410	$ 1,421	$ 1,749	$ 29,276
Contract and other revenue	5,733	3,688	18,025	18,662
Royalties	3,754	22,314	4,267	28,895
Total revenues	$ 10,897	$ 27,423	$ 24,041	$ 76,833

License and collaborative fee revenue includes fees and milestone payments related to the out-licensing of our products and technologies. The decrease in license and collaborative fee revenue for the nine months ended September 30, 2010, as compared to the same period of 2009, was primarily due to $27.5 million in revenue recognized in the first quarter of 2009 related to the expansion of our collaboration agreement with Takeda to provide Takeda with access to multiple antibody technologies. The generation of future revenue related to license fees and other collaborative arrangements is dependent on our ability to attract new licensees to our antibody and bacterial cell expression technologies and new collaboration partners. Depending on whether and when we obtain new licensees and collaboration partners, we expect to experience a decline in these revenues for 2010 from 2009 levels.

Contract and other revenue increased by $2.0 million for the three months ended September 30, 2010, and decreased by $0.6 million for the nine months ended September 30, 2010, as compared to the same periods of 2009. This revenue includes funding received from NIAID for development of our anti-botulism antibody products as well as agreements where we provide contracted research and development and manufacturing services to our collaboration partners, including Takeda and Merck/Schering-Plough. The increase in contract and other revenue for the three months ended September 30, 2010 was primarily due to an increase in contract revenue related to work performed under our contract with NIAID Contract No. HHSN272200800028C ("NIAID 3") of $3.6 million, partially offset by decreases in revenue from our Takeda contract of $1.0 million and from our Merck/Schering-Plough contract of $0.7 million. These decreases are a result of the cessation of certain Takeda programs in both 2009 and 2010 and certain Merck/Schering-Plough programs in 2009. In addition, contract revenue related to our NIAID Contract No. HHSN26620060008C/N01-A1-60008 ("NIAID 2") decreased by $0.2 million in the third quarter of 2010 due to the completion of the contract term.

The decrease in contract and other revenue for the nine months ended September 30, 2010 was primarily due to a decrease in revenue on our Merck/Schering-Plough contract of $6.6 million, as a result of the cessation of certain programs in 2009, and a decrease in revenue on our Novartis contract of $2.5 million, due to the completion of work under this agreement in the third quarter of 2009. In addition, contract revenue related to our NIAID 2 contract decreased by $1.1 million for the nine months ended September 30, 2010, as a result of our nearing the end of the contracted service arrangement. These decreases were partially offset by an increase in contract revenue related to work performed under our NIAID 3 contract of $9.9 million.

Based on expected increases in revenue related to our NIAID 3 contract and our subcontract awards from SRI International, partially offset by decreases in contract revenue from other collaboration partners, we expect contract and other revenue in 2010 to remain comparable to 2009 levels or to slightly increase, depending on the timing and level of revenue generating activity.

Revenue from royalties decreased by $18.6 million and $24.6 million for the three and nine months ended September 30, 2010, compared to the same periods of 2009, primarily due to the sale of our LUCENTIS® royalty interest to Genentech, Inc., a wholly-owned member of the Roche Group (referred to herein as "Genentech") for net proceeds of $22.3 million in the third quarter of 2009. Additionally, the cessation of royalties earned from sales of RAPTIVA ® in the second quarter of 2009 further contributed to the decrease in our revenue from royalties. Royalties earned from sales of LUCENTIS® and RAPTIVA® during the nine months ended September 30, 2009 were $5.1 million and $1.2 million, respectively.

Partially offsetting the decreases of revenue from royalties was the sale of our CIMZIA® royalty interest for gross proceeds of $4.0 million in the third quarter of 2010, partially offset by the payment of $0.3 million in royalties received and recognized in the second quarter of 2010. Royalties earned from sales of CIMZIA® for the first nine months of 2010 were $0.5 million. Royalties earned from sales of CIMZIA® for the three and nine months ended September 30, 2009 were $0.2 million and $0.3 million, respectively. We will no longer receive royalties on sales of CIMZIA®.

Research and Development Expenses

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

Research and development expenses were $21.3 million and $58.3 million for the three and nine months ended September 30, 2010, compared with $13.4 million and $43.5 million for the same periods of 2009. The increase of $7.9 million and $14.8 million for the three and nine months ended September 30, 2010, as compared to the same periods in 2009, was primarily due to increased spending on XOMA 052 related to the Phase 2 clinical program and spending on NIAID 3 due to increased activity under the contract. Partially offsetting these increases in spending were decreases in spending on Merck/Schering-Plough and Takeda-related contract activities due to the cessation of certain discovery and development programs. In addition, there was decreased spending on Novartis-related contract activities due to the completion of work under agreement in the third quarter of 2009.

Salaries and related personnel costs are a significant component of research and development expenses. We recorded $7.5 million and $21.8 million in research and development salaries and employee-related expenses for the three and nine months ended September 30, 2010, as compared with $6.2 million and $20.0 million for the same periods of 2009. The increases of $1.3 million and $1.8 million for the three and nine months ended September 30, 2010, were primarily due to higher salaries and related personnel costs in connection with increased manufacturing activities and work related to NIAID 3. See *Results of Operations: Share-Based Compensation* for 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 2010 due to the consolidation of 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,	
	2010	2009	2010	2009
Earlier stage programs	$ 14,056	$ 9,492	$ 37,796	$ 32,559
Later stage programs	7,289	3,952	20,482	10,913
Total	$ 21,345	$ 13,444	$ 58,278	$ 43,472

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,	
	2010	2009	2010	2009
Internal projects	$ 17,332	$ 10,869	$ 45,856	$ 30,800
Collaborative and contract arrangements	4,013	2,575	12,422	12,672
Total	$ 21,345	$ 13,444	$ 58,278	$ 43,472

For the three and nine months ended September 30, 2010, our largest development program (XOMA 052) accounted for more than 30% but less than 40% of our total research and development expense, and one other development program (NIAID) accounted for more than 10% but less than 20% of our total research and development expense. All remaining development programs accounted for less than 10% of our total research and development expense for the three and nine months ended September 30, 2010. 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. For the three and nine months ended September 30, 2009, one development program (NIAID) accounted for more than 10% but less than 20% of our total research and development expense.

We expect our research and development spending in 2010 will continue to increase due to the initiation of our Phase 2 clinical program for XOMA 052 in Type 2 diabetes and in support of our biodefense contracts. We continue ongoing discussions with a number of companies for a corporate partnership to develop and commercialize XOMA *052*.

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 $6.2 million and $16.7 million for the three and nine months ended September 30, 2010, compared with $7.2 million and $19.0 million for the same periods of 2009. The decreases of $1.0 million and $2.3 million for the three and nine months ended September 30, 2010, as compared to the same period of 2009, are due to fees incurred in the third quarter of 2009 related to the restructuring negotiations and repayment of the Goldman Sachs term loan, as well as a decrease in salaries and related personnel costs and other decreases due to our continued focus on cost control.

Restructuring Charges

On January 15, 2009, we announced a workforce reduction of approximately 42%. As part of this workforce reduction, we recorded a charge of $3.3 million in the first six months of 2009 related to severance, other termination benefits and outplacement services, which were fully paid by the end of 2009. There were no additional employee-related restructuring charges in connection with this workforce reduction.

As a result of the workforce reduction, we temporarily vacated a building in order to optimize our facility usage. As manufacturing demand increases in the future, we plan to resume operations at this facility. As of September 30, 2010, we performed an analysis of the long-lived assets related to the vacant building, with an approximate net book value of $3.6 million. Based on estimated undiscounted future cash inflows, we have determined that there is no current impairment relating to these assets, and will continue to assess these assets for impairment at each future reporting period.

Other Income (Expense)

Interest expense was $0.1 million and $0.3 million for the three and nine months ended September 30, 2010 compared to $1.3 million and $4.8 million for the same periods of 2009. The decreases in interest expense of $1.2 million and $4.5 million for the three and nine months ended September 30, 2010, as compared to the same periods of 2009, was primarily due to the repayment in full of the term loan facility with Goldman Sachs Specialty Lending Holdings, Inc. ("Goldman Sachs") in September of 2009.

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 included a prepayment premium of $2.5 million and the recognition of unamortized debt issuance costs of $1.1 million. For the three and nine months ended September 30, 2010, we did not recognize a loss on debt extinguishment.

Other income was $3.1 million and $0.3 million for the three and nine months ended September 30, 2010, compared to $0.1 million and $1.2 million for the same periods of 2009. The increase in other income for the three months ended September 30, 2010 was primarily due to the change in net gains recognized relating to the revaluation of our warrant liabilities. The decrease in other income for the nine months ended September 30, 2010 was primarily due to the loss associated with the $4.5 million paid in the first quarter of 2010 to the holders of warrants issued in June of 2009, upon modification of the terms, partially offset by the change in net gains recognized relating to the revaluation of our warrant liabilities.

See *Results of Operations: Warrant Liabilities* below for additional disclosure.

Warrant Liabilities

In February of 2010, we issued warrants to purchase 1,260,000 of XOMA's common shares in connection with an underwritten offering, as further discussed below in *Liquidity and Capital Resources: Underwritten Offering*. We have accounted for the warrants issued in February of 2010 as a liability at fair value as further discussed below in *Critical Accounting Estimates: Warrant Liabilities*. The fair value of the warrant liability at issuance date was estimated using the Black-Scholes Option Pricing Model (the "Black-Scholes Model") and we recorded a warrant liability of $4.4 million. We revalued the warrant liability at September 30, 2010 and recorded decreases of $2.6 million and $2.9 million for the three and nine months ended September 30, 2010, respectively, in the other income line of the Company's condensed consolidated statement of operations. As of September 30, 2010 all of these warrants were outstanding.

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

Prior to amendment, we recorded the warrants issued in May of 2009 as a liability at fair value due to the Eliminated Adjustment Provisions and certain other provisions as further discussed below in *Critical Accounting Estimates: Warrant Liabilities*, which was estimated using the Monte Carlo Simulation Model ("Simulation Model"). The fair value of the warrant liability was $2.9 million on February 1, 2010, prior to amendment of the warrants, resulting in an increase in the fair value of the warrant liability of $0.5 million which we recorded in other income (expense). Subsequent to amendment of the warrant terms, on February 2, 2010, the fair value of the warrant liability using the Black-Scholes Model was $2.6 million, resulting in a decrease in the fair value of the warrant liability of $0.3 million which we recorded in other income (expense). In the first quarter of 2010, the holders of these warrants exercised all warrants, acquiring 392,157 common shares for an aggregate exercise price of $5,882.

In June of 2009, we issued warrants to certain institutional investors as part of a separate registered direct offering. The warrants represent the right to acquire an aggregate of up to 347,826 common shares over a five year period beginning December 11, 2009 at an exercise price of $19.50 per share. In February of 2010, the holders of these warrants agreed to amend the terms of their warrants to remove the Eliminated Adjustment Provisions and we made a cash payment of $4.5 million to these warrant holders, which was recorded in other income (expense). The exercise price of these warrants remained unchanged at $19.50 per share. As of September 30, 2010 all of these warrants were outstanding.

Prior to amendment, we recorded the warrants issued in June of 2009 as a liability at fair value due to the Eliminated Adjustment Provisions and certain other provisions as further discussed below in *Critical Accounting Estimates: Warrant Liabilities*, which was estimated using the Simulation Model. The fair value of the warrant liability was $3.3 million on February 1, 2010, prior to amendment of the warrants, resulting in an increase in the fair value of the warrant liability of $0.9 million which we recorded in other income (expense). We revalued the warrants at September 30, 2010 using the Black-Scholes Model and recorded decreases of $0.5 million and $3.0 million for the three and nine months ended September 30, 2010, respectively, in the other income line.

Income Taxes

Income tax expense was not material for the three and nine months ended September 30, 2010.

We recognized $0.4 million in income tax benefit for the three months ended September 30, 2009 relating to refundable credits. We recognized $6.1 million in income tax expense for the nine months ended September 30, 2009 primarily related to $5.8 million in foreign income tax, in connection with the expansion in February of 2009 of our existing collaboration with Takeda. We were paid a $29 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.

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

We did not have unrecognized tax benefits as of September 30, 2010 and do not expect this to change significantly over the next twelve months. In accordance with ASC 740, we will recognize interest and penalties accrued on any unrecognized tax benefits as a component of income tax expense. As of September 30, 2010, we have not accrued interest or penalties related to uncertain tax positions.

Share-Based Compensation

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

For the three and nine months ended September 30, 2010, we recognized $1.7 million and $3.7 million in share-based compensation expense, compared with $1.5 million and $3.4 million for the same periods of 2009. As of September 30, 2010, there was $5.4 million of unrecognized share-based compensation expense related to unvested shares with a weighted average remaining recognition period of 2.6 years.

Liquidity and Capital Resources

Cash and cash equivalents at September 30, 2010 were $16.9 million compared with $23.9 million at December 31, 2009. Net cash used in operating activities was $42.9 million for the nine months ended September 30, 2010, compared with net cash provided by operations of $11.5 million for the same period in 2009. The $54.4 million decrease in cash provided by operations for the nine months ended September 30, 2010, as compared to same period of 2009, was primarily due to a decrease in revenue receipts for license and collaborative fees and royalties and an increase in spending on XOMA 052 related to the Phase 2 clinical program. During the nine months ended September 30, 2010, we received one-time cash receipts of $3.7 million related to the sale of our CIMZIA® royalty stream and $2 million as final payment under our antibody discovery collaboration with Arana Therapeutics Limited, a wholly-owned subsidiary of Cephalon, Inc. Comparatively, during the first nine months of 2009, we received one-time cash receipts of $23.2 million related to the expansion of our existing collaboration with Takeda and $22.3 million related to the sale of our LUCENTIS® royalty stream to Genentech.

In addition, receivables and related party and other receivables increased by $0.7 million for the nine months ended September 30, 2010 primarily a result of increased activity related to NIAID 3. Also, deferred revenue decreased by $1.5 million primarily due to a decline in advance billings resulting from decreased activity under our collaboration contracts and the accelerated recognition of the remaining $1.0 million of the unamortized balance in deferred revenue pertaining to a discontinued discovery and development program under our collaboration with Takeda. These decreases in cash provided by operations were partially offset by an increase in the accounts payable balance of $2.8 million for the nine months ended September 30, 2010 due to increased research and development expenses and timing of payments.

Comparatively, for the nine months ended September 30, 2009, receivables decreased by $13.5 million due to a decline in contract and royalty revenues, and accrued liabilities increased during the nine months ended September 30, 2009 by $4.1 million related to restructuring charges, the accrual of the 2009 employee bonus and costs accrued relating to the expansion of our existing collaboration with Takeda. 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. In addition, the deferred revenue balance decreased by $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 Merck/Schering Plough, 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.

Net cash used in investing activities was $0.3 million for the nine months ended September 30, 2010, compared with net cash provided by investing activities of $10.6 million for the same period of 2009. Cash used in investing activities for the nine months ended September 30, 2010 consisted of purchases of fixed assets. Net cash provided by investing activities of $10.6 million 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 funds for the repayment in full of our Goldman Sachs term loan in September 2009. In addition, we received proceeds from maturities of investments of $1.3 million in the first nine months of 2009.

Net cash provided by financing activities was $36.1 million for the nine months ended September 30, 2010, compared with net cash used in financing activities of $3.8 for the same period of 2009. Cash provided by financing activities during the nine months ended September 30, 2010 related to proceeds received from the issuance of common shares of $40.6 million, partially offset by $4.5 million paid to the holders of warrants issued in June of 2009 upon modification of the terms. 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.

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. Interest on the principal amount of the loan accrues at six-month LIBOR plus 2%, which was equal to 2.75% at September 30, 2010, and is payable semi-annually in June and December of each year. 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 million. 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.

At September 30, 2010 and December 31, 2009, the outstanding principal balance under this note agreement was $13.5 million and $13.3 million and, pursuant to the terms of the arrangement as restructured in November of 2008, we will not make any additional borrowings on the Novartis note.

Underwritten Offering

In February of 2010, we completed an underwritten offering of 2.8 million units, with each unit consisting of one of XOMA's common shares and a warrant to purchase 0.45 of a common share, for gross proceeds of approximately $21 million, before deducting underwriting discounts and commissions and estimated offering expenses of $1.7 million. The warrants, which represent the right to acquire an aggregate of up to 1.26 million common shares, are exercisable beginning six months and one day after issuance and have a five-year term and an exercise price of $10.50 per share. Refer to *Results of Operations: Warrant Liabilities* above for further discussion of the warrants.

ATM Agreement

In the third quarter of 2009, we entered into the 2009 ATM Agreement, under which we could sell up to 1.7 million of our common shares from time to time through Wm Smith, as our agent for the offer and sale of the common shares. Wm Smith could sell these common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act of 1933, including but not limited to sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. Wm Smith could also sell the common shares in privately negotiated transactions, subject to our approval. We paid Wm Smith a commission equal to 3% of the gross proceeds of all common shares sold through it as sales agent under the 2009 ATM Agreement but in no event less than $0.02 per share. Shares sold under the 2009 ATM Agreement were sold pursuant to a prospectus which formed a part of a registration statement declared effective by the U.S. Securities and Exchange Commission (the "SEC") on May 29, 2008. From the inception of the 2009 ATM Agreement through September 30, 2010, the Company sold a total of 1,112,132 common shares through Wm Smith for aggregate gross proceeds of $10.7 million, including 842,091 common shares sold in the first nine months of 2010 for aggregate gross proceeds of $7.8 million. Total offering expenses related to these sales from inception to September 30, 2010 were $0.4 million. From October 1, 2010 through October 27, 2010, 554,534 additional common shares were sold through Wm Smith, constituting all of the shares remaining available for sale under the 2009 ATM Agreement, for aggregate gross proceeds of $1.5 million. Total offering expenses related to these sales from October 1, 2010 to October 27, 2010 were less than $0.1 million.

Net proceeds from the underwritten offering and sales under the 2009 ATM Agreement were used to make a $4.5 million payment to holders of the June 2009 warrants and are being used to continue development of our XOMA 052 product candidate and for other working capital and general corporate purposes.

Equity Line of Credit

On July 23, 2010, 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 $30 million of our registered common shares to Azimuth over a 12-month period, subject to certain conditions and limitations. The Purchase Agreement provided that we could determine, in our sole discretion, the timing, dollar amount and floor price per share of each draw down under the Facility, subject to certain conditions and limitations and that the number and price of shares sold in each draw down were generally to be determined by a contractual formula designed to approximate fair market value, less a discount. The Purchase Agreement also provided that from time to time and in our sole discretion, we could grant Azimuth the right to exercise one or more options to purchase additional common shares during each draw down pricing period for the amount of shares based upon the maximum option dollar amount and the option threshold price specified by us. We also agreed to issue 111,111 common shares to Azimuth upon execution of the agreement relating to the Facility, in consideration of Azimuth's execution and delivery of that agreement. Shares under the Facility and the shares we agreed to issue to Azimuth upon execution of the agreement relating to the Facility were sold pursuant to a prospectus which forms a part of a registration statement declared effective by the SEC on May 29, 2008. In August of 2010, we sold a total of 3,421,407 common shares under the Facility for aggregate gross proceeds of $14.2 million, representing the maximum number of shares that could be sold under the Facility. As a result, the Facility is no longer in effect, and no additional shares can be issued thereunder.

* * *

We have incurred significant operating losses and negative cash flows from operations since our inception. At September 30, 2010, we had an accumulated deficit of $835.6 million, cash and cash equivalents of $16.9 million and working capital of $8.5 million. During the remainder of 2010, we expect to continue using our cash and cash equivalents to fund ongoing operations. Additional licensing, antibody discovery and development collaboration agreements, government funding and financing arrangements may positively impact our cash balances. Based on our cash reserves and anticipated spending levels, funding from collaborators including a XOMA 052 corporate partnership, licensing transactions or biodefense contracts, 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 through the next twelve months. Any significant revenue shortfalls, increases in planned spending on development programs or more rapid progress of development programs than anticipated, as well as the unavailability of anticipated sources of funding, could shorten this period. If adequate funds are not available, we will be required to delay, reduce the scope of, or eliminate one or more of our product development programs and further reduce personnel-related costs. Progress or setbacks by potentially competing products may also affect our ability to raise new funding on acceptable terms.

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 *Part II — 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 including, but not limited to, revenue recognition, 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, 2010, except as noted below, as compared with those previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2009, filed with the SEC on March 11, 2010, as amended on April 30, 2010.

Warrant Liabilities

In February of 2010, we issued warrants to purchase XOMA's common shares in connection with an underwritten offering, as discussed in *Liquidity and Capital Resources: Underwritten Offering* above. We have accounted for the warrants issued in February of 2010 as a liability at fair value, due to a provision included in the warrant agreement that allows the warrant holders an option to require us (or our successor) to purchase their warrants for cash in an amount equal to their Black-Scholes Model value, in the event of a change in control of the Company (the "Change in Control Provisions"). The fair value of the warrant liability is estimated using the Black-Scholes Model. The Black-Scholes Model requires inputs such as the expected term of the warrants, share price volatility and risk-free interest rate. These assumptions are reviewed on a quarterly basis and changes in the estimated fair value of the outstanding warrants are recognized in other income (expense).

Also in February of 2010, the holders of warrants issued in May and June of 2009 agreed to amend the terms of their warrants to remove the Eliminated Adjustment Provisions, as discussed in *Significant Developments in 2010: Financings* and *Results of Operations: Warrant Liabilities* above. Prior to amendment, we recorded the warrants issued in May and June of 2009 as liabilities at fair value due to the Change of Control Provisions and the Eliminated Adjustment Provisions. These liabilities were estimated using the Simulation Model, which, in addition to the Black-Scholes Model inputs referred to above, required us to consider the probability and timing of future equity financings in the estimation to reflect the value of the Eliminated Adjustment Provisions. These assumptions were reviewed on a quarterly basis and changes in the estimated fair value of the outstanding warrants were recognized in other income (expense).

After amendment on February 2, 2010, we continued to account for the warrants issued in May and June of 2009 as liabilities at fair value, due to the Change of Control Provisions. With the removal of the Eliminated Adjustment Provisions, the fair value of the warrants is now estimated using the Black-Scholes Model. The assumptions used in the Black-Scholes Model are reviewed on a quarterly basis and changes in the estimated fair value of the outstanding warrants are recognized in other income (expense). As of March 31, 2010, all warrants issued in May of 2009 had been exercised and the related liability was fully extinguished and reclassified to additional paid-in capital.

Subsequent Events

Therapeutic Tax Credit

In November of 2010, the Company announced that it has been awarded grants totaling approximately $1 million in connection with the Company's submission of four qualifying therapeutic discovery projects under the U.S. government's Patient Protection and Affordable Care Act of 2010.

ATM Agreement

In October of 2010, we entered into a new At Market Issuance Sales Agreement (the "2010 ATM Agreement") with Wm Smith and McNicoll, Lewis & Vlak LLC (the "Agents"), under which we may sell common shares from time to time through the Agents, as our agents for the offer and sale of the common shares, in an aggregate amount not to exceed the amount that can be sold under its registration statement on Form S-3 (File No. 333-148342) filed with the SEC on December 26, 2007. The Agents may sell the common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. The Agents may also sell the common shares in privately negotiated transactions, subject to our prior approval. We will pay the Agents, collectively, a commission equal to 3% of the gross proceeds of the sales price of all common shares sold through them as sales agents under the 2010 ATM Agreement. Shares sold under the 2010 ATM Agreement are sold pursuant to a prospectus which forms a part of the registration statement referred to above.

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 ability 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 revenue 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 timeframes anticipated or at all. These and other risks, including those related to the generally unstable nature of current economic and financial market 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 *Part II — 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 secured note agreement. 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 and cash equivalents. 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 cash equivalents at September 30, 2010 and December 31, 2009 (in thousands, except interest rates):

	Maturity	Carrying Amount (in thousands)	Fair Value (in thousands)	Average Interest Rate
September 30, 2010				
Cash and cash equivalents	Daily to 90 days	$ 16,860	$ 16,860	0.09%
December 31, 2009				
Cash and cash equivalents	Daily to 90 days	$ 23,909	$ 23,909	0.38%

As of September 30, 2010, we have an outstanding principal balance on our note with Novartis of $13.5 million, which is due in 2015. The interest rate on this note is charged at a rate of USD six-month LIBOR plus 2%, which was 2.75% at September 30, 2010. No further borrowing is available under this facility.

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

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, the Company and others for alleged strict liability for failure to warn, strict product liability, negligence, breach of warranty, fraudulent concealment, wrongful death and other claims based on injuries alleged to have occurred as a result of three individuals' treatment with RAPTIVA ®. The complaint seeks unspecified compensatory and punitive damages. Since then, additional complaints have been filed in the same court, bringing the total number of pending cases to forty-nine. All of the complaints allege the same claims and seek the same types of damages based on injuries alleged to have occurred as a result of the plaintiffs' treatment with RAPTIVA®. The Company's agreement with Genentech provides for an indemnity of XOMA and payment of legal fees by Genentech which the Company believes is applicable to this matter. The Company believes the claims against it to be without merit and intends to defend against them vigorously.

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

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, 2009) during the nine months ended September 30, 2010.

ITEM 1A. RISK FACTORS

The following risk factors and other information included in this quarterly 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 has reduced 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.

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

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

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

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

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, 2010, 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. While as of the date of this filing, we are not aware of any downgrades, material losses, or other significant deterioration in the fair value of our cash equivalents since September 30, 2010 no assurance can be given that further deterioration in conditions of the global credit and financial markets would not negatively impact our current portfolio of cash equivalents or short-term investments or our ability to meet our financing objectives.

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

We have experienced significant losses and, as of September 30, 2010, we had an accumulated deficit of $835.6 million.

For the nine months ended September 30, 2010, we had a net loss of approximately $51.0 million or $2.87 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 $0.24 per common share (basic and diluted).

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

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

We are authorized to issue, without shareholder approval, 1,000,000 preference shares, of which 2,959 were issued and outstanding as of November 2, 2010, which may give other shareholders dividend, conversion, voting, and liquidation rights, among other rights, which may be superior to the rights of holders of our common shares. In addition, we are authorized to issue, generally without shareholder approval, up to 46,666,666 common shares, of which 21,798,576 were issued and outstanding as of November 2, 2010. If we issue additional equity securities, the price of our common shares may be materially and adversely affected.

As announced 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 1.7 million of our common shares from time to time through Wm Smith, as our agent for the offer and sale of the common shares. Wm Smith could sell these common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act of 1933, including but not limited to sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. Wm Smith could also sell the common shares in privately negotiated transactions, subject to our approval. From the inception of this agreement through September 30, 2010, we sold a total of 1,112,132 common shares through Wm Smith for aggregate gross proceeds of $10.7 million. From October 1, 2010 through October 27, 2010, 554,534 additional common shares were sold through Wm Smith, constituting all of the shares remaining available for sale under the agreement, for aggregate gross proceeds of $1.5 million.

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

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

On October 26, 2010, we entered into a new At Market Issuance Sales Agreement with Wm Smith and McNicoll, Lewis & Vlak LLC (the "Agents"), under which we may sell common shares from time to time through the Agents, as our agents for the offer and sale of the common shares, in an aggregate amount not to exceed the amount that can be sold under our registration statement on Form S-3 (File No. 333-148342) filed with the U.S. Securities and Exchange Commission on December 26, 2007. The Agents may sell the common shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on The NASDAQ Global Market, on any other existing trading market for the common shares or to or through a market maker. The Agents may also sell the common shares in privately negotiated transactions, subject to our prior approval.

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

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

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

There can be no assurance that the market price of our common shares will not decline below its present market price or that there will be an active trading market for our common shares. The market prices of biotechnology companies have been and are likely to continue to be highly volatile. Fluctuations in our operating results and general market conditions for biotechnology stocks could have a significant impact on the volatility of our common share price. We have experienced significant volatility in the price of our common shares. From January 1, 2010 through November 2, 2010, our share price has ranged from a high of $11.850 to a low of $2.310. 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.

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.

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.

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

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

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

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

Safety concerns may also arise in the course of on-going clinical trials or patient treatment as a result of adverse events or reactions. For example, in February of 2009, the 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.

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 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, 2010, we were aware of two antibody products manufactured using this technology that have received FDA approval, Genentech's LUCENTIS ® (ranibizumab injection) for treatment of neovascular wet age-related macular degeneration and UCB's CIMZIA® (certolizumab pegol) for treatment of Crohn's disease and rheumatoid arthritis. In the third quarter of 2009, we sold our LUCENTIS® royalty interest to Genentech. In the third quarter of 2010, we sold our CIMZIA® royalty interest to an undisclosed buyer.

Because our collaborators and licensees are independent third parties, they may be subject to different risks than we are and have significant discretion in 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 Corporation ("Aphton") for the treatment of gastrointestinal and other gastrin-sensitive cancers using anti-gastrin monoclonal antibodies. In January of 2006, Aphton announced that its common stock had been delisted from NASDAQ. In May of 2006, Aphton filed for bankruptcy protection under Chapter 11, Title 11 of the United States Bankruptcy Code.

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

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

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

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

- significantly greater financial resources,

- larger research and development and marketing staffs,

- larger production facilities,

- entered into arrangements with, or acquired, biotechnology companies to enhance their capabilities, or

- extensive experience in preclinical testing and human clinical trials.

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

The examples below pertain to competitive events in the market which we review quarterly and are not intended to be representative of all existing competitive events. Without limiting the foregoing, we are aware that:

XOMA 052

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

- In June of 2009, Novartis announced it had received U.S. marketing approval for Ilaris® (canakinumab), a fully-human monoclonal antibody targeting IL-1 beta, to treat children and adults with Cryopyrin-Associated Periodic Syndromes ("CAPS"). In October of 2009, Novartis announced that Ilaris® had been approved in the European Union for CAPS. Canakinumab is also in clinical trials in Type 2 diabetes, chronic obstructive pulmonary disorder, certain forms of gout and systemic juvenile rheumatoid arthritis. In June of 2010, Novartis announced positive results of Phase 2 clinical trial of canakinumab in gout.

- Eli Lilly and Company ("Lilly") is developing LY2189102, an investigational IL-1 beta antibody, for bi-weekly subcutaneous injection for the treatment of Type 2 diabetes. Lilly announced the initiation of a Phase 2 study in the third quarter of 2009 and has estimated completion of this study in November of 2010.

- In 2008, Biovitrum AB (now called Swedish Orphan Biovitrum, "Biovitrum") obtained a worldwide exclusive license to Amgen Inc. ("Amgen")'s Kineret® (anakinra) for its current approved indication. Kineret® is an IL-1 receptor antagonist (IL-1ra) currently marketed to treat rheumatoid arthritis and has been evaluated over the years in multiple IL-1 mediated diseases, including Type 2 diabetes and other indications we are considering for XOMA 052. In addition to other on-going studies, a proof-of-concept clinical trial in the United Kingdom investigating Kineret® in patients with a certain type of myocardial infarction, or heart attack, has been completed. In August of 2010, Biovitrum announced that the FDA had granted orphan drug designation to Kineret ® for the treatment of CAPS.

- In February of 2008, Regeneron Pharmaceuticals, Inc. ("Regeneron") announced it had received marketing approval from the FDA for ARCALYST® (rilonacept) Injection for Subcutaneous Use, an interleukin-1 blocker or IL-1 Trap, for the treatment of CAPS, including Familial Cold Auto-inflammatory Syndrome and Muckle-Wells Syndrome in adults and children 12 and older. In September of 2009, Regeneron announced that rilonacept was approved in the European Union for CAPS. In June of 2010, Regeneron announced positive results of a Phase 3 clinical trial of rilonacept in gout. In October 2010, Regeneron disclosed that it expected to have initial data from two ongoing Phase 3 studies of rilonacept in gout by early 2011.

- 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 has announced it is focusing on other opportunities for the antibody.

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

XOMA 3AB

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

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

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

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

To the extent we continue to provide manufacturing services for our own benefit or to third parties, we are subject to manufacturing risks. Additionally, unanticipated fluctuations in customer requirements have led and may continue to lead to manufacturing inefficiencies. 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 biotechnology 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.

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

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

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

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

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

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

On August 4, 2010, a petition was filed in the District Court of Dallas County, Texas in a case captioned McCall v. Genentech, Inc., et al., No. 10-09544. The defendants filed a notice of removal to the United States District Court for the Northern District of Texas on September 3, 2010. The removed case is captioned McCall v. Genentech, Inc., et al., No. 3:10-cv-01747-B. The petition asserts personal injury claims against Genentech, the Company, and others arising out of the plaintiff's treatment with RAPTIVA®. The petition alleges claims based on negligence, strict liability, misrepresentation and suppression, conspiracy, and actual and constructive fraud. The petition seeks compensatory damages and punitive damages in an unspecified amount. 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; Patrick J. Scannon, M.D., Ph.D., our Executive Vice President and Chief Medical Officer; Fred Kurland, our Vice President, Finance and Chief Financial 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 have pursued 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 recorded charges in 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.

In addition, as a result of the workforce reduction, we temporarily vacated another building. As manufacturing demand increases in the future, we plan to resume operations at this facility. The net book value of fixed assets in the vacant building potentially subject to write-down is approximately $3.6 million as of September 30, 2010. Although we have determined that there was no impairment of the assets as of September 30, 2010, 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.

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.

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

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

We believe that we were not a PFIC for the 2009 taxable year. However, because PFIC status is determined annually and depends on the composition of a company's income and assets and the fair market value of its assets (including goodwill), which may be volatile in our industry, there can be no assurance that we will not be considered a PFIC for 2010 or any subsequent year. For example, taking into account our existing cash balances, if the value of our common shares were to decline materially, it is possible that we could become a PFIC in 2010 or a subsequent year. Additionally, due to the complexity of the PFIC provisions and the limited authority available to interpret such provisions, there can be no assurance that our determination regarding our PFIC status for any taxable year could not be successfully challenged by the Internal Revenue Service ("IRS").

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

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

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

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

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

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

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

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

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

A bill recently introduced in the House of Representatives provides in certain instances that a corporation that changed its corporate domicile from the United States to a non-U.S. jurisdiction prior to the effective date of the "inversion" rules of Section 7874 of the Code would, for any taxable year beginning on or after the second anniversary of the bill's enactment, be treated as a U.S. corporation for U.S. federal income taxes purposes if such corporation were managed and controlled primarily in the United States. If this bill were enacted in 2010 in its present form and we were to make no changes to our current management structure, we would likely be treated, beginning in 2013, as a U.S. corporation subject to U.S. federal income taxation on our worldwide income. There can be no assurance that the foregoing bill or another similar legislative proposal will not become law.

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

Our success in developing marketable products and achieving a competitive position will depend, in part, on our ability to attract and retain qualified scientific and management personnel, particularly in areas requiring specific technical, scientific or medical expertise. We had approximately 225 employees as of November 2, 2010. 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

None.

ITEM 4. RESERVED

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

Exhibit Number	
10.24C	Second Amendment to Agreement dated September 15, 2008, between XOMA (US) LLC and National Institute of Allergy and Infectious Diseases
10.38	Royalty Purchase Agreement, dated as of August 12, 2010, by and among XOMA CDRA LLC, XOMA (US) LLC, XOMA Ltd., the buyer named therein (with certain confidential information omitted, which omitted information is the subject of a confidential treatment request and has been filed separately with the Securities and Exchange Commission)
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

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 4, 2010

By: /s/ STEVEN B. ENGLE
Steven B. Engle
Chairman, Chief Executive Officer and President
(principal executive officer)

Date: November 4, 2010

By: /s/ FRED KURLAND
Fred Kurland
Vice President, Finance and Chief Financial Officer
(principal financial officer and chief accounting officer)

Exhibit 10.24C

OMB Approval 2700-0042

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT	1. CONTRACT ID CODE	PAGE OF PAGES 1 5

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (if applicable)
TWO(2)	See Block 16C.	1791807	N/A

6. ISSUED BY	CODE	7. ADMINISTERED BY (if other than Item 6)	CODE	N/A
National Institutes of Health National Institute of Allergy and Infectious Diseases DEA, Office of Acquisitions Room 3214, MSC 7612 6700-B Rockledge Drive Bethesda, MD 20892-7612		MID RCB-A		

8. NAME AND ADDRESS OF CONTRACTOR (No. Street, Country, State, and ZIP: Code)	☐	9A. AMENDMENT OF SOLICITATION NO.
XOMA (US) LLC 2910 Seventh Street Berkeley, CA 94710		9B. DATED **(SEE ITEM 11)**
VIN: 1108484		10A. MODIFICATION OF CONTRACT/ORDER NO. **HHSN272200800028C**
	☒	10B DATED (SEE ITEM 13) September 15,2008
CODE / FACILITY CODE		

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning one (1) copy of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATA SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and data specified.

12. ACCOUNTING AND APPROPRIATION DATA (if required
SOCC 25.55 CAN 8-8470038 Obligates: $6,092,445 CAN 10-8470038 Obligates: $11.731.128

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

☐	A. THIS CHANGE ORDER IN ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
☒	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUIT TO AUTHORITY OF: FAR 1.602-1; FAR 17.202; FAR 43.102
	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor ☐ is not, ☒ is required to sign this document and return **2** copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION *(Organizedby UCF section headings, including solicitation/contract subject matter where feasible.)*

Purpose: To modify the contract to correctly identify separate, non-severable tasks as Options within the existing Statement of Work; exercise an Option; and revise other applicable terms and conditions as appropriate.

	Total Funds Currently Obligated			Total Estimated Amount of Contract		
	Cost	Fee	Total	Cost	Fee	Total
Prior to this Mod	$ 18,721,255	$ 1,194,974	$ 19,916,229	$ 61,165,364	$ 3,669,923	$ 64,835,287
This Mod #	$ 16,882,332	$ 941,241	$ 17,823,573	$ 0	$ 0	$ 0
Revised Total	$ 35,603,587	$ 2,136,215	$ 37,739,802	$ 61,165,364	$ 3,669,923	$ 64,835,287

COMPLETION DATE; September 14, 2014

Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER *(Type or print)*		16A. NAME AND TITLE OF CONTRACTING OFFICER *(Type or print)*	
Robert S. Tenerowicz, VP, Operations		Yvette R. Brown, Contracting Officer, OA, DEA, NiAlD, NIH	
15B. CONTRACTOR/OFFEROR /s/ Robert S. Tenerowicz *(Signature of person authorized to sign)*	15C. DATE SIGNED 20SEP10	16B. UNITED STATES OF AMERICA BY /s/ Yvette R. Brown *(Signature of Contracting Officer)*	16C. DATE SIGNED 9/20/10

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTSis hereby updated as follows:
ARTICLE B.2. ESTIMATED COST PLUS FIXED FEE, is hereby deleted in its entirety and replaced as follows:
ARTICLE B.2. ESTIMATED COST - OPTION

a. The estimated cost of this contract is $35,603,587.

b. The fixed fee for this contract is $2,136,215. The fixed fee shaii be paid in instailments based on the percentage of completion of work, as determined by the Contracting Officer. Payment shall be subject to the withholding provisions of the clauses ALLOWABLE COST AND PAYMENT and FIXED FEE referenced in the General Clause Listing in Part II, ARTICLE 1.1. of this contract. Payment of fixed fee shall not be made in less than monthly increments.

c. The total estimated amount of the contract, represented by the sum of the estimated cost plus fixed fee is $37,739,802.

d. If the Government exercises its option pursuant to the OPTION PROVISION Article in SECTION H of this contract, the Government's total estimated contract amount represented by the sum of the estimated cost plus the fixed fee wi!i be increased as follows:

Base/Option(s)	Estimated Cost	Fixed Fee	Estimated Cost Plus Fixed Fee
Base Period	$ 24,536,485	$ 1,472,189	$ 26,008,674
Option 1 - cGMP manufacturing of BoNT/B	$ 11,067,102	$. 664,026	$ 11,731,128
Option 2 - cGMP. manufacturing of BoNT/E	$ 11,398,434	$ 683,908	$ 12,082,342
Option 3 - BoNT/B and BoNT/E formulation	$ 9,390,725	$ 563;443	$ 9,954,168
Option 4 - Non-Clinical and.IND	$ 4,772,618	$286^357	$ 5,058,975
Totai Base and Options	$ 61,165,364	$ 3,669,923	$ 64,835,287

SECTION F - DELIVERIES OR PERFORMANCEis hereby updated as follows:

ARTICLE F.1. DELIVERIES, paragraph a. is hereby deleted in its entirety and replaced as follows:

a. The items specified below as described in the REPORTING REQUIREMENTS Article in SECTION C of this contract will be required to be delivered F.o.b. Destination as set forth in FAR 52.247-35, F.o.b. DESTINATION, WITHIN CONSIGNEES PREMISES (APRIL 1984), and in accordance with and by the date(s) specified below and any specifications stated in SECTION D, PACKAGING, MARKING AND SHIPPING, of this contract

Item	Description	Quantity	Delivery Schedule
(1)	Monthly Progress Report	1 hard copy to PO, 1 original to CO, 1 electronic copy to PO/CO	Each report is due on/before the 15th of each month following each reporting period.
(2)	Annual Progress Report	1 hard copy to PO, 1 original to CO, 1 electronic copy to PO/CO	Each report is due on/before the 30th of the month following each anniversary date. Monthly Progress Reports will not be submitted the month the Annual Progress Report is due.
(3)	Milestone Final Reports	1 hard copy to PO 1, electronic copy to PO/CO	Draft Report is due.120 calendar days post the completion date of the milestone. Report will include sufficient data to demonstrate satisfactory Milestone completion and meet the Deliverables as defined in Attachment 1.
(4)	Final Invention Statement	1 copy to CO	On or before completion date of the contract.
(5)	All Reports and documentation including the invention disclosure report, the confirmatory license, and the government certification	1 copy to OPERA	As required by FAR Clause 52.227-11.
(6)	Draft and Final Report and Summary of Salient Results	1 hard copy to PO 1, original copy to CO, 1 electronic copy to PO/CO	Draft Final Report is due 120 calendar days prior to the completion date of the contract. Final Report and Summary of Salient Results for the entire contract period to include key achievements (organized by Milestone).
(7)	XOMA Technical Development Reports and Technical Transfer Reports	1 hard copy to PO 1, electronic copy to PO/CO	Each report will be provided as available.
(8)	GO/NO GO Decision Gate Reports	1 hard copy to PO 1, original copy to CO, 1 electronic copy to PO/CO	Each report will be provided as available.

ARTICLE F.3. PERIOD OF PERFORMANCE, is hereby incorporated as follows:

The period of performance of this contract shall be from September 15, 2008 through September 14, 2014.

SECTION G - CONTRACT ADMINISTRATION DATA is hereby updated as follows:

ARTICLE G.3. INVOICE SUBMISSION/CONTRACT FINANCING REQUEST AND CONTRACT FINANCIAL REPORT, is modified to add the following paragraph:

d. The Contractor's invoices shall include a summary page of the expenditures for the current billing period, showing a breakdown by each expenditure category. In addition, the Contractor shall provide a separate attachment for each individual funding period (base and any option periods) utilizing the same cost breakdown by cost category. Monthly invoices shall include the cumulative total expenses to date, adjusted (as applicable) to show any amounts suspended by the Government.

SECTION H - SPECIAL CONTRACT REQUIREMENTS is hereby updated to incorporate the following Article as follows:

ARTICLE H.5. NEEDLE EXCHANGE is deleted in its entirety and replaced with the following:

ARTICLE H.5. NEEDLE DISTRIBUTION

The Contractor shall not use contract funds to distribute any needle or syringe for the purpose of preventing the spread of blood borne pathogens in any location that has been determined by authorities to be inappropriate for such distribution.

ARTICLE H.15. OBTAINING AND DISSEMINATING BIOMEDICAL RESEARCH RESOURCES has been revised to correct the name of the policy and link, as follows. The remainder of this Article is unchanged.

Name of Policy is changed to: "Principles and Guidelines for Recipients of NIH Research Grants and Contracts on Obtaining and Disseminating Biomedical Research Resources: Final Notice," (Federal Register Notice, December 23, 1999 [64 FR 72090]),

This may be found at: http://ott. od. n ih. gov/pdfs/64FR72090. pdf

ARTICLE H.21. OPTION PROVISION

Unless the Government exercises its option pursuant to the Option Clause set forth in ARTICLE 1.3., the contract will consist only of the Base Period of the Statement of Work as defined in Sections C and F of the contract. Pursuant to FAR Clause 52.217-7, Option for Increased Quantity—Separately Priced Line Item set forth in ARTICLE 1.3. of this contract, the Government may, by unilateral.contract modification, require the Contractor to perform additional options set forth in the Statement of Work and Contract Restructuring Plan (Attachment 10) of the contract, if the Government exercises this option, notice must be given within 60 days prior to the start date of the option and the estimated cost of the contract will be increased as set forth in the ESTIMATED COST Article in SECTION B of this contract.

SECTION 1 - CONTRACT CLAUSES is hereby updated as follows:

ARTICLE L2. AUTHORIZED SUBSTITUTION OF CLAUSES, is hereby modified to delete the following clause:

a. FAR Clause **52.232-20, Limitation of Cost** (April 1984), is deleted in its entirety and FAR Clause **52.232-22, Limitation of Funds** (April 1984) is substituted therefor. **[NOTE: When this contract is fully funded, FAR Clause 52,232-22, Limitation of Funds will no longer apply and FAR Clause 52.232-20, Limitation of Cost will become applicable.]**

ARTICLE 1.3. ADDITIONAL CONTRACT CLAUSES, paragraph a. is hereby modified to add the following clauses:

11. FAR Clause 52.217-7, Option for increased Quantity - Separately Priced Line Item (March 1989)

> "....The Contracting Officer may exercise the option by written notice to the Contractor within 60 days prior to the start date of the option."

SECTION J, LIST OF ATTACHMENTS, is revised to incorporate the attached Contract Restructuring Plan:

10. Contract Restructuring Plan, August 30, 2010, 5 pages

END OF MODIFICATION No. 2

Title: Production of Monoclonal Antibody Based Therapeutics for Botulism Contract Period: 9/15/2008 - 9/14/2014

Contract Base Period: Development and production of BoNT/B and BoNT/E stable cell lines through 130L engineering lot production, all assay development and support and production of 130L BoNT/AGMP

Duration: 48 months **(includes start date and anticipated completion date): 9/15/2008 - 8/31/2012**

- Activity/Milestone 1; Select lead MAbs
    - Quantitative Parameter (Deliverable): Final candidate selection reports for the three BoNT/B and three BoNT/E MAbs showing the DNA sequences and containing the results of manufacturability, stability, potency/and **TCR** testing.
- Activity/Milestone 2: Construct expression vectors, evaluate expression at 1L/7L fermenter scale
    - Quantitative Parameter (Deliverable): Reports containing the results of fermentation optimization and expression stability for >8 weeks.
- Activity/Milestone 3: Production of Master Cell Bank (MCB) and Manufacturer's Working Cell Bank (MWCB) for BoNT/B and BoNT/E MAbs
    - Quantitative Parameter (Deliverable): Production of a minimum of 200 vials of cGMP MCB and 200 vials of cGMP WCB for each lead MAb, and a certificate of analysis for each.
- Activity/Milestone 4: Manufacture at 7L pilot scale each BoNT/B and BoNT/E MAb.
    - Quantitative Parameter (Deliverable): Manufacturing process at pilot scale (e.g., 7 liter) to optimize yield and purity of each lead MAb and a plan for storage of BDS for each MAb, Perform viral clearance validations for >1 virus type for the final production process. For each MAb, a report will be writtecn describing these results along with the results from 130L engineering lot manufacturing (see Activity/Milestone 5 below).
- Activity/Milestone 5: Successfully scale process to 130L for engineering lots each of BoNT/B and BoNT/E MAbs, store non-GMP BDS.
    - Quantitative Parameters (Deliverables): For each MAb:
        - Production of non-GMP bulk.drug substance (BDS) material prepared using planned cGMP manufacturing process at 130L scale.
        - A process development report describing the results from the 130L engineering lot manufacturing along with the analytical methods required to test and characterize this material using fully developed draft Test Methods intended for GMP lot release testing.
- Activity/Milestone 13: Develop analytical testing for identity, stability, and potency.
    - Quantitative Parameter (Deliverable): For each MAb, qualified and validated (as required) analytical methods will be developed to measure concentration, identity, integrity, specificity, purity, potency, sterility, stability and contaminant identity and levels in order to fully characterize BDS and FDP, support lot release, formulation and stability studies. A Formulation Report will be written documenting stability of the monovalent BoNT/B and BoNT/E mixtures. Animal model testing demonstrating in-vivo potency may be carried out on co-formuiated monovalent antibodies.

- Activity/Milestone 14: PK/lmmunogenicity assay development (2/3 of this milestone will be completed under this Base period - work for the BoNT/B antibodies will be completed)
    - Quantitative Parameter (Deliverable): For each B MAb,
        - Qualified and validated (as required) analytical methods will be developed to support nonclinical and clinical pharmacokinetic studies.
        - Final assay qualification and/or validation reports will be provided.
        - Critical reagents will be generated and purified in sufficient quantities to support the program timeline.
- Activity/Milestone 19: 130L GMP manufacture of BoNT/A MAbs
    - Quantitative Parameter (Deliverable): >50g of each BoNT/A MAb produced under cGMP conditions. Stability reports for BDS will be provided. Additional data on potential lyophilized formulations may be developed.

GO/NO GO Decision Gate requirements for Option 1:

- Selection of top BoNT/B antibodies required for B monovalent product and compatible with other BoNT/B antibodies, required to initiate Option 1. Report will contain data demonstrating acceptable TCR, potency, stability and affinity for each antibody.
- Selection of top BoNT/E antibodies required for E monovalent product and compatible with other BoNT/E antibodies, required to initiate Option 1. Report wilt contain data demonstrating , acceptable TCR, potency, stability and affinity for each antibody.
- Production of two engineering lots for BoNT/B MAbs at 130L scale (final yield of >30g) is required to initiate Option 1. Report will contain data demonstrating acceptable cell growth and production as well as acceptable yield information on downstream purification steps and appropriate BDS product characterization of concentration (A280), SEC-HPLC, lEX-HPLC and glycan distribution (demonstrating consistency in scale up and characteristics appropriate for lgG1 MAbs).
- Production of at least one engineering lot for BoNT/E MAbs.at 130L scale (final yield of >30g) is required to initiate.Option 2. Report will contain data demonstrating acceptable cell growth and production as well as acceptable yield information on downstream purification steps and appropriate BDS product characterization consisting minimally of concentration (A280), SEC-HPLC, iEX-HPLC and glycan distribution (demonstrating consistency in scale up and characteristics appropriate for lgG1 MAbs),

Option 1: cGMP manufacturing of BoNT/B GMP BPS at 500L scale and stability of BDS
Duration: 46 months (include start date and anticipated completion date): 10/15/2010 _ 9/14/2014

- Activity /Milestone 7a: Prepare, aliquot, and store cGMP BDS produced at full-scale 500L for BoNT/B MAbs. Initiate 3-year stability testing program of BDS from individual BoNT/B MAbs.

- 3 year stability of BoNT/B MAbs

    - Quantitative Parameter (Deliverable): Sterile and mycoplasma-free cGMP BDS produced at full scale for each BoNT/B MAb, completed Batch Records, and a certificate of analysis for each product. cGMP BDS for each MAb aliquoted will be stored at <-60°C.

GO/NO GO Decision Gate requirement for Option 2:

- Manufacture of cGMP BDS at 500L scale for two BoNT/B MAbs. Report will contain data demonstrating acceptable cell growth and production as well as acceptable yield information on downstream purification steps and appropriate BDS product characterization consisting of concentration (A280), SEC-HPLC, IEX-HPLC, Bioburden, LAL and glycan distribution (demonstrating consistency in scale up and characteristics appropriate for lgG1 MAbs).

GO/NO GO Decision Gate requirement for Option 3:

- Manufacture of cGMP BDS at 500L scale for three BoNT/B MAbs. Report will contain data demonstrating acceptable cell growth and production as well as acceptable yield information on downstream purification stepsand appropriate BDS product characterization consisting of concentration (A280), SEC-HPLC, IEX-HPLC, Bioburden, LAL and glycan distribution (demonstrating consistency in scale up and characteristics appropriate for lgG1 MAbs).

Option 2: cGMP manufacturing of BoNT/E BPS at 500L scale and stability of BPS
Duration: 42 months (include start date and anticipated completion date): 2/15/2011 - 9/14/2014

- Activity /Milestone 7b: Prepare, aliquot, and store cGMP BDS produced at full-scale 500L for BoNT/E MAbs. initiate 3-year stability testing program of BDS from individual BoNT/E MAbs.

- 3 year stability of BoNT/E MAbs

    - Quantitative Parameter (Deliverable): Sterile and mycoplasma-free cGMP BDS produced at full scale for each BoNT/E MAb, completed Batch Records, and a certificate of analysis for each product. cGMP BDS for each MAb aliquoted will be stored at <-60°C.

Additional GO/NO GO Decision Gate for Option 3 requirement:
[to be submitted after the GO/NO GO for BoNT/B MAbs and after initiating of Option 3]

- Manufacture of cGMP BDS at 500L scale for ali three BoNT/E MAbs. Report will contain data demonstrating acceptable cell growth and production as well as acceptable yield information on downstream purification steps and appropriate.BDS product characterization consisting of concentration (A280), SEC-HPLC, IEX-HPLC, Bioburden, LAL and glycan distribution (demonstrating consistency in scale up and characteristics appropriate for lgG1 MAbs).

Option 3: BoNT/B and BoNT/E formulation, monovalent DP fill, and stability
Duration: 39 months (include start date and anticipated completion date): 6/15/2011 -09/14/14

- Activity /Milestone 8: Complete final formulation studies for monovalent and trivalent BoNT/B and BoNT/E final drug product (FDP).
    - Quantitative Parameter (Deliverable): Report describing results of formulation studies for monovalent and trivalent BoNT/B and BoNT/E FDP.
- Activity/ Milestone 9: Final fill and finishing of monovalent BoNT/B and BoNT/E FDP
    - Quantitative Parameter (Deliverable): Completed Batch Records, and a certificate of analysis for each FDP product.
- Activity /Milestone 10: Final formulation and characterization methods acceptable for fill and finishing of divalent BoNT/A/B or trivalent BoNT/A/B/E FDP.
    - Quantitative Parameter (Deliverable): Draft Batch Records, and a development formulation report.
    - Potential additional Quantitative Parameter (Deliverable to be agreed upon by PO and XOMA): Final Batch records and CoA for divalent or trivalent FDP.
- Activity/ Milestone 15: FDP fill and ship BDS and/or FDP according to cGMP guidelines.
    - Quantitative Parameter (Deliverable): Completed Batch Records, and a certificate of analysis.
- Activity/ Milestone 16: Develop and execute an extended stability program for BDS and FDP.
    - Quantitative Parameter (Deliverable): Stability reports for BDS and FDP,

GO/NO GO Decision Gate requirement for Option 4:
- Sufficient quantities of stable BoNT/B or E monovalent DP to support non-clinical studies.

Option 4: Non-Clinical and IND
Duration: 33 months (include start date and anticipated completion date): 12/1/11 - 09/14/14

- Activity /Milestone **17:** Complete GLP studies.
    - Quantitative Parameter (Deliverable): Final audited study reports.
- Activity/ Milestone 18: Prepare materials for IND.
    - Quantitative Parameter (Deliverable): Final sections for the IND.
- Activity/Milestone 14: PK/immunogenicity assay development (1/3 of this milestone will be completed under this Base period - work for the BoNT/E antibodies will be completed under this milestone)
    - Quantitative Parameter (Deliverable): For each E MAb,
        - Qualified and validated (as required) analytical methods will be developed to support nonclinical and clinical pharmacokinetic studies.
        - Final assay qualification and/or validation reports will be provided.
        - Critical reagents will be generated and purified in sufficient quantities to support the program timeline.

Exhibit 10.38

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

ROYALTY PURCHASE AGREEMENT

Dated as of August 12, 2010

by and among

XOMA CDRA LLC,

XOMA (US) LLC,

XOMA LTD.,

AND

[*]

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ROYALTY PURCHASE AGREEMENT

This **ROYALTY PURCHASE AGREEMENT** (this "Agreement") is made and entered into as of August 12, 2010 (the "Effective Date") by and among XOMA CDRA LLC, a Delaware limited liability company ("Seller"), XOMA Ltd., a Bermuda company, solely for the purposes of Article V, Article VII, Article VIII, Section 6.01(a), Section 6.02, Section 6.03, Section 6.04(a), Section 6.04(d), Section 6.04(g) and Section 6.06 and Section 6.07 ("XOMA"), XOMA (US) LLC, a Delaware limited liability company and the direct, 100% owner of Seller, solely for the purposes of Section 3.11(d), Section 3.11(i), Section 3.11(k), Section 6.01(a), Section 6.02, Section 6.03, Section 6.04(a), Section 6.04(d), Section 6.04(g), Section 6.06, Section 6.07, Article V, Article VII, and Article VIII ("Seller Parent") and [*], a Delaware limited liability company ("Purchaser").

WHEREAS, XOMA as successor-in-interest to XOMA Corporation, and UCB (as defined below), as successor-in-interest to Celltech Therapeutics Ltd., have entered into the License Agreement (as defined below);

WHEREAS, in connection with a transaction that XOMA Corporation effected in connection with its redomiciliation as XOMA, XOMA (a) has assigned and transferred all of its right, title and interest in, to and under the License Agreement to XOMA (Bermuda) Ltd., a Bermuda limited company ("XOMA Bermuda"), and (b) has transferred, conveyed, assigned and granted all of its right, title and interest in, to and under the Patent Rights to XOMA Technology Ltd., a Bermuda limited company ("XOMA Technology"), [*];

WHEREAS, XOMA Technology has transferred, conveyed, assigned and granted the unconditional and irrevocable right to grant a license with respect to the Patent Rights (as defined below) to third parties to XOMA Ireland Limited, an Irish limited company ("XOMA Ireland");

WHEREAS, pursuant to the Payment Rights Acquisition Agreement, dated as of November 9, 2006, XOMA Bermuda has assigned and transferred all of its right, title and interest in and to any and all royalty payments relating to the Licensed Product (as defined below) under Article 3 of the License Agreement and any and all underpayments or unpaid amounts relating to such royalty payments to Seller Parent, [*];

WHEREAS, pursuant to the XOMA Contribution and Sale Agreement (as defined below), in exchange for the cash proceeds of the sale of the Purchased Interest (as defined below) pursuant to this Agreement and newly-issued equity of Seller: (a) Seller Parent has sold, transferred, conveyed, assigned, contributed and granted to Seller all of its right, title and interest in, to and under the License Agreement to any and all royalty payments relating to the Licensed Product under Article 3 of the License Agreement and any and all underpayments or unpaid amounts relating to such royalty payments; (b) XOMA Bermuda has sold, transferred, conveyed, assigned, contributed and granted to Seller all of its right, title and interest in, to and under the License Agreement; (c) XOMA Ireland has sold, transferred, conveyed, assigned, contributed and granted to Seller the unconditional and irrevocable right to grant a license to UCB equivalent, in form and substance, to the License Agreement with respect to the Patent Rights (the "Right to License"); and (d) XOMA Technology has sold, transferred, conveyed, assigned, contributed and granted to Seller all of its right, title and interest in and to any monetary damages or recoveries which XOMA Technology or any of its Affiliates (as defined below) is entitled to receive net of any expenses actually incurred by XOMA Technology (or such Affiliates) to pursue such damages or recoveries, in any infringement action to the extent such infringement is of any of the Patent Rights, [*];

WHEREAS, [*];

WHEREAS, upon and subject to the terms and conditions contained herein, Seller now desires to sell, assign, convey, transfer and grant to Purchaser, and Purchaser desires to purchase, acquire and accept from Seller, the Purchased Interest described herein, including all of Seller's right, title and interest in, to and under the Royalty Payment described herein; and

WHEREAS, XOMA has agreed to provide the representations, warranties and covenants to Purchaser set forth in this Agreement, collectively, as a material inducement to Purchaser to enter into and consummate the transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, representations and warranties set forth herein, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions. The following terms, as used herein, shall have the following meanings:

"Additional Collateral" shall mean all of Seller's right, title and interest in, to and under the following property, whether now owned or hereafter acquired, wherever located:

(i) the License Agreement, including all of Seller's contract rights thereunder to receive the Royalty Payment and other monetary payments under the License Agreement and all of Seller's contract rights thereunder to enforce the License Agreement directly against UCB (which, for the avoidance of doubt, shall not include any right to enforce, maintain or otherwise protect the Patent Rights);

(ii) the Right to License, including all of Seller's rights thereunder to receive payments, if any, arising from the license, if any, granted pursuant thereto and all of Seller's rights thereunder to enforce the Right to License and the license, if any, granted pursuant thereto (which, for the avoidance of doubt, shall not include any right to enforce, maintain or otherwise protect the Patent Rights);

(iii) all of Seller's books and records relating to any and all of the foregoing;

(iv) all Supporting Obligations (as such term is defined in the UCC) in respect of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing; and

(v) all Proceeds (as such term is defined in the UCC) and products of and to any and all of the foregoing.

"Affiliate" shall mean any Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another Person. For purposes of this definition, "control" (or its derivatives) shall mean the possession, direct or indirect, of the power or ability to direct or cause the direction of the management or policies of a Person, whether through ownership of equity, voting securities or beneficial interest, by contract or otherwise.

"Agreement" shall have the meaning set forth in the preamble.

"Bankruptcy Event" shall mean, with respect to any Person, the occurrence of any of the following:

(i) such Person or any of its Subsidiaries shall commence any case, proceeding or other action (a) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, relief of debtors or the like, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any portion of its assets, or such Person or any of its Subsidiaries shall make a general assignment for the benefit of its creditors;

(ii) there shall be commenced against such Person or any of its Subsidiaries any case, proceeding or other action of a nature referred to in clause (i) above that remains undismissed or undischarged for a period of sixty (60) calendar days;

(iii) there shall be commenced against such Person or any of its Subsidiaries any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial portion of its assets, which results in the entry of an order for any such relief that shall not have been vacated, discharged, stayed or satisfied pending appeal within forty-five (45) calendar days from the entry thereof; or

(iv) such Person or any of its Subsidiaries shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clauses (i), (ii) or (iii) above.

"Bill of Sale" shall mean the bill of sale substantially in the form of **Exhibit A**.

"Business Day" shall mean any day other than a Saturday, a Sunday, any day that is a legal holiday under the laws of the State of New York or the State of California, or any day on which banking institutions located in the State of New York or the State of California are authorized or required by law or other governmental action to close.

"Celltech License Agreement" shall mean the Non-Exclusive License Agreement between XOMA Bermuda, as successor-in-interest to XOMA Corporation, and UCB, as successor-in-interest to Celltech Therapeutics Ltd., dated December 23, 1998, as may be amended, restated, supplemented or modified from time to time, attached hereto as **Exhibit B**.

"CIMZIA®" shall mean the pegylated anti-TNFalpha antibody fragment having the international nonproprietary name certolizumab pegol.

"Closing Payment" shall have the meaning set forth in Section 2.03.

"Collateral" shall mean the Additional Collateral and, in the event of a Recharacterization, the Purchased Interest.

"Confidential Information" shall mean, as it relates to any party (or its Affiliates) who provides information (the "Disclosing Party") to the other party hereto (the "Receiving Party"), all information (whether written or oral, or in electronic or other form) furnished before or after the Effective Date concerning, or relating in any way, directly or indirectly, to the Disclosing Party or its Affiliates (including, in the case of Purchaser, any of its equityholders, debtholders, partners or members), and in the case of information provided by Seller or its Affiliates, relating to the Purchased Interest or any part thereof, the License Agreement or the Patent Rights, including: (i) any license, sublicense, assignment, product development, royalty, sale, supply or other agreements (including the License Agreement) involving or relating in any way, directly or indirectly, to the Purchased Interest or any part thereof or the circumstances giving rise to the Purchased Interest or any part thereof, and including all terms and conditions thereof and the identities of the parties thereto; (ii) any reports, data, materials or other documents of any kind relating in any way, directly or indirectly, to this Disclosing Party or its Affiliates, the Purchased Interest or any part thereof or the circumstances giving rise to the Purchased Interest or any part thereof, and including reports, data, materials or other documents of any kind delivered pursuant to or under any of the agreements referred to in clause (i) above; and (iii) any inventions, devices, improvements, formulations, discoveries, compositions, ingredients, patents, patent applications, know-how, processes, trial results, research, developments or any other intellectual property, trade secrets or information involving or relating in any way, directly or indirectly, to the Patent Rights or any infringement thereof. Notwithstanding the foregoing definition, "Confidential Information" shall not include information that is (v) independently developed or discovered by the Receiving Party without use of or access to any Confidential Information, as demonstrated by documentary evidence, (w) already in the public domain at the time the information is disclosed or has become part of the public domain after such disclosure through no breach of this Agreement, (x) lawfully obtainable from other sources, (y) required to be disclosed in any document to be filed with any Governmental Authority or (z) required to be disclosed by court or administrative order or under securities laws, rules and regulations applicable to any party hereto or pursuant to the rules and regulations of any stock exchange or stock market on which securities of Seller or its Affiliates or Purchaser or its Affiliates may be listed for trading.

"Defaulting Party" shall have the meaning set forth in Section 6.04(d).

"Discrepancy" shall have the meaning set forth in Section 2.02(b).

"Discrepancy Notice" shall have the meaning set forth in Section 6.05(b).

"Dispute" or "Disputes" shall have the meaning set forth in Section 5.05(e).

"Effective Date" shall have the meaning set forth in the preamble.

"Event of Default" shall mean each of the following events or occurrences, and each such Event of Default shall be deemed to exist and continue so long as, but only so long as, it shall not have been waived or remedied, as applicable:

(a) failure of Seller or Seller Parent (or any of their respective Affiliates) to deliver to the Purchaser Account all Royalty Payments and all underpayments or unpaid amounts relating to such Royalty Payments received by either Seller or Seller Parent (or such Affiliates) on or after the Royalty Payment Commencement Date when required to be delivered by Seller to the Purchaser Account pursuant to this Agreement and such failure is not cured within thirty (30) days after written notice thereof is given to Seller by Purchaser;

(b) failure of Seller or XOMA (or any of their respective Affiliates) to perform or comply with any material term or obligation under the License Agreement or any Transaction Document (whether or not pursuant to any direction from Purchaser), including any failure to make any payment hereunder or thereunder (other than any payment contemplated by clause (a) above) (determined in all cases hereunder as if the terms "material" or "Material Adverse Effect" were not included therein, except in the second instance in the penultimate sentence of, and in the ultimate sentence of, Section 5.05(d)), if, upon Purchaser providing Seller with written notice of such failure, Seller has not cured such failure within thirty (30) days after Seller's receipt of such notice;

(c) without limiting the generality of clause (b) above, the valid termination of the License Agreement by UCB pursuant to Section 9.3 (Termination for Cause) thereof;

(d) any representation or warranty in this Agreement or in any other Transaction Document or in any written statement, report or certificate made or delivered to Purchaser by Seller (excluding any such written statement, report or certificate that is not made or deemed to be made by Seller but is required to be delivered by Seller pursuant to the Transaction Documents) is untrue or incorrect in any material respect (determined in all cases as if the terms "material" or "Material Adverse Effect" were not included therein) as of the date when made or deemed made and, if the facts, events or circumstances that resulted in such representation or warranty being untrue or incorrect are capable of being cured or remedied such that such representation or warranty would thereafter be true and correct in all material respects (determined in all cases as if the terms "material" or "Material Adverse Effect" were not included therein), such facts, events or circumstances are not cured or remedied within thirty (30) days after written notice thereof is given to Seller by Purchaser;

(e) Seller, Seller Parent, XOMA Bermuda, XOMA Ireland, XOMA Technology or XOMA becomes subject to a Bankruptcy Event;

(f) Purchaser shall fail to have a first-priority perfected security interest in any of the Collateral due to (i) any action by Seller or failure of Seller to perform an obligation required to be performed by it under any of the Transaction Documents or (ii) any other reason, if, in each case, within ten (10) days after Seller becomes aware (based on Seller's Knowledge) of any failure of Purchaser to have a first-priority perfected security interest in any of the Collateral such first-priority perfected security interest is not restored;

(g) in the event UCB terminates the License Agreement and Seller or XOMA Technology (or their respective Affiliates) subsequently is or may be entitled to receive monetary damages or recoveries from UCB from the infringement of any of the Patent Rights, (i) failure of Seller or XOMA Technology (or any such Affiliates) to use commercially reasonable efforts to pursue any and all such monetary damages or recoveries, which failure is not cured within thirty (30) days after written notice thereof is given to Seller by Purchaser, or (ii) failure of Seller or XOMA Technology (or their respective Affiliates) to promptly pay to the Purchaser Account, any and all such monetary damages or recoveries recovered by Seller or XOMA Technology (or such Affiliates), net of any expenses actually incurred by Seller, XOMA Technology (or such Affiliates) to pursue such damages or recoveries, which failure is not cured within thirty (30) days after written notice thereof is given to Seller by Purchaser; and

(h) material breach by Seller of any license granted pursuant to the Right to License, which breach is not cured within thirty (30) days after written notice thereof is given to Seller by Purchaser.

"Excluded Liabilities and Obligations" shall have the meaning set forth in Section 2.04.

"GAAP" shall mean generally accepted accounting principles in the United States of America as in effect from time to time, including those set forth in (a) the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and (b) the statements and pronouncements of the Financial Accounting Standards Board.

"Governmental Authority" shall mean any government, court, regulatory or administrative agency or commission, or other governmental authority, agency or instrumentality, whether foreign, federal, state or local (domestic or foreign).

"Information" shall have the meaning set forth in [*].

"Knowledge" shall mean, with respect to any XOMA Entity (as defined below), the knowledge of any of the Senior Management of XOMA, Seller Parent, XOMA Bermuda, XOMA Ireland, XOMA Technology, Seller or any of their respective Subsidiaries and any other individuals that have a similar position or have similar powers and duties as any such officers. An individual will be deemed to have "knowledge" of a particular fact or other matter if (i) such individual has or at any time had actual knowledge of such fact or other matter or (ii) a prudent individual would be expected to discover or otherwise become aware of such fact or other matter in the course of his responsibilities in his capacity as an officer of XOMA, Seller Parent, XOMA Bermuda, XOMA Ireland, XOMA Technology, Seller or any of their respective Subsidiaries, in his capacity in such similar position, in his capacity in having such similar powers and duties or otherwise after due inquiry in the ordinary course of his responsibilities and duties, including inquiring about such fact or other matter with any employee of XOMA, Seller Parent, XOMA Bermuda, XOMA Ireland, XOMA Technology, Seller or any of their respective Subsidiaries who reports directly to such individual and who (x) has responsibilities or (y) would reasonably be expected to have actual knowledge of circumstances or other information, in each case, that would reasonably be expected to be pertinent to such fact or other matter. Notwithstanding anything in this definition to the contrary, Seller will be deemed to have knowledge of any fact or matter that is the subject of, or referred to within, any written notice Seller Parent (as predecessor-in-interest to Seller), XOMA Bermuda (as predecessor-in-interest to Seller), Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) or any of their respective Subsidiaries has received (whether in hard copy, digital or electronic format).

"License Agreement" shall mean the Non-Exclusive License Agreement between Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) and UCB (as successor-in-interest to Celltech Therapeutics Ltd.), dated December 23, 1998, as may be amended, restated, supplemented or modified from time to time. The term "License Agreement" shall include all rights that arise therefrom or are related thereto.

"License Party Audit" shall have the meaning set forth in Section 6.05(a).

"Licensed Product" shall have the meaning set forth in the License Agreement solely as it relates to CIMZIA®.

"Lien" shall mean any lien, hypothecation, charge, instrument, license, preference, priority, security agreement, security interest, mortgage, option, right of first refusal, privilege, pledge, liability, covenant or order, or any encumbrance, restriction, right or claim of any other Person of any kind whatsoever, whether choate or inchoate, filed or unfiled, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown, other than, unless the context otherwise requires, any of the above created solely in favor of Purchaser by the Transaction Documents.

"Losses" shall mean, collectively, any and all claims, damages, losses, judgments, liabilities, costs and expenses (including reasonable expenses of investigation and reasonable attorneys' fees and expenses), excluding punitive damages, except to the extent punitive damages are paid to a third party.

"Material Adverse Effect" shall mean: any material adverse effect on (a) the validity or enforceability of any of the Transaction Documents, the License Agreement, the Right to License or any license granted pursuant thereto, the back-up security interest granted pursuant to Section 2.01(d), or the security interest granted pursuant to Section 2.07, (b) the right or ability of Seller (or its permitted assignee) to perform any of its obligations under any of the Transaction Documents or the Right to License (or any license granted pursuant thereto) or to consummate the transactions contemplated thereunder, (c) the ability of Seller or XOMA Technology (or their respective permitted assignees) to exercise any of its rights under the License Agreement relating, directly or indirectly, to the Patent Rights or the Purchased Interest, including the payment of the Royalty Payment or other monetary payment on account thereof; (d) the rights or remedies of Purchaser under any of the Transaction Documents, (e) the right of Seller to receive any Royalty Payment or other monetary payment under the License Agreement or the timing, amount or duration of such Royalty Payment or other monetary payment, (f) the Purchased Interest or any of Purchaser's right, title and interest therein, thereto and thereunder, or (g) the right or ability of UCB (or any permitted assignee) to perform any of its obligations under the License Agreement or the Right to License (or any license granted pursuant thereto) that are related, directly or indirectly, to the Purchased Interest, including the payment of the Royalty Payment or other monetary payment on account thereof.

"Patent Office" shall mean the U.S. Patent and Trademark Office or the Canadian Intellectual Property Office, as applicable.

"Patent Rights" shall have the meaning set forth in the License Agreement as it relates solely to CIMZIA®. **Schedule 3.15(a)** attached hereto sets forth an accurate and complete list of the Patent Rights in existence as of the Effective Date.

"Person" shall mean an individual, corporation, partnership, limited liability company, association, trust or other entity or organization of any kind, including a Governmental Authority.

"Purchased Interest" shall mean all of Seller's right, title and interest in, to and under the following:

(i) an undivided 100% interest in Seller's contract rights under the License Agreement to receive the Royalty Payment;

(ii) Seller's contract rights under the License Agreement to enforce the right to payment of all or any portion of the Royalty Payment when earned directly against UCB;

(iii) Seller's contract rights under the License Agreement to receive any underpayments or unpaid amounts discovered by inspection of UCB's books and records or otherwise and relating to the Royalty Payment under Section 4.3 of the License Agreement, whether or not initiated at Purchaser's direction;

(iv) Seller's contract rights under the License Agreement to receive any inspection expenses which are reimbursed by UCB under Section 4.3 of the License Agreement, but only if and to the extent such expenses were originally paid by Purchaser pursuant to this Agreement;

(v) any and all monetary damages or recoveries received by Seller, XOMA Technology or any of their respective Affiliates, net of any expenses actually incurred by Seller, XOMA Technology or their respective Affiliates to pursue such damages or recoveries, in any infringement action brought by or on behalf of XOMA Technology, whether or not discovered by XOMA or its Affiliates, UCB or Purchaser, to the extent the such infringement is of any of the Patent Rights;

(vi) Seller's contract rights under the License Agreement to receive and use any and all Information received from, or created using data received from, UCB;

(vii) Seller's contract rights under the License Agreement to transfer or assign Purchaser's right, title and interest in, to and under the foregoing to a third party, subject to the License Agreement and [*]; and

(viii) all payments, Proceeds (as such term is defined in the UCC) and products of and to any and all of the foregoing.

"Purchaser" shall have the meaning set forth in the preamble, and its permitted successors and assigns.

"Purchaser Account" shall have the meaning set forth in Section 6.03(c).

"Purchaser Indemnified Party" shall have the meaning set forth in Section 8.05(a).

"Recharacterization" shall have the meaning set forth in Section 2.01(d).

"Right to License" shall have the meaning set forth in the recitals.

"Royalty Payment" shall mean the right to receive, from the Royalty Payment Commencement Date, all royalty payments relating to the Licensed Product which Seller has received or to which Seller is entitled (as successor-in-interest to Seller Parent) from UCB under Section 3.1 of the License Agreement, and any and all payments or proceeds arising therefrom.

"Royalty Payment Commencement Date" shall mean the date that the Royalty Payment is due and payable by UCB with respect to amounts earned in the second calendar quarter of 2010 pursuant to Section 4.2 of the License Agreement.

"Seller" shall have the meaning set forth in the preamble, and its permitted successors and assigns.

"Seller Indemnified Party" shall have the meaning set forth in Section 8.05(b).

"Seller Parent" shall have the meaning set forth in the recitals, and its permitted successors and assigns.

"Senior Management" shall mean the following officers of XOMA or any other XOMA Entity or any other individual that has a similar position or has similar powers and duties as any such officers: Chairman of the Board and Chief Executive Officer; Executive Vice President and Chief Medical Officer; Vice President, Regulatory Affairs and Compliance; Vice President, Product Development and Alliance Management; Vice President, Finance and Chief Financial Officer; Vice President, General Counsel and Secretary; Vice President, Quality & Facilities; Vice President, Business Development; Vice President, Operations; and Vice President, Human Resources and Information Technology.

"Set-off" shall mean any set-off, offset, rescission, claim, counterclaim, defense, reduction or deduction of any kind. Without limiting the generality of the foregoing: (a) the term Set-off shall include the right by UCB to reduce the amount of the Royalty Payment for any reason, including in connection with (i) a breach by Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) of the License Agreement, (ii) any rights to reimbursement of any costs or expenses of UCB under the License Agreement, or (iii) any amounts paid or payable pursuant to any indemnification rights or obligations of Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) under the License Agreement; and (b) the term Set-off shall not include any deduction or withholding for or on account of any Tax.

"Subsidiary" or "Subsidiaries" shall mean with respect to any Person (i) any corporation of which the outstanding capital stock having at least a majority of votes entitled to be cast in the election of directors (or, if there are no such voting interests, 50% or more of the equity interests) under ordinary circumstances is at the time owned, directly or indirectly, by such Person or by another Subsidiary of such Person or (ii) any other Person of which at least a majority voting interest (or, if there are no such voting interests, 50% or more of the equity interests) under ordinary circumstances is at the time owned, directly or indirectly, by such Person or by another Subsidiary of such Person.

"Tax" or "Taxes" means any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, abandoned property, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

"Term" shall have the meaning set forth in the License Agreement.

"Third Party Claim" shall have the meaning set forth in Section 8.05(d).

"Transaction Documents" shall mean, collectively, this Agreement, the Bill of Sale and [*].

"UCB" shall mean UCB Celltech, a branch of UCB S.A., a Belgium limited company, including its permitted successors and assigns.

[*]

"UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, that, if, with respect to any financing statement or by reason of any provisions of law, the perfection or the effect of perfection or non-perfection of Purchaser's ownership interest in the Purchased Interest, the back-up security interest granted pursuant to Section 2.01(d), or the security interest granted pursuant to Section 2.07 is governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States other than the State of New York, then "UCC" shall mean the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of this Agreement and any financing statement relating to such perfection or effect of perfection or non-perfection.

"XOMA" shall have the meaning set forth in the preamble, and its permitted successors and assigns.

"XOMA Bermuda" shall have the meaning set forth in the recitals, and its permitted successors and assigns.

"XOMA Contribution and Sale Agreement" shall mean the Contribution and Sale Agreement among Seller Parent, XOMA Bermuda, XOMA Ireland, XOMA Technology and Seller, dated as of August 11, 2010, and other related contracts made and entered into in connection with such agreement, as may be amended, restated, supplemented or modified from time to time.

"XOMA Entity" shall mean one or more of Seller, XOMA, Seller Parent, XOMA Bermuda, XOMA Ireland and XOMA Technology, as the context dictates.

"XOMA Ireland" shall have the meaning set forth in the recitals, and its permitted successors and assigns.

"XOMA Technology" shall have the meaning set forth in the recitals, and its permitted successors and assigns.

ARTICLE II
PURCHASE AND SALE OF THE PURCHASED INTEREST; SECURITY INTEREST

Section 2.01 Purchase and Sale of Purchased Interest

(a) Subject to the terms and conditions of this Agreement, including Section 2.07(c) and Section 6.02, on the Effective Date, Seller hereby sells, assigns, transfers and conveys to Purchaser and Purchaser hereby purchases, acquires and accepts from Seller all of Seller's right, title and interest in, to and under the Purchased Interest, free and clear of any and all Liens. The purchase price for the Purchased Interest shall be the Closing Payment.

(b) Seller and Purchaser intend and agree that the sale, assignment, transfer and conveyance of the Purchased Interest under this Agreement shall be, and is, a true, absolute and irrevocable assignment and sale by Seller to Purchaser of the Purchased Interest and that such assignment and sale shall provide Purchaser with the full benefits of ownership of the Purchased Interest. Neither Seller nor Purchaser intends the transactions contemplated hereunder to be, or for any purpose characterized as, a financing transaction, borrowing or a loan from Purchaser to Seller. Seller waives any right to contest or otherwise assert that this Agreement is other than a true, absolute, and irrevocable sale and assignment by Seller to Purchaser of the Purchased Interest under applicable law, which waiver shall be enforceable against Seller in any bankruptcy, insolvency or similar proceeding relating to Seller. In view of the intention of the parties hereto that the sale of the Purchased Interest hereunder shall constitute a true sale thereof rather than a loan secured thereby, Seller acknowledges and agrees that it will mark its books and records relating to the Purchased Interest to indicate the sale thereof to Purchaser and will note in its financial statements that the Purchased Interest has been sold to Purchaser.

(c) Seller hereby consents to Purchaser recording and filing, at Seller's sole cost and expense, any financing statements (and continuation statements with respect to such financing statements when applicable) or other instruments and notices, in such manner and in such jurisdictions as in Purchaser's reasonable determination are necessary or appropriate to evidence the purchase, acquisition and acceptance by Purchaser of the Purchased Interest and to perfect and maintain the perfection of (i) Purchaser's ownership interest in the Purchased Interest and (ii) the security interest in the Purchased Interest granted by Seller to Purchaser pursuant to Section 2.01(d).

(d) Notwithstanding that Seller and Purchaser expressly intend for the sale, transfer, assignment and conveyance of the Purchased Interest to be a true and absolute sale and assignment, in the event that such sale and assignment shall be characterized as a loan and not a sale or such sale shall for any reason be ineffective or unenforceable as such (any of the foregoing being a "Recharacterization"), then this Agreement shall be deemed to constitute a security agreement under the UCC and other applicable law. For this purpose and without being in derogation of the parties' intention that the sale of the Purchased Interest shall constitute a true sale thereof, Seller hereby grants to Purchaser a security interest in all of Seller's right, title and interest in, to and under the Purchased Interest, to secure the prompt and complete payment of a loan deemed to have been made in an amount equal to the Closing Payment together with all other obligations of Seller under this Agreement and the other Transaction Documents, which security interest shall, upon the filing of a duly prepared financing statement in the appropriate filing office, be perfected and prior to all other Liens thereon. Purchaser shall have, in addition to the rights and remedies which it may have under this Agreement, all other rights and remedies provided to a secured creditor after default under the UCC and other applicable law, which rights and remedies shall be cumulative. Seller hereby authorizes Purchaser, as secured party, to file the UCC financing statements contemplated hereby. In the case of any Recharacterization, each of Seller and Purchaser represents and warrants as to itself that each remittance of the Royalty Payment or any portion thereof or any other payment in respect of the Purchased Interest by or on behalf of Seller to Purchaser hereunder will have been (i) in payment of a debt incurred by Seller in the ordinary course of business or financial affairs of Seller and Purchaser and (ii) made in the ordinary course of business or financial affairs of Seller and Purchaser.

Section 2.02 Transfer and Payments in Respect of the Purchased Interest; Entitlement to the Royalty Payment.

(a) Seller agrees that Purchaser, subject to the terms and conditions of this Agreement, is entitled to the Purchased Interest and may enforce the right to payment of any portion of the Royalty Payment or other monetary payment on account of the Purchased Interest when earned directly against UCB pursuant to the License Agreement and, notwithstanding any claim of Set-off that Seller may have against Purchaser or that UCB may have against Seller (as successor-in-interest to Seller Parent and XOMA Bermuda), Seller agrees and will use its reasonable [*] efforts to ensure (including taking such actions as Purchaser shall reasonably request) that UCB remits all payments that UCB is required to pay to Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) under the License Agreement with respect to the Purchased Interest directly to the Purchaser Account, in full, pursuant to [*].

(b) For the avoidance of doubt, the parties hereto understand and agree that if UCB fails to pay any Royalty Payment or other monetary payment on account of the Purchased Interest in full when Seller or Purchaser reasonably believes such Royalty Payment or other monetary payment is due under the License Agreement (each such unpaid amount, a "Discrepancy"), then Seller shall not be obligated to pay to Purchaser or otherwise compensate or make Purchaser whole with respect to any such Discrepancy; provided, however, that nothing in this Section 2.02(b) shall limit or affect in any respect the rights of any Purchaser Indemnified Party under Section 8.05 or Seller's obligation to use its reasonable [*] efforts to enforce its rights under the License Agreement pursuant to Section 2.02(a) and Section 6.04(d). Notwithstanding the foregoing, in the event that the Royalty Payment or other monetary payment on account of the Purchased Interest is not paid to Purchaser (directly or indirectly by remittance to the Purchaser Account pursuant to Section 6.03) in full due to UCB effecting a valid Set-off against the Royalty Payment or other monetary payment on account of the Purchased Interest pursuant to the License Agreement or any other contract or agreement (whether or not such Set-off was disclosed hereunder) or UCB otherwise does not pay to Purchaser the Royalty Payment or other monetary payment on account of the Purchased Interest in full due to any act or omission by Seller, Seller Parent or XOMA, as applicable, resulting in a breach of this Agreement, such breaching party, be it Seller, Seller Parent or XOMA, as applicable, shall be liable for, and shall pay Purchaser the amount of any such Set-off or Discrepancy promptly (and in any event no later than three (3) Business Days) following the date such Royalty Payment or other monetary payment is paid or payable to Purchaser hereunder.

Section 2.03 Purchase Price

In full consideration for the sale, assignment, transfer and conveyance of the Purchased Interest, and subject to the terms and conditions set forth herein, Purchaser shall pay to Seller on the Effective Date, the sum of $4,000,000 by wire transfer of immediately available funds to an account designated in writing by Seller (the "Closing Payment").

Section 2.04 No Assumed Obligations

Notwithstanding any provision in this Agreement or any other writing to the contrary, Purchaser is purchasing, acquiring and accepting only the Purchased Interest and the contractual rights set forth in this Agreement and is not assuming any liability or obligation of Seller, Seller Parent, XOMA Bermuda, XOMA Ireland, XOMA Technology, XOMA or any of their respective Affiliates, of whatever nature, whether presently in existence or arising or asserted hereafter, whether under the License Agreement or any Transaction Document or otherwise. All such liabilities and obligations shall be retained by and remain obligations and liabilities of Seller, Seller Parent, XOMA Bermuda, XOMA Ireland, XOMA Technology, XOMA or any of their respective Affiliates (the "Excluded Liabilities and Obligations"). For the avoidance of doubt, any and all liabilities or obligations of Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) under Section 2.1, Section 2.3, Section 4.3, Article 8 and Section 9.5 of the License Agreement shall be Excluded Liabilities and Obligations.

Section 2.05 Excluded Assets

Notwithstanding any provision in this Agreement or any other writing to the contrary, Purchaser does not, by purchase, acquisition or acceptance of the rights granted hereunder or otherwise pursuant to any of the Transaction Documents, purchase, acquire or accept any assets or contract rights of Seller under the License Agreement, other than the Purchased Interest and the security interest in Collateral granted hereunder, or any other assets or rights of Seller.

Section 2.06 Closing Deliverables

Simultaneous with the closing of the transactions contemplated hereby on the Effective Date:

(a) Bill of Sale. Seller, Seller Parent, XOMA and Purchaser shall execute, and Seller and Purchaser shall deliver to the each other, the Bill of Sale.

(b) Closing Payment. Seller shall have received payment of the Closing Payment.

(c) [*]

(d) Corporate Documents. With respect to each of Seller, Seller Parent and XOMA, an executive officer shall sign, and Seller shall deliver to Purchaser, certificates dated as of the Effective Date: (i) attaching copies, certified by such officer as true and complete, of resolutions of its board of directors (or similar body) authorizing and approving its execution, delivery and performance of the Transaction Documents and the transactions contemplated herein and therein; (ii) setting forth the incumbency of such officer or officers who have executed and delivered the Transaction Documents, including therein a signature specimen of each officer or officers; (iii) attaching copies, certified by such officer as true and complete, of each of, in the case of Seller, the certificate of formation and operating agreement, and in the case of Seller Parent and XOMA, the articles of association and by-laws, in each case, as in effect on the Effective Date; and (iv) attaching copies, certified by such officer as true and complete, of long form good standing certificates of the appropriate Governmental Authority of Seller's jurisdiction of incorporation, stating that Seller is in good standing under the laws of such jurisdiction.

(e) Other Documents and Financing Statements. Seller shall sign or deliver to Purchaser such other certificates, documents and financing statements as Purchaser may reasonably request, including a financing statement satisfactory to Purchaser to perfect and maintain the perfection of Purchaser's ownership interest in the Purchased Interest, the back-up security interest granted pursuant to Section 2.01(d) and the security interest granted pursuant to Section 2.07.

(f) Legal Opinions. Purchaser shall have received (i) the corporate opinion of Cahill Gordon & Reindel LLP, transaction counsel to Seller, in form and substance satisfactory to Purchaser and its counsel to the effect set forth in **Exhibit E**, and (ii) the intellectual property opinion of K&L Gates LLP, intellectual property counsel to Seller, in form and substance satisfactory to Purchaser and its counsel to the effect set forth in **Exhibit F**, and (iii) the true sale and nonconsolidation opinion of Cahill Gordon & Reindel LLP, transaction counsel to Seller, in form and substance satisfactory to Purchaser and its counsel to the effect set forth in **Exhibit G**.

Section 2.07 Security Interest in Additional Collateral; General Provisions regarding Security Interests; Remedies

(a) Seller hereby grants to Purchaser a security interest in all of Seller's right, title and interest in, to and under the Additional Collateral, to secure the prompt and complete payment and performance when due of all obligations of Seller hereunder and under the other Transaction Documents, which security interest shall, upon the filing of a duly prepared financing statement in the appropriate filing office, be perfected and prior to all other Liens thereon.

(b) Seller shall notify Purchaser in writing at least thirty (30) days' (or such shorter period of time as may be agreed to by Purchaser) prior to any change in, or amendment or alteration to, (i) its legal name, (ii) its form or type of organizational structure or jurisdiction of organization (including its status as a limited liability company organized under the laws of the State of Delaware), or (iii) state organizational identification number. Seller agrees not to effect or permit any such change referred to above unless all filings have been made under the UCC or otherwise that are required or advisable in order for Purchaser to continue at all times following such change to have a valid, legal and perfected Lien (prior and superior in right and interest to any other Person) in all the Collateral.

(c) Without limiting the generality of Section 6.05, Seller shall execute any and all further documents, financing statements, agreements and instruments, and take all further action that may be required under applicable law, or that Purchaser may reasonably request, in order to grant, create, preserve, enforce, protect and perfect the validity and priority of the security interests and other Liens created by this Agreement in the Collateral. Without limiting the foregoing, Seller shall do or cause to be done all acts and things that may be required, or that Purchaser from time to time may reasonably request, to assure and confirm that Purchaser holds duly created and enforceable and perfected Liens upon the Collateral (including any property or assets that are acquired or otherwise become Collateral after the date of this Agreement), in each case, as contemplated by, and with the lien priority required under, this Agreement.

(d) Upon request of Purchaser at any time after an Event of Default has occurred and is continuing, Seller shall permit Purchaser or any advisor, auditor, consultant, attorney or representative acting for Purchaser, upon five (5) Business Days written notice by Purchaser to Seller and during normal business hours, reasonable access to Seller's books and records to make extracts and copies therefrom relating to the Collateral, and to discuss any matter pertaining to the Collateral with the officers and employees of Seller and, if applicable, Seller's independent certified public accountants; provided, that any such advisor, auditor, consultant, attorney or representative shall be subject to an agreement regarding the confidentiality of the information arising out of such access and/or discussions that are at least as stringent as those contained herein.

(e) Seller shall not (i) directly or indirectly, sell, transfer, assign, lease, license, sublicense, convey or otherwise directly or indirectly dispose of any of the Collateral or any interest therein or (ii) except for the security interest in the Collateral granted to Purchaser, cause or suffer to exist or become effective any Lien of any kind on or with respect to any of the Collateral or any interest therein, or, in each case, enter into any agreement to do any of the foregoing.

(f) Upon the occurrence and during the continuance of an Event of Default, Purchaser shall have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the UCC (whether or not in effect in the jurisdiction where such rights are exercised) or other applicable law.

(g) Seller agrees that Purchaser shall have the right subject to applicable law and upon the occurrence and during the continuance of an Event of Default, to sell or otherwise dispose of all or any part of the Collateral, at public or private sale, for cash, upon credit or for future delivery as Purchaser shall deem appropriate. Each purchaser at any such sale shall hold the property sold absolutely, free from any claim or right on the part of Seller.

(h) Purchaser shall give Seller not less than ten (10) days' prior written notice of the time and place of any such proposed sale. Any such notice shall (i) in the case of a public sale, state the time and place fixed for such sale, (ii) in the case of a private sale, state the day after which such sale may be consummated, (iii) contain the information specified in Section 9-613 of the UCC, (iv) be authenticated and (v) be sent to the parties required to be notified pursuant to Section 9-611(c) of the UCC; provided that, if Purchaser fails to comply with this sentence in any respect, its liability for such failure shall be limited to the liability (if any) imposed on it as a matter of law under the UCC. Seller agrees that such written notice shall satisfy all requirements for notice to Seller which are imposed under the UCC or other applicable law with respect to the exercise of Purchaser's rights and remedies hereunder upon default. Purchaser shall not be obligated to make any sale or other disposition of any Collateral if it shall determine not to do so, regardless of the fact that notice of sale or other disposition of such Collateral shall have been given. Purchaser may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned.

(i) Any public sale shall be held at such time or times within ordinary business hours and at such place or places as Purchaser may fix and state in the notice of such sale. At any sale or other disposition, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as Purchaser may (in its sole and absolute discretion) determine. If any of the Collateral is sold, leased, or otherwise disposed of by Purchaser on credit, the obligations secured by the security interests granted herein shall not be deemed to have been reduced as a result thereof unless and until payment in full is received thereon by Purchaser.

(j) At any such public (or, to the extent permitted by applicable law, private) sale made pursuant hereto, Purchaser may bid for or purchase, free (to the extent permitted by applicable law) from any right of redemption, stay, valuation or appraisal on the part of Seller, the Collateral or any part thereof offered for sale, and Purchaser may make payment on account thereof by using any or all of the obligations secured by the security interests granted herein as a credit against the purchase price, and Purchaser may, upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to Seller therefor.

(k) As an alternative to exercising the power of sale herein conferred upon it, Purchaser may proceed by a suit or suits at law or in equity to foreclose upon the Collateral and to sell the Collateral or any portion thereof pursuant to a judgment or decree of a court or courts having competent jurisdiction or pursuant to a proceeding by a court-appointed receiver.

(l) To the extent permitted by applicable law, Seller hereby waives all rights of demand, redemption, stay, valuation and appraisal which Seller now has or may at any time in the future have relating to the Purchased Interest, the Collateral or the exercise of Purchaser's rights or remedies hereunder under any rule of law or statute now existing or hereafter enacted.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants the following to Purchaser, as of the Effective Date:

Section 3.01 Organization

Seller is a limited liability company, validly existing and in good standing under the laws of the State of Delaware. Seller has all powers and all licenses, authorizations, consents and approvals of all Governmental Authorities required to carry on its business as now conducted and to execute and deliver, and perform its obligations under, the Transaction Documents and to exercise its rights and to perform its obligations under the License Agreement. Seller is duly qualified to do business as a foreign corporation and is in good standing in every jurisdiction in which the failure to do so could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect.

Section 3.02 Authorization

Seller has all necessary company power and authority to enter into, execute and deliver this Agreement and the other Transaction Documents and to perform all of the obligations to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereunder and thereunder. This Agreement and the other Transaction Documents have been, or will be, when executed, duly authorized, executed and delivered by Seller, and this Agreement and each other Transaction Document constitutes, or will constitute, when executed, the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its respective terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equitable principles.

Section 3.03 Governmental and Third Party Authorization

(a) The execution and delivery by Seller of this Agreement and the other Transaction Documents, and the performance by Seller of its obligations and the consummation by Seller of any of the transactions contemplated hereunder and thereunder, do not require any consent, approval, license, order, authorization or declaration from, notice to, action or registration by or filing with any Governmental Authority or any other Person, except for (i) the filing of proper financing statements under the UCC, (ii) [*], and (iii) the filing of a Current Report on Form 8-K by XOMA with the Securities and Exchange Commission.

(b) [*]

Section 3.04 Ownership

Immediately prior to the transfer thereof to the Purchaser hereunder, Seller is the exclusive owner of the entire right, title (legal and equitable) and interest in, to and under the Purchased Interest, free and clear of all Liens and, for the avoidance of doubt, is entitled to receive the Royalty Payment from UCB. Upon the sale, assignment, transfer and conveyance by Seller of all of its right, title and interest in, to and under the Purchased Interest to Purchaser, Purchaser will acquire good and marketable title to the Purchased Interest free and clear of all Liens. Upon the filing of an appropriate UCC financing statement, there will have been duly filed all financing statements or other similar instruments or documents necessary under the applicable UCC (or any comparable law) of all applicable jurisdictions to perfect and maintain the perfection of Purchaser's ownership interest in the Purchased Interest and of the security interest in the Purchased Interest granted by Seller to Purchaser pursuant to Section 2.01(d).

Section 3.05 Solvency

Upon consummation of the transactions contemplated by the Transaction Documents, (a) the fair saleable value of Seller's assets will be greater than the sum of its debts and other obligations, including contingent liabilities, (b) the present fair saleable value of Seller's assets will be greater than the amount that would be required to pay its probable liabilities on its existing debts and other obligations, including contingent liabilities, as they become absolute and matured, (c) Seller will be able to realize upon its assets and pay its debts and other obligations, including contingent obligations, as they mature, (d) Seller will not have unreasonably small capital with which to engage in its business and (e) Seller will not incur, nor does it have present plans or intentions to incur, debts or other obligations or liabilities beyond its ability to pay such debts or other obligations or liabilities as they become absolute and matured.

Section 3.06 No Litigation

Except as set forth in **Schedule 3.06**, there is no (a) action, suit, arbitration proceeding, claim, investigation or other proceeding (whether civil, criminal, administrative or investigative) pending or, to the Knowledge of Seller, threatened by or against Seller or, to the Knowledge of Seller, pending or threatened by or against UCB, at law or in equity, or (b) inquiry or investigation (whether civil, criminal, administrative or investigative) by or before a Governmental Authority pending or, to the Knowledge of Seller, threatened against Seller or, to the Knowledge of Seller, pending or threatened against UCB, which, in each case with respect to clause (a) or (b) above, (i) if adversely determined, could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (ii) challenges, or may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the transactions contemplated by any of the Transaction Documents; and to the Knowledge of Seller, no event has occurred or circumstance exists that could reasonably be expected to give rise to or serve as a basis for the commencement of any action, suit, arbitration, claim, investigation, proceeding or inquiry described in clause (a) or (b) above.

Section 3.07 Compliance with Laws

Seller is not (a) in violation of and has not violated or has been given notice of any violation, or, to the Knowledge of Seller, is under investigation with respect to, or has been threatened to be charged with any violation of, any law, rule, ordinance or regulation of, or any judgment, order, writ, decree, permit or license granted, issued or entered by, any Governmental Authority or (b) subject to any judgment, order, writ, decree, permit or license granted, issued or entered by any Governmental Authority, in the case of both clause (a) and clause (b) above, that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. To the Knowledge of Seller, no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) could reasonably be expected to constitute or result in a violation by Seller of, or a failure on the part of Seller to comply with, any such law, rule, ordinance or regulation of, or any judgment, order, writ, decree, permit or license granted, issued or entered by, any Governmental Authority, in each case, that could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect.

Section 3.08 No Conflicts

Neither the execution and delivery of this Agreement or any of the other Transaction Documents nor the performance or consummation of the transactions contemplated hereby and thereby will: (a) contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or accelerate the performance provided by, in any respect, (i) any statute, law, rule, ordinance or regulation of any Governmental Authority, or any judgment, order, writ, decree, permit, authorization or license of any Governmental Authority, to which Seller or any of its assets or properties may be subject or bound, (ii) any contract, agreement, commitment or instrument to which Seller is a party or by which Seller or any of their respective assets or properties is bound or committed or (iii) any provisions of the certificate of formation or operating agreement (or other organizational or constitutional documents) of Seller, in each case, that could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect; (b) give rise to any right of termination, cancellation or acceleration of any right or obligation of Seller that could reasonably be expected to result in a Material Adverse Effect; (c) except as provided in the Transaction Documents, result in the creation or imposition of any Lien on the Purchased Interest or the Additional Collateral; or (d) after giving effect to [*], contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or give to UCB or any of its Affiliates the right to terminate, or accelerate the performance of, in any respect, any provision of the License Agreement (provided, however, that neither the execution and delivery of this Agreement or any of the other Transaction Documents nor the performance or consummation of the transactions contemplated hereby and thereby will prevent UCB from exercising its rights to terminate the License Agreement under Article 9 thereof).

Section 309 Broker's Fees

Neither Seller nor any of its Affiliates has taken any action that would entitle any Person to any commission or broker's fee in connection with the transactions contemplated by the Transaction Documents.

Section 3.10 Subordination

The claims and rights of Purchaser created by any Transaction Document in, to and under the Purchased Interest are not and shall not, at any time, be subordinated to any creditor of Seller or any other Person or Governmental Authority.

Section 3.11 License Agreement

(a) Other than the License Agreement and the Transaction Documents, there is no contract, agreement or other arrangement (whether written or oral) to which Seller is a party or by which any of its assets or properties is bound or committed (i) that creates a Lien on the Purchased Interest or (ii) the breach, nonperformance, cancellation or termination of which could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect.

(b) Attached hereto as **Exhibit G** is a true, complete and correct copy of the License Agreement, including all amendments thereto and waivers thereunder. The License Agreement and [*] constitute the entire agreement between Seller and UCB (and their respective Affiliates) relating to the Purchased Interest.

(c) Immediately prior to the transfer of the Purchased Interest to the Purchaser hereunder, the License Agreement is the legal, valid and binding obligation of Seller and, to the Knowledge of Seller, UCB, enforceable against Seller and, to the Knowledge of Seller, UCB in accordance with its terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general equitable principles. The execution, delivery and performance of the License Agreement was and is within the corporate or similar powers of Seller and, to the Knowledge of Seller, UCB. The License Agreement was duly authorized by all necessary action on the part of, and validly executed and delivered by, Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) and, to the Knowledge of Seller, UCB (as successor-in-interest to Celltech Therapeutics Ltd.). There is no breach or default, and no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would constitute or give rise to a breach or default, in the performance of the License Agreement by Seller or, to the Knowledge of Seller, UCB. To the Knowledge of Seller, no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) could give either UCB or Seller the right to terminate the License Agreement. From and after the Effective Date, Purchaser shall be entitled to enforce the right to payment of any portion of the Royalty Payment represented by the Purchased Interest when earned directly against UCB pursuant to the License Agreement.

(d) Neither Seller Parent (as predecessor-in-interest to Seller) nor XOMA Bermuda (as predecessor-in-interest to Seller) nor Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) has waived any rights or defaults under the License Agreement or has taken any action nor omitted to take any action under the License Agreement that adversely affects Purchaser's rights under any of the Transaction Documents.

(e) Seller has not received any notice and has no Knowledge (i) of UCB's intention to terminate, amend or restate the License Agreement, in whole or in part, (ii) of UCB's or any other Person's or Governmental Authority's (where applicable) intention to challenge the validity or enforceability of the License Agreement or the obligation of UCB to pay the Royalty Payment or other monetary payments under the License Agreement, or (iii) that Seller or UCB is in default of any of its obligations under the License Agreement. Seller has no intention of terminating, amending or restating the License Agreement and has not given UCB any notice of termination (or request to amend or restate any provision) of the License Agreement, in whole or in part.

(f) Seller is not a party to any agreement providing for or permitting a sharing of, or Set-off against, the Royalty Payment or other monetary payment on account of the Purchased Interest.

(g) Other than [*] obtained by Seller, the sale by Seller of all of Seller's right, title and interest in, to and under the Purchased Interest to Purchaser and the consummation of the transactions contemplated by the Transaction Documents: (i) will not require the approval, consent, ratification, waiver, or other authorization of UCB or any other Person or Governmental Authority under the License Agreement and will not constitute a breach of or default or event of default under the License Agreement; and (ii) will not require the approval, consent, ratification, waiver, or other authorization of UCB or any other Person or Governmental Authority under any contract or agreement other than the License Agreement or applicable law and will not constitute a breach of or default or event of default under any contract or agreement other than the License Agreement or applicable law, in each case, that could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect.

(h) Seller has not consented to an assignment (by operation of law or otherwise) by UCB of any of UCB's rights or obligations under the License Agreement with respect to the Purchased Interest, nor does Seller have Knowledge of any such assignment (by operation of law or otherwise) by UCB.

(i) Neither Seller Parent (as predecessor-in-interest to Seller), nor XOMA Bermuda (as predecessor-in-interest to Seller), nor Seller (as successor-in-interest to Seller Parent and XOMA Bermuda), nor Celltech Therapeutics Ltd. (as predecessor-in-interest to UCB) nor UCB (as successor-in-interest to Celltech Therapeutics Ltd.) has made any claim of indemnification under the License Agreement nor, to the Knowledge of Seller, have there been any events or circumstances that could give rise to a right of such claim by Seller or UCB.

(j) Pursuant to the License Agreement, all Royalty Payments Seller (as successor-in-interest to Seller Parent) is entitled to receive from UCB shall be calculated using a [*] of net sales royalty rate.

(k) Neither has Seller Parent (as predecessor-in-interest to Seller), XOMA Bermuda (as predecessor-in-interest to Seller), Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) or, to the Knowledge of Seller Parent, XOMA Bermuda or Seller, UCB filed or caused to be filed a United States Return of Partnership Income Form (Form 1065) with respect to any relationship under the License Agreement, or any other arrangement (written or oral) related to the License Agreement, nor has Seller Parent (as predecessor-in-interest to Seller), XOMA Bermuda (as predecessor-in-interest to Seller) or Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) received a Schedule K-1 with respect thereto.

Section 3.12 No Set-offs

UCB has no right of Set-off under any contract (including the License Agreement) or other agreement against the Royalty Payments or other monetary payments on account of the Purchased Interest payable to Seller under the License Agreement. UCB has not exercised, and, to Seller's Knowledge, UCB has not had the right to exercise, and, to Seller's Knowledge, no event or condition exists that, upon notice or passage of time or both, could reasonably be expected to permit UCB to exercise, any Set-off against the Royalty Payments or other monetary payments on account of the Purchased Interest payable to Seller under the License Agreement.

Section 3.13 UCC Representations and Warranties

Seller's exact legal name is, and has always been "XOMA CDRA LLC". The principal place of business and chief executive office of Seller has always been, and the office where it keeps its books and records relating to the License Agreement and the Purchased Interest are located at, the address(es) set forth on **Schedule 3.13** attached hereto. Seller's Delaware organizational identification number is as set forth on **Schedule 3.13** attached hereto.

Section 3.14 Taxes

(a) No deduction or withholding for or on account of any Tax has been made from any payment received by Seller Parent (as predecessor-in-interest to Seller), XOMA Bermuda (as predecessor-in-interest to Seller) or Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) under the License Agreement.

(b) (i) Any royalty payments relating to the Licensed Product received by Seller Parent (as predecessor-in-interest to Seller), XOMA Bermuda (as predecessor-in-interest to Seller) or Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) under the License Agreement were, and (ii) the Closing Payment received by Seller hereunder is, in both cases, treated for U.S. federal income Tax purposes by the beneficial owner of such payments as effectively connected with such Person's U.S. trade or business.

(c) There are no liens for Taxes upon the Purchased Interest (or any portion thereof) or the Additional Collateral (or any portion thereof).

Section 3.15 No Material Liabilities

There are no material liabilities of Seller or its Affiliates related to the Purchased Interest of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, and there is no existing condition or set of circumstances which could reasonably be expected to result in any such liability. Without limiting the generality of the foregoing, to the Knowledge of Seller, there have been no serious, adverse events with respect to the Licensed Product, and Seller has not received or been informed of any information from in vitro studies, animal studies or human clinical trials, including any communication from any Governmental Authority, suggesting a significant hazard to humans with respect to the Licensed Product.

Section 3.16 XOMA Contribution and Sale Agreement

(a) Pursuant to the XOMA Contribution and Sale Agreement, in exchange for the net cash proceeds of the sale of the Purchased Interest (as defined below) pursuant to this Agreement and newly-issued equity of Seller, Seller has purchased, acquired and accepted from: (i) Seller Parent, all of its right, title and interest in, to and under the License Agreement to any and all royalty payments relating to the Licensed Product under Article 3 of the License Agreement and any and all underpayments or unpaid amounts relating to such royalty payments; (ii) XOMA Bermuda, all of its right, title and interest in, to and under the License Agreement; (iii) XOMA Ireland, the Right to License; and (iv) XOMA Technology, all of its right, title and interest in and to any monetary damages or recoveries to which it or any of its Affiliates is entitled to receive in any infringement action to the extent such infringement is of any of the Patent Rights, net of any expenses actually incurred by XOMA Technology or its Affiliates to pursue such damages or recoveries.

(b) Seller's only assets and liabilities (other than related to the transactions contemplated by the Transaction Documents or compliance with its operating agreement) are its rights and obligations in, to and under the License Agreement and the Right to License.

(c) The execution and delivery by Seller of the XOMA Contribution and Sale Agreement and the performance by Seller of its obligations, and the consummation by Seller of the transactions contemplated, thereunder, do not require any consent, approval, license, order, authorization or declaration from, notice to, action or registration by or filing with any Governmental Authority or any other Person except for [*].

(d) Neither the execution and delivery of the XOMA Contribution and Sale Agreement nor the performance or consummation of the transactions contemplated thereby will: (i) contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or accelerate the performance provided by, in any respect, (x) any statute, law, rule, ordinance or regulation of any Governmental Authority, or any judgment, order, writ, decree, permit, authorization or license of any Governmental Authority, to which Seller or any of its assets or properties may be subject or bound, (y) any contract, agreement, commitment or instrument to which Seller is a party or by which Seller or any of its assets or properties is bound or committed or (z) any provisions of the certificate of formation or operating agreement (or other organizational or constitutional documents) of Seller, in each case, that could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect; (ii) give rise to any right of termination, cancellation or acceleration of any right or obligation of Seller that could reasonably be expected to result in a Material Adverse Effect; (iii) result in the creation or imposition of any Lien on the Purchased Interest or the Additional Collateral; or (iv) after giving effect to [*], contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, give to UCB or any of its Affiliates the right to terminate, or accelerate the performance of, in any respect, any provision of the License Agreement (provided, however, that neither the execution and delivery of the XOMA Contribution and Sale Agreement nor the performance or consummation of the transactions contemplated thereby will prevent UCB's ability to terminate the License Agreement under Article 9 thereof).

Section 3.17 Subsidiaries

Seller has no Subsidiaries as of the Effective Date.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants the following to Seller, as of the Effective Date:

Section 4.01 Organization

Purchaser is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Delaware. Purchaser has all necessary powers and all licenses, authorizations, consents and approvals of all Governmental Authorities required to carry on its business as now conducted and to execute and deliver, and perform its obligations under, the Transaction Documents.

Section 4.02 Authorization

Purchaser has all necessary power and authority to enter into, execute and deliver this Agreement and the other Transaction Documents and to perform all of the obligations of Purchaser to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereunder and thereunder. This Agreement and the other Transaction Documents have been, or will be, when executed, duly authorized, executed and delivered by Purchaser, and this Agreement and each other Transaction Document constitutes, or will constitute, when executed, the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its respective terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equitable principles.

Section 4.03 Governmental and Third Party Authorization

The execution and delivery by Purchaser of this Agreement and the other Transaction Documents, and the performance by Purchaser of its obligations and the consummation of any of the transactions contemplated hereunder and thereunder, do not require any consent, approval, license, order, authorization or declaration from, notice to, action or registration by or filing with any Governmental Authority or any other Person.

Section 4.04 No Litigation

There is no (a) action, suit, arbitration proceeding, claim, investigation or other proceeding (whether civil, criminal, administrative or investigative) pending, or, to the knowledge of Purchaser, threatened by or against Purchaser, at law or in equity, or (b) inquiry or investigation (whether civil, criminal, administrative or investigative) by or before a Governmental Authority pending or, to the knowledge of Purchaser, threatened against Purchaser, which, in each case with respect to clause (a) or (b) above, (i) if adversely determined could reasonably be expected to have, individually or in the aggregate, a material adverse effect on (x) the legality, validity or enforceability of any of the Transaction Documents, (y) the right or ability of Purchaser to perform any of its obligations under this Agreement or any of the other Transaction Documents or to consummate the transactions contemplated hereunder or thereunder or (z) the rights or remedies of Seller and its Affiliates under any of the Transaction Documents, or (ii) challenges, or may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the transactions contemplated by any of the Transaction Documents.

Section 4.05 No Conflicts

Neither the execution and delivery of this Agreement and any of the other Transaction Documents nor the performance or consummation of the transactions contemplated hereby or thereby will contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or accelerate the performance provided by, in any respect, (a) any statute, law, rule, ordinance or regulation of any Governmental Authority, or any judgment, order, writ, decree, permit or license of any Governmental Authority, to which Purchaser or any of its assets or properties may be subject or bound, (b) any contract, agreement, commitment or instrument to which Purchaser is a party or by which Purchaser or any of its assets or properties is bound or committed or (c) any provisions of the organizational or constitutional documents of Purchaser, except in the case of clauses (a) and (b) above, as could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the right or ability of Purchaser to perform any of its obligations under this Agreement or any of the other Transaction Documents or to consummate the transactions contemplated hereunder or thereunder.

Section 4.06 Broker's Fees

Purchaser has not taken any action that would entitle any Person to any commission or broker's fee in connection with the transactions contemplated by the Transaction Documents.

ARTICLE V
REPRESENTATIONS, WARRANTIES AND COVENANTS OF XOMA AND SELLER PARENT

Each of XOMA and Seller Parent, as applicable, hereby represents, warrants and covenants the following to Purchaser, as of the Effective Date,provided, however, it is understood and agreed that wherever this Agreement calls for Seller Parent to be making any representation or similar undertaking to cause Seller to act, or not act, in a certain manner, it shall be doing so in its capacity as the Managing Member (as such term is defined in the operating agreement of Seller) of Seller:

Section 5.01 Organization

(a) XOMA is a company, validly existing and in good standing under the laws of Bermuda. XOMA has all powers and all licenses, authorizations, consents and approvals of all Governmental Authorities required to carry on its business as now conducted and to execute and deliver, and perform its obligations under, the Transaction Documents. XOMA is duly qualified to do business as a foreign corporation and is in good standing in every jurisdiction in which the failure to do so could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect.

(b) Seller Parent is a limited liability company, validly existing and in good standing under the laws of the State of Delaware. Seller Parent has all powers and all licenses, authorizations, consents and approvals of all Governmental Authorities required to carry on its business as now conducted and to execute and deliver, and perform its obligations under, the Transaction Documents. Seller Parent is duly qualified to do business as a foreign corporation and is in good standing in every jurisdiction in which the failure to do so could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect.

Section 5.02 Authorization

(a) XOMA has all necessary company power and authority to enter into, execute and deliver this Agreement and the other Transaction Documents and to perform all of the obligations to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereunder and thereunder. This Agreement and the other Transaction Documents have been, or will be, when executed, duly authorized, executed and delivered by XOMA, and this Agreement and each other Transaction Document constitutes, or will constitute, when executed, the legal, valid and binding obligation of XOMA, enforceable against XOMA in accordance with its respective terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equitable principles.

(b) Seller Parent has all necessary company power and authority to enter into, execute and deliver this Agreement and the other Transaction Documents and to perform all of the obligations to be performed by it hereunder and thereunder and to consummate the transactions contemplated hereunder and thereunder. This Agreement and the other Transaction Documents have been, or will be, when executed, duly authorized, executed and delivered by Seller Parent, and this Agreement and each other Transaction Document constitutes, or will constitute, when executed, the legal, valid and binding obligation of Seller Parent, enforceable against Seller Parent, in accordance with its respective terms, subject, as to enforcement of remedies, to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or general equitable principles.

Section 5.03 Governmental and Third Party Authorization

(a) The execution and delivery by XOMA of this Agreement and the other Transaction Documents, and the performance by XOMA of its obligations and the consummation by XOMA of any of the transactions contemplated hereunder and thereunder, do not require any consent, approval, license, order, authorization or declaration from, notice to, action or registration by or filing with any Governmental Authority or any other Person, except for (i) the filing of proper financing statements under the UCC, (ii) [*], and (iii) the filing of a Current Report on Form 8-K by XOMA with the Securities and Exchange Commission.

(b) The execution and delivery by Seller Parent of this Agreement and the other Transaction Documents, and the performance by Seller Parent of its obligations and the consummation by Seller Parent of any of the transactions contemplated hereunder and thereunder, do not require any consent, approval, license, order, authorization or declaration from, notice to, action or registration by or filing with any Governmental Authority or any other Person, except for (i) the filing of proper financing statements under the UCC, (ii) [*], and (iii) the filing of a Current Report on Form 8-K by XOMA with the Securities and Exchange Commission.

Section 5.04 No Conflicts

(a) Neither the execution and delivery of this Agreement or any of the other Transaction Documents nor the performance or consummation of the transactions contemplated hereby and thereby will: (i) contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or accelerate the performance provided by, in any respect, (A) any statute, law, rule, ordinance or regulation of any Governmental Authority, or any judgment, order, writ, decree, permit, authorization or license of any Governmental Authority, to which XOMA or any of its Subsidiaries or any of their respective assets or properties may be subject or bound, (B) any contract, agreement, commitment or instrument to which XOMA or any of its Subsidiaries is a party or by which XOMA or any of its Subsidiaries or any of their respective assets or properties is bound or committed or (C) any provisions of the articles of organization or by-laws (or other organizational or constitutional documents) of XOMA or any of its Subsidiaries; (ii) give rise to any right of termination, cancellation or acceleration of any right or obligation of XOMA or any of its Subsidiaries; (iii) except as provided in the Transaction Documents, result in the creation or imposition of any Lien on the Purchased Interest or the Additional Collateral; or (iv) after giving effect to [*], contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, give to any Person the right to terminate, or accelerate the performance of, in any respect, any provision of the License Agreement (provided, however, that neither the execution and delivery of this Agreement or any of the other Transaction Documents nor the performance or consummation of the transactions contemplated hereby and thereby will prevent UCB's ability to terminate the License Agreement under Article 9 thereof).

(b) Neither the execution and delivery of this Agreement or any of the other Transaction Documents nor the performance or consummation of the transactions contemplated hereby and thereby will: (i) contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or accelerate the performance provided by, in any respect, (A) any statute, law, rule, ordinance or regulation of any Governmental Authority, or any judgment, order, writ, decree, permit, authorization or license of any Governmental Authority, to which Seller Parent or any of its Subsidiaries or any of their respective assets or properties may be subject or bound, (B) any contract, agreement, commitment or instrument to which Seller Parent or any of its Subsidiaries is a party or by which XOMA or any of its Subsidiaries or any of their respective assets or properties is bound or committed or (C) any provisions of the articles of organization or by-laws (or other organizational or constitutional documents) of Seller Parent or any of its Subsidiaries; (ii) give rise to any right of termination, cancellation or acceleration of any right or obligation of Seller Parent or any of its Subsidiaries; (iii) except as provided in the Transaction Documents, result in the creation or imposition of any Lien on the Purchased Interest or the Additional Collateral; or (iv) after giving effect to [*], contravene, conflict with, result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, give to any Person the right to terminate, or accelerate the performance of, in any respect, any provision of the License Agreement (provided, however, that neither the execution and delivery of this Agreement or any of the other Transaction Documents nor the performance or consummation of the transactions contemplated hereby and thereby will prevent UCB's ability to terminate the License Agreement under Article 9 thereof).

Section 5.05 Patent Rights

(a) Except as disclosed on **Schedule 5.05(a)**, XOMA Technology is the exclusive owner of the Patent Rights, free and clear of all Liens (excluding the License Agreement), and, with respect to the patents included in the Patent Rights issued in Canada, XOMA or its Affiliate has, as of the Effective Date, filed the requisite documentation with the Patent Office in Canada to effect the assignment of all such patents to XOMA Technology.

(b) **Schedule 5.05(b)** attached hereto sets forth an accurate and complete list of all of the Patent Rights in existence as of the Effective Date. For each of the patents included in the Patent Rights listed on **Schedule 5.05(b)**, Seller has indicated (i) the patent title, (ii) the names of the inventors, (iii) the priority application data, (iv) the country or countries in which such patent is issued, (v) the patent application number, (vi) the patent number and (vii) the expected expiration date of the issued patent.

(c) Each of the issued patents included in the Patent Rights, and each claim therein, is valid and enforceable, and, to XOMA's Knowledge, no third party owns any intellectual property rights that could be asserted against XOMA Technology's rights in the Patent Rights.

(d) There are no unpaid maintenance or renewal fees payable by XOMA Technology or any of its Affiliates to any third party that are currently overdue in respect of any of the Patent Rights. None of the Patent Rights disclosed on **Schedule 5.05(b)** have lapsed, expired, been abandoned or been cancelled. To the Knowledge of XOMA, each individual associated with the filing and prosecution of the Patent Rights, including the named inventors of the Patent Rights, has complied in all material respects with all applicable duties of candor and good faith in dealing with any Patent Office, including any duty to disclose to any Patent Office all information known to be material to the patentability of each of the Patent Rights, in those jurisdictions where such duties exist. To the Knowledge of XOMA, all material prior art to each of the patents comprising the Patent Rights has been disclosed to and considered by the respective Patent Offices during prosecution of such Patent Rights.

(e) Except as disclosed on **Schedule 5.05(e)**, there is no pending, or to the Knowledge of XOMA, threatened, action, suit, opposition, interference, reexamination, injunction, claim, lawsuit, proceeding, hearing, investigation, complaint, arbitration, mediation, demand, decree, or any other dispute or disagreement (each, a "Dispute" and collectively, the "Disputes"), challenging the legality, validity, enforceability, infringement or ownership of any of the Patent Rights or which would give rise to a credit against or Set-off with respect to the payments due to Seller (as successor-in-interest to Seller Parent and XOMA Bermuda) under the License Agreement for the use of the related licensed Patent Rights, nor to the Knowledge of XOMA, is there any infringement of the Patent Rights by any Person. There are no Disputes by any third party against XOMA or any of its Affiliates involving the Licensed Product. Neither XOMA nor any of its Affiliates has received any notice of any Dispute involving the Licensed Product. Neither XOMA nor any of its Affiliates has sent any written notice of any Dispute involving the Licensed Product. To the Knowledge of XOMA, none of the Patent Rights are subject to any outstanding injunction, judgment, order, decree, ruling, charge, settlement or other disposition of a Dispute.

(f) Except as set forth on **Schedule 3.06**, there is no pending, or to the Knowledge of XOMA, threatened, action, suit, or proceeding, or any investigation or claim by any Person or Governmental Authority to which XOMA or any of its Affiliates or, to the Knowledge of XOMA, UCB or its sublicensees, if any, is or could reasonably be expected to be, a party, that claims that the marketing, sale, distribution, manufacture, use, offer for sale or importation of the Licensed Product by UCB or its sublicensees, if any, pursuant to the License Agreement does or will infringe on any patent or other intellectual property rights of any other Person.

(g) The patent rights licensed to XOMA or any of its Affiliates under the Celltech License Agreement were limited by the European Patent Office to exclude claims whose scope is substantially as originally granted in Europe under the Boss Patent Rights (as defined in the Celltech License Agreement) listed in Exhibit A to the Celltech License Agreement to both mammalian expression and bacterial expression. Attached hereto as **Exhibit B** is a true, complete and correct copy of the Celltech License Agreement, including all amendments thereto and waivers thereunder.

(h) The representations and warranties made by XOMA Corporation (as predecessor-in-interest to Seller Parent, XOMA Bermuda and Seller) in Section 7.1 of the License Agreement were accurate and complete in all respects as of the effective date of the License Agreement and continue to be accurate and complete in all respects.

(i) At all times XOMA will, and will cause its Affiliates (other than Seller), including XOMA Technology, to, and Seller Parent will and will cause Seller to, at the sole expense of any such XOMA Entity or its Affiliate: (x) use reasonable efforts to prosecute all infringements of the Patent Rights of which XOMA or Seller Parent has Knowledge, and Seller and Purchaser shall promptly inform the other in writing of any suspected infringement of the Patent Rights by UCB or any of its Affiliates and shall provide the other with any readily available information relating to such infringement; and (y) use commercially reasonable efforts to prosecute all infringements of the Patent Rights of which XOMA or Seller Parent has Knowledge, and Seller and Purchaser shall promptly inform the other in writing of any suspected infringement of the Patent Rights (including to the extent notified by UCB pursuant to Section 2.3 of the License Agreement) by a third party other than UCB or its Affiliates and shall provide the other with any readily available information relating to such infringement.

(j) With respect to the Patent Rights: (i) there are no pending patent applications as of the Effective Date; and (ii) XOMA will, and will cause its Affiliates (other than Seller), including XOMA Technology, to, and Seller Parent will and will cause Seller to, promptly furnish to Purchaser in accordance with Section 8.03 copies of (x) any papers, responses or other materials received from the Patent Office in regards to the Patent Rights, (y) any papers, responses or other materials filed in the Patent Office pertaining to the Patent Rights, and (z) any patent applications that are filed in any Patent Office after the Effective Date with respect to the Patent Rights.

(k) None of the Patent Rights are registered in the United Kingdom and XOMA shall not, and shall cause its Affiliates (other than Seller), including XOMA Technology, and Seller Parent shall cause Seller (if applicable) not to, register any of the Patent Rights in the United Kingdom.

Section 5.06 Senior Management

(a) No member of Senior Management has resigned or voluntarily terminated his employment in the six (6) month period prior to and through the Effective Date.

(b) To the Knowledge of XOMA, no member of Senior Management is planning to resign or seeking to voluntarily terminate his employment following the Effective Date.

Section 5.07 License Agreement

(a) [*]

(b) Immediately prior to the transfer by Seller Parent of all of its right, title and interest in, to and under the License Agreement to any and all royalty payments relating to the Licensed Product under Article 3 of the License Agreement and any and all underpayments or unpaid amounts relating to such royalty payments to Seller pursuant to the XOMA Contribution and Sale Agreement, Seller Parent is the exclusive owner of the entire right, title (legal or equitable) and interest in, to and under any and all royalty payments relating to the Licensed Product under Article 3 of the License Agreement and any and all underpayments or unpaid amounts relating to such royalty payments, free and clear of all Liens.

Section 5.08 License Grant Restriction

After the Effective Date, XOMA shall not, and shall cause its Affiliates (other than Seller), including XOMA Ireland and XOMA Technology, not to, and Seller Parent shall cause Seller not to (if applicable) grant a license under, or rights to, any of the Patents Rights (as such term is defined in the License Agreement without regard to whether such rights relate to CIMZIA®) to any Person to make, use, import, export, market, offer for sale or sell any product that, at the time such license is entered into, is being tested in a clinical trial to support an application for marketing approval in the United States (and equivalent approval process in Canada) for rheumatoid arthritis, Crohn's disease, psoriatic arthritis, ankylosing spondylitis or Juvenile Idiopathic Arthritis without the prior written consent of Purchaser.

Section 5.09 Public Announcement

(a) The parties hereto acknowledge that XOMA or Purchaser may, after execution of this Agreement, make a public announcement of the transactions contemplated by the Transaction Documents, subject to Purchaser and XOMA, as applicable, having a reasonable prior opportunity to review such public announcement by the other party, including any attachment thereto, and which announcement (and any such attachment) shall be in a form mutually acceptable to Purchaser and XOMA; and either party hereto may thereafter disclose any information contained in such public announcement at any time without the consent of the other party hereto.

(b) Except as provided above or in Section 6.01 or required by applicable law, rule or regulation, XOMA shall not, and shall cause its Affiliates (other than Seller) not to, and Seller Parent shall not, and shall cause Seller not to, disclose to any Person or use or include in any public announcement (or attachment thereto), the identity of Purchaser or any of Purchaser's equityholders, debtholders, partners, members, investors, managers, directors, officers or Affiliates, without the prior written consent of Purchaser or such equityholder, debtholder, partner, member, investor, manager, director, officer or Affiliate.

Section 5.10 License Agreement

Except as set forth on **Schedule 3.06** from and after the date on which XOMA or any of its Affiliates first became entitled to receive Royalty Payments, no change, effect, event, occurrence, state of facts, development or condition has occurred relating to or affecting XOMA, its Affiliates, the License Agreement as it relates, directly or indirectly, to the Purchased Interest or CIMZIA® generally or, to the Knowledge of Seller, UCB, that has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.11 Material Inducement

Each of the parties hereto hereby acknowledges that the representations, warranties and covenants of XOMA and Seller Parent, as applicable, to Purchaser set forth in this Agreement are, collectively, a material inducement to Purchaser to enter into and consummate the transactions contemplated by this Agreement.

Section 5.12 Broker's Fees

Neither XOMA nor Seller Parent has taken any action that would entitle any Person to any commission or broker's fee in connection with the transactions contemplated by the Transaction Documents.

ARTICLE VI
COVENANTS

The parties hereto covenant and agree as follows:

Section 6.01 Confidentiality

(a) Except as otherwise required by applicable law or the rules and regulations of any securities exchange or trading system or any Governmental Authority and except as otherwise set forth in this Section 6.01, any Receiving Party who is provided or furnished with any Confidential Information pursuant to the provisions of this Agreement, including Section 2.07(d) and Section 6.05(c), will, and will cause each of its Affiliates, directors, officers, employees, agents, representatives and similarly situated persons to, treat and hold as confidential, in the same manner that it treats and holds the confidentiality of its own proprietary and confidential information, and not disclose to any Person, any and all Confidential Information furnished to it by the Disclosing Party and to use any such Confidential Information only in connection with the License Agreement, this Agreement and any other Transaction Document and the performance of the transactions contemplated hereby and thereby. Notwithstanding the foregoing, the Receiving Party may disclose such information on a need-to-know basis to its directors, employees, managers, officers, agents, brokers, advisors, lawyers, bankers, trustees and representatives (and, in the case of Purchaser, also its actual and potential members or equityholders (or their potential transferees), investors (including any holder of debt securities of Purchaser and its agents and representatives), co-investors, insurers, underwriters and financing parties) and potential transferees of the Purchased Interest; provided, however, that such Persons shall be informed of the confidential nature of such information and shall be obligated to keep such Confidential Information confidential pursuant to obligations of confidentiality no less onerous than those set forth herein. Confidential Information may not be copied or reproduced without the Disclosing Party's prior written consent, except as necessary for use in connection with the License Agreement, this Agreement and any other Transaction Document and the performance of the transactions contemplated hereby and thereby.

(b) In the event that Seller or Purchaser receives a subpoena, or other validly-issued administrative or judicial process, requesting that Confidential Information of the other party hereto be disclosed, it will promptly notify such other party of such receipt. The party hereto receiving such request will thereafter be entitled to comply with such subpoena or other process, only to the extent required by applicable law.

Section 6.02 Further Assurances

Purchaser, Seller, Seller Parent and XOMA agree to, or cause their respective Affiliates (which, in the case of XOMA shall not include Seller) to, execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable, or reasonably requested by such other party hereto, in each case at the expense of XOMA or Seller, in order to vest and maintain in Purchaser good and marketable title in, to and under the Purchased Interest free and clear of all Liens and to consummate the other transactions contemplated hereby, including the perfection and maintenance of perfection of Purchaser's ownership interest in the Purchased Interest, the security interest in the Purchased Interest granted by Seller to Purchaser pursuant to Section 2.01(d) and the security interest in the Additional Collateral granted by Seller to Purchaser pursuant to Section 2.07.

Section 6.03 Payments on Account of the Purchased Interest

(a) Notwithstanding the terms of [*], if UCB or any other Person makes any payment to XOMA or Seller Parent or any of their respective Subsidiaries or Affiliates (which in the case of XOMA shall not include Seller), on account of the Purchased Interest or any payments on account thereof, then XOMA or Seller Parent (as applicable) shall, and shall cause such Subsidiary or Affiliate to, promptly, and in any event no later than three (3) Business Days following the receipt by XOMA or Seller Parent or such Subsidiary or Affiliate of such payment, remit such payment to the Purchaser Account pursuant to Section 6.03(c).

(b) Each of XOMA and Seller Parent shall, and shall cause their respective Subsidiaries or Affiliates (which, in the case of XOMA shall not include Seller), to, hold in trust for the benefit of the Purchaser, all payments made to XOMA or Seller Parent or such Subsidiary or Affiliate, as applicable, on account of the Purchased Interest until remitted to the Purchaser Account pursuant to Section 6.03(c) and neither XOMA nor Seller Parent nor such Subsidiary or Affiliate, as applicable, shall have any right, title or interest whatsoever in any such amounts or shall create or suffer to exist any Lien thereon.

(c) Each of XOMA and Seller Parent shall, and shall cause their respective Subsidiaries or Affiliates (which, in the case of XOMA shall not include Seller), to, make all payments pursuant to Section 6.03(a) or Section 6.03(b) by wire transfer of immediately available U.S. dollar funds, without Set-off or deduction or withholding for or on account of any Tax (provided, that Purchaser provides the appropriate government forms in order to avoid withholding), to the following account (or to such other account as the Purchaser shall notify Seller in writing from time to time) (the "Purchaser Account"):

[*]

Section 6.04 License Agreement

(a) Seller shall, and Seller Parent shall cause Seller to, and XOMA shall cause Seller Parent and XOMA Bermuda to, at all times comply with and perform all of Seller's, Seller Parent's or XOMA Bermuda's respective obligations and covenants under the License Agreement, and neither Seller nor Seller Parent nor XOMA Bermuda shall, and Seller Parent shall cause Seller not to, and XOMA shall cause Seller Parent and XOMA Bermuda not to, breach, take any action or omit to take an action to reduce the enforceability of the License Agreement to the extent relating, directly or indirectly, to, or otherwise impair, the Purchased Interest or UCB's obligations relating to, or that would give rise to, the Royalty Payment or other monetary payment on account of the Purchased Interest. Seller shall not, and shall cause its Affiliates not to, without the prior written consent of Purchaser, (i) forgive, release or compromise any amount owed to or that will become owed to Seller under the License Agreement related to the Purchased Interest, (ii) waive, amend, cancel, terminate or fail to exercise the right to receive the Royalty Payment or any other monetary payment on account of the Purchased Interest (or any portion thereof) or any related right under the License Agreement, (iii) create or permit to exist any Lien on the Purchased Interest or any portion thereof, (iv) amend, modify, restate or supplement the License Agreement or any provision of the License Agreement, other than any such amendments, modifications, restatements or supplements that do not relate to the Purchased Interest and that could not reasonably be expected to, individually or in the aggregate, result in a Material Adverse Effect, (v) grant any consent or waiver under or with respect to any provision of the License Agreement, other than any such consents or waivers that do not relate to the Purchased Interest, including the right to receive the Royalty Payment or any other monetary payment on account thereof, and could not reasonably be expected to, individually or in the aggregate, result in a Material Adverse Effect, (vi) terminate or cancel the License Agreement for any reason or (vii) agree or commit to do any of the foregoing. Without limiting the foregoing, promptly (and in any event no later than three (3) Business Days) after Seller (x) amends, modifies, restates or supplements the License Agreement or any provision of the License Agreement, (y) grants any consent or waiver under or with respect to any provision of the License Agreement or (z) agrees to do any of the foregoing, Seller, in each case, shall give a written notice to Purchaser describing in reasonable detail the relevant amendment, modification, restatement, supplement, consent or waiver.

(b) Seller shall promptly provide to Purchaser (whether or not Purchaser requests) copies of all Information provided by UCB, any of its representatives or any other Person to Seller or its representatives under the License Agreement, and copies of all statements, reports, audits, documents, notices, certificates and other information which Seller or its representatives deliver or furnish (or are required to deliver or furnish) to UCB or its representatives under the License Agreement to the extent any such statements, reports, audits, documents, notices, certificates or information, or portions thereof, relate directly or indirectly to the Purchased Interest, the Royalty Payment or other monetary payment on account of the Purchased Interest, the Right to License and any license granted pursuant thereto, or the performance of the License Agreement as it relates to the Licensed Product, the Patent Rights or CIMZIA®.

(c) If (i) Seller receives notice from UCB, (A) terminating the License Agreement (in whole or in part), (B) alleging any breach of or default under the License Agreement by Seller relating to the Purchased Interest or that could reasonably be expected, individually or in the aggregate, to result in a termination of the License Agreement (in whole or in part) by UCB or a Material Adverse Effect or (C) asserting the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to a breach of or default under the License Agreement relating to the Purchased Interest, the Royalty Payment or other monetary payment on account of the Purchased Interest or that could reasonably be expected, individually or in the aggregate, to result in a termination of the License Agreement (in whole or in part) by UCB or a Material Adverse Effect or (ii) Seller otherwise has Knowledge of any fact, circumstance or event that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to a breach of or default under the License Agreement by Seller relating to the Purchased Interest, the Royalty Payment or other monetary payment on account of the Purchased Interest or that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or give UCB or any other Person the right to terminate the License Agreement (in whole or in part), then, in either case with respect to clause (i) or (ii) above, Seller shall (x) promptly, and in any event no later than three (3) Business Days following receipt of such notice or Knowledge by Seller, give a written notice to Purchaser describing in reasonable detail such breach or default, including a copy of any written notice received from UCB, and, in the case of any breach or default or alleged breach or default by Seller, describing in reasonable detail any corrective action Seller proposes to take and (y) use its reasonable [*] efforts to cure such breach or default, but only as required to prevent such termination of the License Agreement from becoming effective pursuant to the terms and conditions thereof in any manner relating to the Purchased Interest, the Royalty Payment or any other monetary payment on account of the Purchased Interest, and shall give written notice to Purchaser upon curing, or failing to timely cure, such breach or default.

(d) Seller agrees to use its reasonable [*] efforts (including engaging outside legal counsel, at Seller's expense, reasonably satisfactory to Purchaser) to enforce all of its rights under the License Agreement to the extent relating, directly or indirectly, to the Purchased Interest or any monetary payment on account thereof or UCB's obligations relating to, or that would give rise to, the Royalty Payment or other monetary payment on account of the Purchased Interest. Without limiting the foregoing, promptly after Seller obtains Knowledge of (i) a breach of or default or alleged breach or default under the License Agreement by UCB or any other Person other than Seller (each, a "Defaulting Party") relating to the Purchased Interest or any monetary payment on account thereof or that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (ii) of the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, could reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to a breach of or default under the License Agreement by a Defaulting Party relating to the Purchased Interest or any monetary payment on account thereof or that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, or a right to terminate the License Agreement (in whole or in part) by Seller, in each case with respect to clause (i) or (ii) above, Seller (A) shall give a written notice to Purchaser within three (3) Business Days describing in reasonable detail the relevant breach, default or termination event or alleged breach, default or termination event and (B) shall proceed in consultation with Purchaser to take, at Purchaser's expense, such actions, which Seller shall not have taken in accordance with the first sentence of this Section 6.04(d) (including commencing legal action against the Defaulting Party) that Purchaser, in its sole discretion, deems necessary with respect to such breach, default or termination event or alleged breach, default or termination event to enforce compliance by the Defaulting Party with the relevant provisions of the License Agreement, and to exercise any and all Seller's rights and remedies under the License Agreement in connection therewith. Purchaser shall have the right, at its sole expense, to participate in (provided, however, that to do so will not affect in an adverse manner the maintenance by Seller of any applicable attorney-client privilege, unless other arrangements can be effected to preserve such privilege, including a joint defense agreement (and Seller and Purchaser agree to negotiate in good faith to promptly execute and deliver a mutually satisfactory joint defense agreement)), with counsel appointed by it, any meeting, discussion, litigation or other proceeding relating to any such breach, default or termination event or alleged breach, default or termination event, including any counterclaim, settlement discussions or meetings; provided, however, that the fees and expenses incurred by Purchaser in connection with such participation, including the fees and expenses of Purchaser's counsel in connection therewith, shall be borne by Purchaser (unless such breach, default or termination event or alleged breach, default or termination event results from, or is caused by, directly or indirectly, a breach or default by XOMA, Seller Parent or Seller, as applicable, of this Agreement, in which case such fees and expenses shall be borne solely by XOMA, Seller Parent or Seller, as applicable).

(e) Without limiting Purchaser's other rights and Seller's other obligations contained herein, Seller shall cooperate and provide assistance as reasonably requested by Purchaser, at Purchaser's expense (except as otherwise provided herein), in connection with any litigation, arbitration or other proceeding (whether threatened, existing, initiated or contemplated prior to, on or after the date hereof) to which Purchaser, any of its Affiliates or controlling Persons or any of their respective officers, directors, equityholders, debtholders, members, partners, controlling Persons, managers, agents or employees is or may become a party or is or may become otherwise directly or indirectly affected or as to which any such Persons have a direct or indirect interest, in each case relating to this Agreement or any other Transaction Document, the transactions described herein or therein or the Purchased Interest but in all cases excluding any litigation brought by Purchaser against Seller.

(f) Without the prior written consent of Purchaser, Seller shall not, directly or indirectly, sell, assign, hypothecate or otherwise transfer the License Agreement or any of its rights or obligations thereunder to any third party, including by operation of law or otherwise.

(g) XOMA shall not, and shall cause its Affiliates (other than Seller), including XOMA Technology, and Seller Parent shall cause Seller (if applicable) not to, enforce any intellectual property rights that XOMA or such Affiliate may now or hereafter own or control against UCB, or take any other action against UCB, in any manner that could reasonably be expected to interfere with UCB's right or ability to pay the Royalty Payments or other monetary payments on account of the Purchased Interest. For the avoidance of doubt, nothing herein shall limit XOMA's or any Affiliate's ability to enforce any of its intellectual property rights against UCB or any other Person with respect to any product other than CIMZIA®.

Section 6.05 Audits

(a) To the extent Seller has the right to perform or cause to be performed inspections or audits under the License Agreement, including under Section 4.3 thereof, regarding any Royalty Payment payable and/or paid to Seller thereunder (each, a "License Party Audit"), Seller shall, at the reasonable request of Purchaser, use commercially reasonable efforts to cause a License Party Audit to be performed promptly in accordance with the terms of the License Agreement. In conducting a License Party Audit, subject to the terms of the License Agreement, Seller shall engage Ernst & Young LLP. Promptly after completion of any License Party Audit (whether or not requested by Purchaser), Seller shall promptly deliver to Purchaser (i) an audit report summarizing the results of such License Party Audit, and (ii) subject to the terms of the License Agreement and [*], all royalty reports and correspondence relating to any Royalty Payment and such License Party Audit, including any correspondence relating to the performance of UCB and Seller of their respective obligations under the License Agreement generally to the extent relevant to Purchaser's right, title and interest in and to the Purchased Interest. If the License Party Audit results in a determination that there is a Discrepancy or a Royalty Payment has been understated, then Seller will promptly, and in any event no later than three (3) Business Days following receipt of any resulting underpayment or recovery thereof by Seller or any other XOMA Entity, remit such underpayment or recovery into the Purchaser Account in accordance with Section 6.03(c).

(b) To the extent that either Purchaser or Seller has determined that there is a Discrepancy, then the party hereto who has made such determination may notify the other party hereto in writing of such discrepancy indicating in reasonable detail its reasons for such determination (the "Discrepancy Notice"). In the event that either Purchaser or Seller delivers to the other party hereto a Discrepancy Notice, Purchaser and Seller shall meet within ten (10) Business Days (or such other time as mutually agreed by the parties) after the receiving party has received a Discrepancy Notice to discuss such Discrepancy and the resolution thereof. If Purchaser and Seller determine that a payment is owing by UCB, then Seller shall use its reasonable [*] efforts to enforce its rights under the License Agreement to resolve such Discrepancy and recover in full the amount of such Discrepancy.

(c) Purchaser and any of its representatives shall have the right, from time to time, to visit Seller's offices and properties where Seller keeps and maintains its books and records relating or pertaining to the License Agreement and the Purchased Interest for purposes of conducting an audit of such books and records solely to the extent they relate or pertain to the Purchased Interest, and to inspect, copy and audit such books and records, during normal business hours, and, upon five (5) Business Days written notice given by Purchaser to Seller, Seller will provide Purchaser and any of Purchaser's representatives reasonable access to such books and records and shall permit Purchaser and any of Purchaser's representatives to discuss the business, operations, properties and financial and other condition of Seller solely as they may relate or pertain to the Purchased Interest with officers of Seller, and with its independent certified public accountants; provided, that any such representative shall be subject to an agreement regarding the confidentiality of the information arising out of such access and/or discussions that are at least as stringent as those contained herein. Purchaser's visits to Seller's offices pursuant to this Section 6.05(c) shall occur not more than one time per calendar year; provided, however, that Purchaser may so visit more frequently to the extent that there has occurred an event which could reasonably be expected to result in a Material Adverse Effect, and Purchaser's visit or visits to Seller's offices in connection therewith are for purposes related to such event.

(d) All costs and expenses in respect of a License Party Audit relating to or associated with the Purchased Interest and any enforcement of rights pursuant to Section 6.05(b) shall be borne by Purchaser; provided, however, that Seller shall pay Purchaser any reimbursement of such costs and expenses received by Seller from UCB pursuant to Section 4.3 of the License Agreement promptly, and in any event no later than three (3) Business Days following receipt thereof. All costs and expenses in respect of an audit of Seller's books and records pursuant to Section 6.05(c) shall be borne by Purchaser.

Section 6.06 Notice

In addition to, and not in limitation of, the other provisions of this Agreement, Seller, Seller Parent or XOMA (as applicable) shall provide Purchaser with written notice as promptly as practicable (and in any event within five (5) Business Days) after becoming aware of any of the following:

(a) the occurrence of a Bankruptcy Event;

(b) any material breach or default by Seller, Seller Parent or XOMA of any covenant, agreement or other provision of this Agreement or any other Transaction Document (determined in all cases as if the terms "material" or "Material Adverse Effect" were not included therein);

(c) any representation or warranty made by Seller, Seller Parent or XOMA in any of the Transaction Documents or in any certificate delivered to Purchaser pursuant hereto or thereto shall prove to be untrue, inaccurate or incomplete in any material respect on the date as of which made (determined in all cases as if the terms "material" or "Material Adverse Effect" were not included therein, except in the second instance in the penultimate sentence of, and in the ultimate sentence of, Section 5.05(d)); or

(d) the occurrence of any change, effect, event, occurrence, state of facts, development or condition that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 6.07 Reports and Other Deliverables

XOMA shall, and shall cause its Affiliates (other than Seller) to, and Seller Parent shall, and shall cause Seller to, promptly (and in any event within five (5) Business Days of receipt thereof) provide to Purchaser copies of all Information and other statements, reports, audits, documents, notices, certificates and other written correspondence that any XOMA Entity or their respective Affiliates or its or their respective representatives receive or deliver to any Person pursuant to the Transaction Documents which contain material information regarding the Purchased Interest or any monetary payment on account thereof or the Additional Collateral (or any portion thereof).

Section 6.08 No Subsidiaries

Seller shall not form or otherwise permit the establishment of any Subsidiaries from and after the Effective Date.

ARTICLE VII
Termination

Section 7.01 Termination Date

This Agreement shall terminate on the date upon which the later of the following occurs: (a) the payment to Purchaser of the Royalty Payment and all other monetary payments on account of the Purchased Interest in full pursuant to the terms of this Agreement and (b) the termination of the License Agreement as permitted by this Agreement.

Section 7.02 Effect of Termination

In the event of the termination of this Agreement pursuant to Section 7.01, this Agreement shall become void and of no further force and effect, except for (i) those rights and obligations that have accrued prior to the date of such termination or relate to any period prior thereto, including the payment in accordance with the terms hereof of the Royalty Payment or other monetary payment on account of the Purchased Interest in full earned prior the date of such termination, and (ii) the right to payment of the Royalty Payment or other monetary payment on account of the Purchased Interest in full payable by UCB under the License Agreement. Notwithstanding the foregoing, Article I, Article VII, Article VIII, Section 6.01, Section 6.02 and Section 5.05(i) (with respect to the Royalty Payment or other monetary payment on account of the Purchased Interest if earned or payable under the License Agreement, or otherwise attributable to any event or occurring, prior to the date of such termination) and Section 6.03 (with respect to the Royalty Payment or other monetary payment on account of the Purchased Interest if earned or payable under the License Agreement, or otherwise attributable to any event or occurring, prior to the date of such termination) and Section 6.04 (with respect to the Royalty Payment or other monetary payment on account of the Purchased Interest if earned or payable under the License Agreement, or otherwise attributable to any event or occurring, prior to the date of such termination) shall survive such termination and there shall be no liability on the part of any party hereto, any of its Affiliates or controlling Persons or any of their respective officers, directors, equityholders, debtholders, members, partners, controlling Persons, managers, agents or employees, other than as provided for in this Section 7.02. Nothing contained in this Section 7.02 shall relieve any party hereto from liability for any breach of this Agreement that occurs prior to such termination.

ARTICLE VIII
MISCELLANEOUS

Section 8.01 Survival

All representations and warranties made herein and in any other Transaction Document or any certificates delivered pursuant to this Agreement shall survive the execution and delivery of this Agreement and shall continue to survive until two (2) years following the termination of this Agreement; provided, however, that the representations and warranties contained in Section 3.14 shall survive until sixty (60) days after the expiration of the applicable statute of limitations (or waivers or extensions thereof); provided, further, that the representations and warranties contained in Sections 3.01, 3.02, 3.03, 3.04, 3.08, 3.09, 4.01, 4.02, 4.03, 4.05, 4.06, 5.01, 5.02, 5.03 and 5.04 shall survive indefinitely. The obligations of (a) Seller and XOMA to indemnify and hold harmless any Purchaser Indemnified Party under Section 8.05(a) and (b), respectively, and (b) Purchaser to indemnify and hold harmless any Seller Indemnified Party under Section 8.05(c), in each case, shall terminate (i) when the applicable representation or warranty terminates pursuant to this Section 8.01, with respect to claims made pursuant to Section 8.05(a)(i), Section 8.05(b)(i) and Section 8.05(c)(i), as applicable, and (ii) sixty (60) days after the expiration of the applicable statute of limitations (or waivers or extensions thereof), with respect to claims made pursuant to Section 8.05(a)(ii), Section 8.05(a)(iii), Section 8.05(a)(iv), Section 8.05(b)(ii), Section 8.05(c)(ii) and Section 8.05(c)(iii); provided, however, that, in each case, such obligations to indemnify and hold harmless shall not terminate with respect to any item as to which a Purchaser Indemnified Party or a Seller Indemnified Party shall have, before the expiration of the applicable period, previously notified the indemnifying party pursuant to Section 8.05.

Section 8.02 Specific Performance

Each of the parties hereto acknowledges that the other party hereto may have no adequate remedy at law if it fails to perform any of its obligations under any of the Transaction Documents. In such event, each of the parties hereto agrees that the other party hereto shall have the right, in addition to any other rights it may have (whether at law or in equity), to specific performance of this Agreement.

Section 8.03 Notices

All notices, consents, waivers and communications hereunder given by any party hereto to the other party hereto shall be in writing, signed by the party hereto giving such notice and be deemed to have been duly given when (i) delivered by hand, (ii) sent by facsimile (with written confirmation of receipt) if sent during regular business hours on a Business Day (and, if not, then on the next succeeding Business Day), provided, however, that a copy is mailed by registered mail, return receipt requested, (iii) received by the addressee, if sent by nationally recognized delivery service (receipt requested), or (iv) sent by email if sent during regular business hours on a Business Day (and, if not, then on the next succeeding Business Day), provided, however, that a copy is mailed by registered mail, return receipt requested (provided, however, that delivery will not be deemed effective unless the addressee provides written confirmation of receipt by facsimile or return email (automatic email responses do not constitute confirmation)), in each case, to the applicable addresses, facsimile numbers and/or email addresses set forth below:

If to Purchaser to:

[*]

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

[*]

If to Seller to:

XOMA CDRA LLC
2910 Seventh Street
Berkeley, CA 94710
Attention: Christopher J. Margolin
Facsimile: (510) 649-7571
Email: margolin@xoma.com

If to XOMA or Seller Parent:

XOMA Ltd.
2910 Seventh Street
Berkeley, CA 94710
Attention: Christopher J. Margolin
Facsimile: (510) 649-7571
Email: margolin@xoma.com

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

Cahill Gordon & Reindel LLP
80 Pine Street
New York, NY 10005
Attention: Geoffrey E. Liebmann
Facsimile: (212) 378-2295
Email: gliebmann@cahill.com

or to such other address or addresses, facsimile number or numbers or email address or addresses as Purchaser or Seller may from time to time designate by notice as provided herein, except that notices of such changes shall be effective only upon receipt.

Section 8.04 Successors and Assigns

The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Seller shall not be entitled to assign, directly or indirectly, any of its obligations and rights under any of the Transaction Documents, including by operation of law or otherwise, without the prior written consent of Purchaser. Purchaser may assign any of its obligations and rights hereunder, without restriction and without the consent of Seller. Purchaser shall give notice of any such assignment to Seller after the occurrence thereof. Seller shall be under no obligation to reaffirm any representations, warranties or covenants made in this Agreement or any of the other Transaction Documents or take any other action in connection with any such assignment by Purchaser.

Section 8.05 Indemnification

(a) Seller hereby agrees to indemnify and hold harmless each of Purchaser and its Affiliates and any and all of their respective partners, directors, managers, members, officers, employees, agents and controlling Persons (each, a "Purchaser Indemnified Party") from and against, and will pay to each Purchaser Indemnified Party the amount of, any and all Losses incurred or suffered by such Purchaser Indemnified Party arising out of:

(i) any representation, warranty or certification made by Seller in this Agreement or any of the other Transaction Documents or certificates given by Seller in writing pursuant hereto or thereto which is untrue, inaccurate or incomplete in any material respect (determined in all cases as if the terms "material" or "Material Adverse Effect" were not included therein);

(ii) any material breach of or default under any covenant or agreement by Seller pursuant to any Transaction Document (determined in all cases as if the terms "material" or "Material Adverse Effect" were not included therein);

(iii) any Excluded Liabilities and Obligations; or

(iv) any fees, expenses, costs, liabilities or other amounts incurred or owed by Seller to any brokers, financial advisors or comparable other Persons retained or employed by it in connection with the transactions contemplated by this Agreement.

Any amounts due to any Purchaser Indemnified Party hereunder shall be payable by Seller to such Purchaser Indemnified Party promptly upon demand.

(b) XOMA agrees to indemnify and hold harmless each Purchaser Indemnified Party from and against, and will pay to each Purchaser Indemnified Party the amount of, any and all Losses incurred or suffered by such Purchaser Indemnified Party arising out of:

(i) any representation, warranty or certification made by XOMA or Seller Parent in this Agreement or any of the other Transaction Documents which is untrue, inaccurate or incomplete in any material respect made (determined in all cases as if the terms "material" or "Material Adverse Effect" were not included therein, except in the second instance in the penultimate sentence of, and in the ultimate sentence of, Section 5.05(d)); or

(ii) any breach of or default under any covenant or agreement by XOMA or Seller Parent pursuant to any Transaction Document (determined in all cases as if the terms "material" or "Material Adverse Effect" were not included therein).

Any amounts due to any Purchaser Indemnified Party hereunder shall be payable by XOMA to such Purchaser Indemnified Party promptly upon demand.

(c) Purchaser agrees to indemnify and hold harmless each of Seller and its Affiliates and any and all of their respective partners, directors, managers, members, officers, employees, agents and controlling Persons (each, a "Seller Indemnified Party") from and against, and will pay to each Seller Indemnified Party the amount of, any and all Losses incurred or suffered by such Seller Indemnified Party arising out of:

(i) any representation, warranty or certification made by Purchaser in this Agreement or any of the other Transaction Documents or certificates given by Purchaser in writing pursuant hereto or thereto which is untrue, inaccurate or incomplete in any material respect (determined in all cases as if the terms "material" or "Material Adverse Effect" were not included therein);

(ii) any breach of or default under any covenant or agreement by Purchaser pursuant to any Transaction Document (determined in all cases as if the terms "material" or "Material Adverse Effect" were not included therein); or

(iii) any fees, expenses, costs, liabilities or other amounts incurred or owed by Purchaser to any brokers, financial advisors or comparable other Persons retained or employed by it in connection with the transactions contemplated by this Agreement.

Any amounts due to any Seller Indemnified Party hereunder shall be payable by Purchaser to such Seller Indemnified Party upon demand.

(d) In the event that (i) any claim, demand, action or proceeding (including any investigation by any Governmental Authority), including any Third Party Claim against Purchaser arising out of or relating to (1) UCB's or any Person's deriving rights through UCB's possession, manufacture, use, sale or other disposition of the Licensed Product, whether based on breach of warranty, negligence, product liability or otherwise, or (2) the exercise of any right granted to UCB pursuant to the License Agreement, shall be brought or alleged by any Person not a party to this Agreement against an indemnified party in respect of which indemnity is to be sought against an indemnifying party pursuant to the preceding paragraphs (each, a "Third Party Claim") or (ii) any indemnified party under this Agreement shall have a claim to be indemnified pursuant to the preceding paragraphs which does not involve a Third Party Claim, the indemnified party shall, promptly after receipt of notice of the commencement of any such claim, demand, action or proceeding, notify the indemnifying party in writing of the commencement of such claim, demand, action or proceeding, enclosing a copy of all papers served, if any; provided, however, that the omission to so notify such indemnifying party will not relieve the indemnifying party from any liability that it may have to any indemnified party under the foregoing provisions of this Section 8.05 unless, and only to the extent that, such omission actually and materially prejudiced the indemnifying party or results in the forfeiture of material substantive rights or defenses by the indemnifying party. In case any Third Party Claim is brought against an indemnified party, the indemnifying party will be entitled, at the indemnifying party's sole cost and expense, to participate therein and, to the extent that it may wish, to notify the indemnified party promptly (but no later than ten (10) Business Days of receipt of notice thereof) that it elects to assume the defense thereof, with counsel, contractors and consultants of recognized standing and competence and reasonably satisfactory to such indemnified party, and, after such notice of its election to assume the defense, the indemnifying party will not be liable to such indemnified party under this Section 8.05 for any legal or other expenses (except as provided in the next sentence) subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. In any such proceeding, an indemnified party shall have the right to retain its own counsel, but the reasonable fees and expenses of such counsel shall be at the expense of such indemnified party unless (x) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel, (y) the indemnifying party has assumed the defense of such proceeding and has failed within a reasonable time to retain counsel reasonably satisfactory to such indemnified party or (z) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate or ineffective due to actual or potential conflicts of interests between them in the reasonable determination of the indemnified party based on the advice of outside legal counsel. The parties agree that the indemnifying party shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees and expenses of more than one separate law firm (in addition to local counsel where necessary) for all such indemnified parties. The indemnifying party shall not be liable for any settlement of any Third Party Claim effected without its written consent, but, if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any Losses by reason of such settlement or judgment. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement, compromise or discharge of any pending or threatened Third Party Claim in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless (X) such settlement, compromise or discharge, as the case may be, (A) includes an unconditional written release of such indemnified party, in form and substance reasonably satisfactory to the indemnified party, from all liability on claims that are the subject matter of such claim or proceeding, (B) does not include any statement as to an admission of fault, culpability or failure to act by or on behalf of any indemnified party and (C) does not impose any continuing obligation, injunctions or restrictions on any indemnified party, encumber any of the assets of any indemnified party or otherwise adversely affect any indemnified party potentially affected by such claim or proceeding and (Y) the indemnifying party pays or causes to be paid all amounts arising out of such settlement, compromise or discharge concurrently with its effectiveness.

(e) Except in the case of fraud or intentional breach, the indemnification afforded by thisSection 8.05 shall be the sole and exclusive remedy for any and all Losses sustained or incurred by a party hereto in connection with the transactions contemplated by the Transaction Documents, including with respect to any breach of any representation, warranty or certification made by a party hereto in any of the Transaction Documents or certificates given by a party hereto in writing pursuant hereto or thereto or any breach of or default under any covenant or agreement by a party hereto pursuant to any Transaction Document. Notwithstanding anything in this Agreement to the contrary, (i) in the event of any breach or failure in performance of any covenant or agreement contained in any Transaction Document, the breaching party agrees that the non-breaching party shall be entitled to specific performance, injunctive or other equitable relief pursuant to Section 8.02, and (ii) in no event shall Losses include consequential damages of the indemnified party, other than the payment of the Royalty Payments. For clarity, neither party hereto shall have any right to terminate this Agreement or any other Transaction Document as a result of any breach by the other party hereto hereof or thereof, but instead shall have the rights set forth in this Section 8.05 and Section 8.02.

Section 8.06 Independent Nature of Relationship

(a) The relationship between the XOMA Entities party hereto and Purchaser is solely that of seller and purchaser, and neither any such XOMA Entity nor Purchaser has any fiduciary or other special relationship with the other or any of the other's Affiliates. Nothing contained herein or in any other Transaction Document shall be deemed to constitute any such XOMA Entity and Purchaser as a partnership, an association, a joint venture or other kind of entity or legal form.

(b) No officer or employee of Purchaser will be located at the premises of XOMA or any of its Affiliates.

(c) Neither XOMA (nor any of its Affiliates other than Seller) nor Seller Parent nor Seller shall at any time obligate Purchaser, or impose on Purchaser any obligation, in any manner or with respect to any Person not a party hereto.

Section 8.07 Tax

(a) The parties hereto shall treat the transactions contemplated by this Agreement as a sale or exchange of the Purchased Interest for Tax purposes and agree not to take any position which is inconsistent with such treatment on any Tax return or in any audit or other administrative or judicial Tax proceeding. If there is an inquiry by any Governmental Authority of Seller or Purchaser related to this treatment, the parties hereto shall cooperate with each other in responding to such inquiry in a reasonable manner which will be consistent with this Section 8.07(a).

(b) Each of XOMA and Seller Parent shall, and Seller Parent shall cause Seller to, notify Purchaser immediately following any notification by UCB to XOMA or any of its Affiliates (including Seller) that UCB is about to withhold any Tax from any Royalty Payment paid or payable by UCB under the License Agreement. Seller, upon the request of Purchaser, shall reasonably cooperate with Purchaser and use its reasonable [*] efforts to make such filings and take such other actions as may be specified by Purchaser in order to allow an exemption or reduction from withholding Tax imposed or to be imposed on any such Royalty Payment.

(c) All payments made from any XOMA Entity, including Seller, to Purchaser and all payments made from Purchaser to Seller, including the Closing Payment, in each case pursuant to this Agreement, will be made free of any withholding Taxes, provided that the recipient of any payment provides the payer of such payment a properly executed IRS Form W-9 or applicable IRS Form W-8, as the case may be.

(d) For the avoidance of doubt, it is understood and agreed that none of XOMA, Seller or any of their respective Affiliates make any representation or warranty in this Agreement regarding any obligation or position of UCB with respect to withholding taxes, nor shall XOMA, Seller and or any of their respective Affiliates shall be liable to Purchaser or any of its Affiliates in the event of any withholding by UCB.

Section 8.08 Entire Agreement

This Agreement, together with the Schedules and Exhibits hereto (which are incorporated herein by reference), and the other Transaction Documents constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede all prior agreements, understandings and negotiations, both written and oral, between the parties hereto with respect to the subject matter of this Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein (or in the Schedule, Exhibits or other Transaction Documents) has been made or relied upon by either party hereto. Neither this Agreement, nor any provision hereof, is intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

Section 8.09 Governing Law

(a) This Agreement shall be construed in accordance with and governed by the laws of the State of New York, without giving effect to the principles of conflicts of law thereof.

(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(c) Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in Section 8.09(b). Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party hereto irrevocably consents to service of process in the manner provided for notices inSection 8.03. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by law.

Section 8.10 Waiver of Jury Trial.

EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY HERETO WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 8.10.

Section 8.11 Severability

If one or more provisions of this Agreement are held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded and shall remain in full force and effect and be enforceable in accordance with its terms. Any provision of this Agreement held invalid or unenforceable only in part or degree by a court of competent jurisdiction shall remain in full force and effect to the extent not held invalid or unenforceable.

Section 8.12 Counterparts; Effectiveness

This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto. Any counterpart may be executed by facsimile signature and such facsimile signature shall be deemed an original.

Section 8.13 Amendments; No Waivers

(a) Neither this Agreement nor any term or provision hereof may be amended, supplemented, altered, changed or modified except with the written consent of Purchaser and Seller. No waiver of any right hereunder shall be effective unless such waiver is signed in writing by the party hereto against whom such waiver is sought to be enforced.

(b) No failure or delay by either party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 8.14 Interpretation

(a) Except as otherwise provided or unless the context otherwise requires, whenever used in this Agreement, (i) any noun or pronoun shall be deemed to include the plural and the singular, (ii) the use of masculine pronouns shall include the feminine and neuter, (iii) the terms “include” and “including” shall be deemed to be followed by the phrase “without limitation”, (iv) the word “or” shall be inclusive and not exclusive, (v) all references to Sections refer to the Sections of this Agreement, all references to Schedule refer to the Schedule attached hereto or delivered with this Agreement, as appropriate, and all references to Exhibits refer to the Exhibits attached to this Agreement, each of which is made a part of this Agreement for all purposes, and (vi) each reference to “herein” means a reference to “in this Agreement”.

(b) The provisions of this Agreement shall be construed according to their fair meaning and neither for nor against any party hereto irrespective of which party hereto caused such provisions to be drafted. Each of the parties hereto acknowledges that it has been represented by an attorney in connection with the preparation and execution of this Agreement.

(c) Unless expressly provided otherwise, the measure of a period of one month or one year for purposes of this Agreement shall be that date of the following month or year corresponding to the starting date, provided, however, that, if no corresponding date exists, the measure shall be that date of the following month or year corresponding to the next day following the starting date. For example, one month following February 18th is March 18th, and one month following March 31 is May 1.

(d) The headings used in this Agreement have been inserted for convenience of reference only and do not define or limit the provisions hereof.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

SELLER:

XOMA CDRA LLC

By: _
Name:
Title:

SELLER PARENT:

XOMA (US) LLC., solely for the purposes of Section 3.11(d), (i) and (k), Section 6.01(a), Section 6.02, Section 6.03, Section 6.04(a), (d) and (g), Section 6.06, Section 6.07, Article V, Article VII, and Article VIII.

By: _
Name:
Title:

PURCHASER:

[*]

By: _
Name:
Title:

XOMA:

XOMA LTD., solely for the purposes of Article V, Article VII, Article VIII, Section 6.01(a), Section 6.02, Section 6.03 and Section 6.04(a), (d) and (g), Section 6.06 and Section 6.07.

By: _
Name:
Title:

LITIGATION

1. Mathilda and Terence Kennedy Institute of Rheumatology Trust (the "Trust") v. UCB Inc., No. 10-cv-00650 (D. Del.). In this action filed on August 3, 2010 the Trust charged UCB with infringing U.S. Patent No. 6,270,766 by promoting the use of CIMZIA® with methotrexate, claiming damages and royalties.

2. On February 25, 2009, the U.S. Patent and Trademark Office ("PTO") declared an interference proceeding between certain claims of PDL Biopharma Inc.'s ("PDL") Queen et al., U.S. Patent No. 5,585,3089 (the "'089 Patent") and certain pending claims of Adair et al., U.S. Application No. 08/846,658 (the "658 Application") and, on November 23, 2009, the PTO declared an interference proceeding between certain claims of PDL's Queen et al., U.S. Patent No. 6,180,370 (the "'370 Patent" and together with the '089 Patent, the "Patents") and certain pending claims of Adair et al., U.S. Application No. 10/938,117 (the "117 Application") under 35 U.S.C. 135(a). UCB Pharma S.A. ("UCB") is the assignee of the '117 Application and the '658 Application. [*] A hearing was held on January 29, 2010 regarding the first phase of the interference, which relates to substantive motions except those for priority of invention.

Schedule 3.13

SELLER'S ADDRESS AND IDENTIFICATION NUMBER

Address: 2910 Seventh Street
Berkeley, CA 94710

Delaware organizational identification number: 4858595

Schedule 5.05(a)

LIENS ON PATENT RIGHTS

XOMA and its Affiliates have granted non-exclusive licenses to the Patent Rights (as such term is defined in the License Agreement without regard to whether such rights relate to CIMZIA®) to the following companies, [*]

XOMA PATENT RIGHTS – BACTERIAL EXPRESSION

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

Inventors: Robinson, Liu, Horwitz, Wall, Better

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.	[*]
Canada	572,398	CA 1,341,235	[*]

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	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	[*]

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

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.	[*]
Canada	587,885	CA 1,338,807	[*]
United States	08/472,696	US 5,846,818	[*]
United States	08/357,234	US 5,576,195	[*]

Schedule 5.05(e)

DISPUTES INVOLVING PATENT RIGHTS

1. Mathilda and Terence Kennedy Institute of Rheumatology Trust (the "Trust") v. UCB Inc., No. 10-cv-00650 (D. Del.). In this action filed on August 3, 2010 the Trust charged UCB with infringing U.S. Patent No. 6,270,766 by promoting the use of CIMZIA® with methotrexate, claiming damages and royalties.

2. On February 25, 2009, the U.S. Patent and Trademark Office ("PTO") declared an interference proceeding between certain claims of PDL Biopharma Inc.'s ("PDL") Queen et al., U.S. Patent No. 5,585,3089 (the "'089 Patent") and certain pending claims of Adair et al., U.S. Application No. 08/846,658 (the "658 Application") and, on November 23, 2009, the PTO declared an interference proceeding between certain claims of PDL's Queen et al., U.S. Patent No. 6,180,370 (the "'370 Patent" and together with the '089 Patent, the "Patents") and certain pending claims of Adair et al., U.S. Application No. 10/938,117 (the "117 Application") under 35 U.S.C. 135(a). UCB Pharma S.A. ("UCB") is the assignee of the '117 Application and the '658 Application. [*] A hearing was held on January 29, 2010 regarding the first phase of the interference, which relates to substantive motions except those for priority of invention.

3. XOMA Ireland has for several years been engaged in an on-going licensing program relating to the bacterial cell expression technology, for both production of antibodies and research purposes. [*]

[*]

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 4, 2010

/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 4, 2010

/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, 2010, fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended, and that the information contained in such report fairly presents, in all material respects, the financial condition and results of operations of the Company at the end of and for the periods covered by such report.

Date: November 4, 2010

/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, 2010, fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended, and that the information contained in such report fairly presents, in all material respects, the financial condition and results of operations of the Company at the end of and for the periods covered by such report.

Date: November 4, 2010

/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.