

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **July 20, 2006**

Xenomics, Inc.

(Exact name of registrant as specified in its charter)

Florida

(State or other jurisdiction
of incorporation or organization)

04-3721895

IRS Employer
Identification No.)

**420 Lexington Avenue, Suite 1701
New York, New York 10170**

(Address of principal executive offices)

Registrant's telephone number, including area code: **(212) 297-0808**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 3.02 Unregistered Sales of Equity Securities.

On July 20, 2006, Xenomics, Inc. (the "Company") sold 640,000 shares of common stock and 320,000 warrants to purchase common stock (the "Warrants") to a single overseas investor for aggregate gross proceeds of \$800,000. The Warrants are exercisable at \$2.00 per share for three years from the date of issuance. The Company paid \$80,000 in selling commissions to a selling agent. In addition, the Company issued 83,200 Warrants to the selling agent. In connection with the offer and sale of securities to the investor, the Company relied on the exemption from registration provided by Regulation S promulgated under the Securities Act of 1933, as amended.

Item 9.01 Financial Statements and Exhibits

(c) Exhibits.

- 4.1 Form of Warrant to purchase Common Stock.
- 10.1 Form of Securities Purchase Agreement.

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 hereunto duly authorized.

Dated: July 26, 2006

XENOMICS, INC.

By: /s/ Frederick Larcombe
Frederick Larcombe
Chief Financial Officer

NEITHER THESE SECURITIES NOR THE SECURITIES ISSUABLE UPON EXERCISE OF THESE SECURITIES HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THESE SECURITIES AND THE SECURITIES ISSUABLE UPON EXERCISE OF THESE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT SECURED BY SUCH SECURITIES.

XENOMICS, INC.

WARRANT

Warrant No. []

Original Issue Date: ____, 2006

Xenomics, Inc., a Florida corporation (the "**Company**"), hereby certifies that, for value received, [] or its registered assigns (the "**Holder**"), is entitled to purchase from the Company up to a total of [] shares of Common Stock (each such share, a "**Warrant Share**" and all such shares, the "**Warrant Shares**"), at any time and from time to time from and after the Original Issue Date and through and including ____, 2008 (the "**Expiration Date**"), and subject to the following terms and conditions:

1. **Definitions.** As used in this Warrant, the following terms shall have the respective definitions set forth in this Section 1. Capitalized terms that are used and not defined in this Warrant that are defined in the Purchase Agreement (as defined below) shall have the respective definitions set forth in the Purchase Agreement.

"**Business Day**" means any day except Saturday, Sunday and any day that is a federal legal holiday in the United States or a day on which banking institutions in the State of New York are authorized or required by law or other government action to close.

"**Common Stock**" means the common stock of the Company, par value \$0.0001 per share, and any securities into which such common stock may hereafter be reclassified.

"**Exercise Price**" means \$2.00, subject to adjustment in accordance with Section 9.

"**Fundamental Transaction**" means any of the following: (1) the Company effects any merger or consolidation of the Company with or into another Person, (2) the Company effects any sale of all or substantially all of its assets in one or a series of related transactions, (3) any tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to tender or exchange their shares for other securities, cash or property, or (4) the Company effects any reclassification of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property.

"**Original Issue Date**" means the Original Issue Date first set forth on the first page of this Warrant.

"**New York Courts**" means the state and federal courts sitting in the City of New York, Borough of Manhattan.

"**Purchase Agreement**" means the Securities Purchase Agreement, dated July __, 2006, to which the Company and the original Holder are parties.

"**Trading Day**" means (i) a day on which the Common Stock is traded on a Trading Market, or (ii) if the Common Stock is not quoted on any Trading Market, a day on which the Common Stock is quoted in the over-the-counter market as reported by the Pink Sheets, LLC (or any similar organization or agency succeeding to its functions of reporting prices); provided, that in the event that the Common Stock is not listed or quoted as set forth in (i) and (ii) hereof, then Trading Day shall mean a Business Day.

"**VWAP**" means on any particular Trading Day or for any particular period, the volume weighted average trading price per share of Common Stock on such date or for such period as reported by the Bloomberg L.P., or by any successor performing similar functions.

2. **Registration of Warrant.** The Company shall register this Warrant upon records to be maintained by the Company for that purpose (the "**Warrant Register**"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

3. **Registration of Transfers.** The Company shall register the transfer of any portion of this Warrant in the Warrant Register, upon surrender of this Warrant, with the Form of Assignment attached hereto duly completed and signed, to the Company at its address specified herein. Upon any such registration or transfer, a new Warrant to purchase Common Stock, in substantially the form of this Warrant (any such new Warrant, a "**New Warrant**"), evidencing the portion of this Warrant so transferred shall be issued to the transferee and a New Warrant evidencing the remaining portion of this Warrant not so transferred, if any, shall be issued to the transferring Holder. The acceptance of the New Warrant by the transferee thereof shall be deemed the acceptance by such transferee of all of the rights and obligations of a holder of a Warrant.

4. **Exercise and Duration of Warrants.**

(a) This Warrant shall be exercisable by the registered Holder at any time and from time to time on or after the Original Issue Date through and including the Expiration Date. At 6:30 p.m., New York City time on the Expiration Date, the portion of this Warrant not exercised prior thereto shall be and become void and of no value. Except as provided in Section 4(b) below, the Company may not call or redeem any portion of this Warrant without the prior written consent of the affected Holder.

(b) Subject to the provisions of this Section 4(b), if at any time following the effective date of a registration statement registering for resale the Warrant Shares (the “**Effective Date**”): (i) the VWAP of the Common Stock for each of 10 consecutive Trading Days following the Effective Date is greater than \$2.90 (subject to adjustment pursuant to Section 9), (ii) the Warrant Shares are either registered for resale pursuant to an effective registration statement naming the Holder as a selling stockholder thereunder (and the prospectus thereunder is available for use by the Holder as to all Warrant Shares) or freely transferable without volume restrictions pursuant to Rule 144(k) promulgated under the Securities Act, as determined by counsel to the Company pursuant to a written opinion letter addressed and in form and substance reasonably acceptable to the Holder and the transfer agent for the Common Stock, during the entire 10 Trading Day period referenced in (i) above through the expiration of the Call Date as set forth in the Company’s notice pursuant to this Section (the “**Call Condition Period**”), (iii) the Company shall have complied in all material respects with its obligations under this Warrant and (iv) the Common Stock shall at all times be listed or quoted on a Trading Market, then, subject to the conditions set forth in this Section, the Company may, in its sole discretion, elect to require the exercise of all of the then unexercised portion of this Warrant, on the date that is the fifth Trading Day after written notice thereof (a “**Call Notice**”) is received by the Holder (such fifth Trading Day shall be known as the “**Call Date**”) at the address last shown on the records of the Company for the Holder or given by the Holder to the Company for the purpose of notice. The Company covenants and agrees that it will honor all Exercise Notices tendered through 6:30 p.m. (New York City time) on the Call Date.

5. Delivery of Warrant Shares.

(a) To effect exercises hereunder, the Holder shall not be required to physically surrender this Warrant unless the aggregate Warrant Shares represented by this Warrant is being exercised. Upon delivery of the Exercise Notice (in the form attached hereto) to the Company (with the attached Warrant Shares Exercise Log) at its address for notice set forth herein and upon payment of the Exercise Price multiplied by the number of Warrant Shares that the Holder intends to purchase hereunder, the Company shall promptly (but in no event later than three Trading Days after the Date of Exercise (as defined herein)) issue and deliver to the Holder, a certificate for the Warrant Shares issuable upon such exercise, which, unless otherwise required by the Purchase Agreement, shall be free of restrictive legends. The Company shall, upon request of the Holder and subsequent to the Effective Date, use its reasonable best efforts to deliver Warrant Shares hereunder electronically through the Depository Trust Corporation or another established clearing corporation performing similar functions, if available, provided, that, the Company may, but will not be required to change its transfer agent if its current transfer agent cannot deliver Warrant Shares electronically through the Depository Trust Corporation. A “**Date of Exercise**” means the date on which the Holder shall have delivered to the Company: (i) the Exercise Notice (with the Warrant Exercise Log attached to it), appropriately completed and

duly signed and (ii) payment of the Exercise Price for the number of Warrant Shares so indicated by the Holder to be purchased.

(b) The Company’s obligations to issue and deliver Warrant Shares in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder or any other Person of any obligation to the Company or any violation or alleged violation of law by the Holder or any other Person, and irrespective of any other circumstance which might otherwise limit such obligation of the Company to the Holder in connection with the issuance of Warrant Shares. Nothing herein shall limit a Holder’s right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company’s failure to timely deliver certificates representing Warrant Shares upon exercise of the Warrant as required pursuant to the terms hereof.

6. Charges, Taxes and Expenses. Issuance and delivery of Warrant Shares upon exercise of this Warrant shall be made without charge to the Holder for any issue or transfer tax, withholding tax, transfer agent fee or other incidental tax or expense in respect of the issuance of such certificates, all of which taxes and expenses shall be paid by the Company; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the registration of any certificates for Warrant Shares or Warrants in a name other than that of the Holder. The Holder shall be responsible for all other tax liability that may arise as a result of holding or transferring this Warrant or receiving Warrant Shares upon exercise hereof.

7. Replacement of Warrant. If this Warrant is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation hereof, or in lieu of and substitution for this Warrant, a New Warrant, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction and customary and reasonable indemnity (which shall not include a surety bond), if requested. Applicants for a New Warrant under such circumstances shall also comply with such other reasonable regulations and procedures and pay such other reasonable third-party costs as the Company may prescribe. If a New Warrant is requested as a result of a mutilation of this Warrant, then the Holder shall deliver such mutilated Warrant to the Company as a condition precedent to the Company’s obligation to issue the New Warrant.

8. Reservation of Warrant Shares. The Company covenants that it will at all times reserve and keep available out of the aggregate of its authorized but unissued and otherwise unreserved Common Stock, solely for the purpose of enabling it to issue Warrant Shares upon exercise of this Warrant as herein provided, the number of Warrant Shares which are then issuable and deliverable upon the exercise of this entire Warrant, free from preemptive rights or any other contingent purchase rights of Persons other than the Holder (taking into account the adjustments and restrictions of Section 9). The Company covenants that all Warrant Shares so issuable and deliverable shall, upon issuance and the payment of the applicable Exercise Price in

accordance with the terms hereof, be duly and validly authorized, issued and fully paid and nonassessable.

9. Certain Adjustments. The Exercise Price and number of Warrant Shares issuable upon exercise of this Warrant are subject to adjustment from time to time as set forth in this Section 9.

(a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding, (i) pays a stock dividend on its Common Stock or otherwise makes a distribution on any class of capital stock that is payable in shares of Common Stock, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, or (iii) combines outstanding shares of Common Stock into a smaller number of shares, then in each such case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to clause (i) of this paragraph shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution, and any adjustment pursuant to clause (ii) or (iii) of this paragraph shall become effective immediately after the effective date of such subdivision or combination.

(b) Fundamental Transactions. If, at any time while this Warrant is outstanding there is a Fundamental Transaction, then the Holder shall have the right thereafter to receive, upon exercise of this Warrant, the same amount and kind of securities, cash or property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to such Fundamental Transaction, the holder of the number of Warrant Shares then issuable upon exercise in full of this Warrant (the "**Alternate Consideration**"). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. At the Holder's option and request, any successor to the Company or surviving entity in such Fundamental Transaction shall, either (1) issue to the Holder a new warrant substantially in the form of this Warrant and consistent with the foregoing provisions and evidencing the Holder's right to purchase the Alternate Consideration for the aggregate Exercise Price upon exercise thereof, or (2) purchase the Warrant from the Holder for a purchase price, payable in cash within five Trading Days after such request (or, if later, on the effective date of the Fundamental Transaction), equal to the Black Scholes value of the remaining unexercised portion of this Warrant on the date of such request. The terms of any agreement pursuant to which a Fundamental Transaction is effected shall include terms requiring any such successor or surviving entity to comply with the provisions of this paragraph (b) and insuring that the Warrant (or any such replacement security) will be similarly adjusted upon any subsequent transaction analogous to a Fundamental Transaction.

(c) Number of Warrant Shares. Simultaneously with any adjustment to the Exercise Price pursuant to this Section 9, the number of Warrant Shares that may be purchased upon exercise of this Warrant shall be increased or decreased proportionately, so that after such adjustment the aggregate Exercise Price payable hereunder for the adjusted number of Warrant Shares shall be the same as the aggregate Exercise Price in effect immediately prior to such adjustment.

(d) Calculations. All calculations under this Section 9 shall be made to the nearest cent or the nearest 1/100th of a share, as applicable. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company, and the disposition of any such shares shall be considered an issue or sale of Common Stock.

(e) Notice of Adjustments. Upon the occurrence of each adjustment pursuant to this Section 9, the Company at its expense will promptly compute such adjustment in accordance with the terms of this Warrant and prepare a certificate setting forth such adjustment, including a statement of the adjusted Exercise Price and adjusted number or type of Warrant Shares or other securities issuable upon exercise of this Warrant (as applicable), describing the transactions giving rise to such adjustments and showing in detail the facts upon which such adjustment is based. Upon written request, the Company will promptly deliver a copy of each such certificate to the Holder and to the Company's Transfer Agent.

(f) Notice of Corporate Events. If the Company (i) declares a dividend or any other distribution of cash, securities or other property in respect of its Common Stock, including without limitation any granting of rights or warrants to subscribe for or purchase any capital stock of the Company or any Subsidiary, (ii) authorizes or approves, enters into any agreement contemplating or solicits stockholder approval for any Fundamental Transaction or (iii) authorizes the voluntary dissolution, liquidation or winding up of the affairs of the Company, then the Company shall deliver to the Holder a notice describing the material terms and conditions of such transaction (but only to the extent such disclosure would not result in the dissemination of material, non-public information to the Holder) at least 10 calendar days prior to the applicable record or effective date on which a Person would need to hold Common Stock in order to participate in or vote with respect to such transaction, and the Company will take all steps reasonably necessary in order to insure that the Holder is given the practical opportunity to exercise this Warrant prior to such time so as to participate in or vote with respect to such transaction; provided, however, that the failure to deliver such notice or any defect therein shall not affect the validity of the corporate action required to be described in such notice.

10. Payment of Exercise Price. This Warrant may be exercised by the Holder as to the whole or any lesser number of the Warrant Shares covered hereby, upon surrender of this Warrant to the Company at its principal executive office together with the Notice of Exercise attached hereto as Exhibit A, duly completed and executed by the Holder, and payment to the Company of the aggregate Exercise Price for the Warrant Shares to be purchased in the form of (i) a check made payable to the Company, (ii) wire transfer according to the Company's instructions or (iii) any combination of (i) and (ii).

11. No Fractional Shares. No fractional shares of Warrant Shares will be issued in connection with any exercise of this Warrant. In lieu of any fractional shares which would, otherwise be issuable, the Company shall pay cash equal to the product of such fraction multiplied by the closing price of one Warrant Share as reported by the applicable Trading Market on the date of exercise.

12. Notices. Any and all notices or other communications or deliveries hereunder (including, without limitation, any Exercise Notice) shall be in writing and shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified in this Section prior to 6:30 p.m. (New York City time) on a Trading Day, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified in this Section on a day that is not a Trading Day or later than 6:30 p.m. (New York City time) on any Trading Day, (iii) the Trading Day following the date of mailing, if sent by nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. The addresses for such communications shall be: (i) if to the Company, to 420 Lexington Avenue, Suite 1701, New York, New York 10170, Attn: Chief Executive Officer, or to facsimile no.: (212) 297-0808 (or such other address as the Company shall indicate in writing in accordance with this Section), or (ii) if to the Holder, to the address or facsimile number appearing on the Warrant Register or such other address or facsimile number as the Holder may provide to the Company in accordance with this Section.

13. Warrant Agent. The Company shall serve as warrant agent under this Warrant. Upon 10 calendar days' notice to the Holder, the Company may appoint a new warrant agent. Any corporation into which the Company or any new warrant agent may be merged or any corporation resulting from any consolidation to which the Company or any new warrant agent shall be a party or any corporation to which the Company or any new warrant agent transfers substantially all of its corporate trust or shareholders services business shall be a successor warrant agent under this Warrant without any further act. Any such successor warrant agent shall promptly cause notice of its succession as warrant agent to be mailed (by first class mail, postage prepaid) to the Holder at the Holder's last address as shown on the Warrant Register.

14. Miscellaneous.

(a) This Warrant shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. Subject to the preceding sentence, nothing in this Warrant shall be construed to give to any Person other than the Company and the Holder any legal or equitable right, remedy or cause of action under this Warrant. This Warrant may be amended only in writing signed by the Company and the Holder and their successors and assigns.

(b) All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be governed by and construed and enforced in accordance with the internal laws of the State of New York (except for matters governed by corporate law in the State of Delaware), without regard to the principles of conflicts of law thereof. Each party agrees that all legal proceedings concerning the interpretations, enforcement and defense of this Warrant and the transactions herein contemplated ("**Proceedings**") (whether brought against a

party hereto or its respective Affiliates, employees or agents) shall be commenced exclusively in the New York Courts. Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any Proceeding, any claim that it is not personally subject to the jurisdiction of any New York Court, or that such Proceeding has been commenced in an improper or inconvenient forum. Each party hereto hereby irrevocably waives personal service of process and consents to process being served in any such Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Warrant and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Warrant or the transactions contemplated hereby. If either party shall commence a Proceeding to enforce any provisions of this Warrant, then the prevailing party in such Proceeding shall be reimbursed by the other party for its attorney's fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Proceeding.

(c) The headings herein are for convenience only, do not constitute a part of this Warrant and shall not be deemed to limit or affect any of the provisions hereof.

(d) In case any one or more of the provisions of this Warrant shall be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Warrant shall not in any way be affected or impaired thereby and the parties will attempt in good faith to agree upon a valid and enforceable provision which shall be a commercially reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Warrant.

(e) Prior to exercise of this Warrant, the Holder hereof shall not, by reason of being a Holder, be entitled to any rights of a stockholder with respect to the Warrant Shares.

IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed by its authorized officer as of the date first indicated above.

XENOMICS, INC.

By: _____
Name:
Title:

EXERCISE NOTICE
XENOMICS, INC.
WARRANT DATED ____, 2006

The undersigned Holder hereby irrevocably elects to purchase _____ shares of Common Stock pursuant to the above referenced Warrant. Capitalized terms used herein and not otherwise defined have the respective meanings set forth in the Warrant.

- (1) The undersigned Holder hereby exercises its right to purchase _____ Warrant Shares pursuant to the Warrant.
- (2) Pursuant to this Exercise Notice, the Company shall deliver to the holder _____ Warrant Shares in accordance with the terms of the Warrant.

Dated: _____, ____

Name of Holder:

(Print) _____

By: _____

Name: _____

Title: _____

(Signature must conform in all respects to name of holder as specified on the face of the Warrant)

Warrant Shares Exercise Log

<u>Date</u>	<u>Number of Warrant Shares Available to be Exercised</u>	<u>Number of Warrant Shares Exercised</u>	<u>Number of Warrant Shares Remaining to be Exercised</u>
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FORM OF ASSIGNMENT

[To be completed and signed only upon transfer of Warrant]

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the right represented by the above-captioned Warrant to purchase _____ shares of Common Stock to which such Warrant relates and appoints _____ attorney to transfer said right on the books of the Company with full power of substitution in the premises.

Dated: _____, ____

(Signature must conform in all respects to name of holder as specified on the face of the Warrant)

Address of Transferee

In the presence of:

SECURITIES PURCHASE AGREEMENT

This Securities Purchase Agreement (this "Agreement") is made as of ____, 2006 between Xenomics, Inc., a Florida corporation (the "Company"), and the investors listed on Exhibit A hereto, each of which is herein referred to as an "Investor" and collectively, the "Investors".

RECITALS:

WHEREAS, the Investors desire to purchase from the Company, and the Company desires to sell to the Investors, up to approximately 9,600,000 shares of the Company's common stock, par value \$0.0001 per share (the "Common Stock") and up to approximately 4,800,000 warrants to purchase shares of the Common Stock (the "Warrants"), upon the terms and subject to the conditions set forth herein;

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties hereto agree as follows:

1. PURCHASE AND SALE OF SECURITIES.

1.1 Purchase and Sale of Securities. Upon the terms and subject to the conditions of this Agreement, at the Closing (as defined below), the Company agrees to sell to the Investors, and each Investor agrees to purchase from the Company the number of shares of the Company's Common Stock and Warrants set forth opposite such Investor's name on Exhibit A hereto (collectively, the "Securities") at the per share purchase price of \$1.25 ("Purchase Price"). The Warrants shall be exercisable at \$2.00 per share for a period of 3 years from the date of issuance.

1.2 Closing. The closing of the purchase and sale of the Securities (the "Closing") shall take place at the offices of the Company at 5:00 p.m., Eastern time on ____, 2006, or such other location, time or date as the parties shall mutually agree, but only after the satisfaction or waiver of each of the conditions set forth in Sections 6 and 7 (the "Closing Date").

1.3 Deliveries. At the Closing, the Company shall deliver to each Investor at the address set forth on such Investor's signature page hereto, a certificate or certificates, registered in the name of the applicable Investor, representing the shares of Common Stock and Warrants purchased by such Investor, and each Investor shall deliver to the Company the aggregate Purchase Price, by wire transfer of immediately available funds to the following account:

HSBC Bank USA
950 Third Avenue
New York, NY 10022

A/C of Sichenzia Ross Friedman Ference LLP, IOLA
A/C# 629034125
ABA# 021001088

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REMARK: XENOMICS

2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

For purposes of this Section, all references to "Company" in Sections 2.1, 2.4 (with the exception of subsection (a) thereof), 2.7, 2.9 through 2.12, and 2.14 through 2.20 shall be deemed to be a reference to the Company and all of its direct and indirect subsidiaries. The Company hereby represents and warrants to each Investor that, except as set forth on a Schedule of Exceptions (the "Company Schedule of Exceptions") attached hereto as Schedule A, which exceptions shall be deemed to be representations and warranties as if made hereunder:

2.1 Corporate Organization. The Company is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, and has the requisite corporate power and authority to own or lease its properties and to carry on its business as now being conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the property owned or leased by it or the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or in good standing would not have, individually or in the aggregate, a Material Adverse Effect. For purposes of this Agreement, "Material Adverse Effect" shall mean, as to any entity, any material adverse effect on the business, operations, conditions (financial or otherwise), assets or results of operations of that entity individually or of the Company and its subsidiaries as a whole.

2.2 Capitalization; Organizational Documents.

(a) The authorized capital stock of the Company will consist immediately prior to the Closing of 100,000,000 shares of Common Stock, of which as of the date hereof, 19,247,367 shares are issued and outstanding, and 20,000,000 shares of preferred stock of the Company, of which, as of the date hereof, 134,840 shares of Series Convertible Preferred Stock are issued and outstanding. All of the issued and outstanding shares have been duly and validly issued and are fully paid and nonassessable and have been issued in accordance with all applicable federal and state securities laws. No shares of Common Stock are subject to preemptive rights or any other similar rights or any liens suffered or permitted by the Company. There are no preemptive rights or rights of first refusal or similar rights which are binding on the Company permitting any person to subscribe for or purchase from the Company shares of its capital stock pursuant to any provision of applicable law, the Certificate of Incorporation (as defined below) or the Company's By-laws. There are no securities or instruments containing anti-dilution or similar provisions that will be triggered by the issuance of the Securities, except for the anti-dilution provisions set forth in the Articles of Amendment Designating the Series A Convertible Preferred Stock of the Company. The Company has

made available to each Investor true and correct copies of the Company's Articles of Incorporation, as amended and as in effect on the date hereof (the "Articles of Incorporation"), and the Company's By-laws, as in effect on the date hereof (the "By-laws").

(b) Upon issuance of the Securities and payment of the Purchase Price therefor in accordance with the terms of this Agreement, the Securities will be duly authorized, validly issued, fully paid and nonassessable, and free and clear of any restrictions on transfer and

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any taxes, claims, liens, pledges, options, security interests, purchase rights, preemptive rights, trusts, encumbrances or other rights or interests of any other person (other than any restrictions under the Securities Act of 1933, as amended (the "Securities Act")).

2.3 Authorization; Enforcement. (a) The Company has the requisite corporate power and authority to enter into and perform its obligations under this Agreement and to issue, sell and perform its obligations with respect to the Securities in accordance with the terms hereof, (b) the execution and delivery of this Agreement by the Company and the consummation by it of the transactions contemplated hereby have been duly authorized by the Company's Board of Directors and its stockholders and no further consent or authorization is required by the Company, its Board of Directors or its stockholders, except as disclosed on the Company Schedule of Exceptions and (c) this Agreement has been duly executed and delivered by the Company. This Agreement, when executed and delivered by the Company, constitutes a valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of creditors' rights and remedies.

2.4 No Conflicts. The execution, delivery and performance of this Agreement by the Company, and the consummation by the Company of the transactions contemplated hereby, will not (a) result in a violation of the Articles of Incorporation or By-laws of the Company, or (b) violate or conflict with, or result in a breach of, any provision of, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of any lien on or against any of the material properties of the Company, any material note, bond, mortgage, agreement, license, indenture or instrument to which the Company is a party, or result in a violation of any statute, law, rule, regulation, writ, injunction, order, judgment or decree applicable to the Company or by which any property or asset of the Company is bound or affected, except where such violation, conflict, breach or other consequence would not have a Material Adverse Effect. Except as specifically contemplated by this Agreement and applicable blue sky laws, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental or regulatory or self-regulatory agency in order for it to execute, deliver or perform any of its obligations under or contemplated by this Agreement in accordance with the terms hereof. All consents, authorizations, orders, filings and registrations that the Company is required to obtain pursuant to the preceding sentence have been obtained or effected on or prior to the date hereof, except for those required pursuant to blue sky laws.

2.5 SEC Documents; Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by it with the Securities and Exchange Commission (the "SEC") pursuant to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act") (all of the foregoing, and all other documents and registration statements heretofore filed by the Company with the SEC being hereinafter referred to as the "SEC Documents"). The Common Stock is currently traded on the Over the Counter Bulletin Board. The Company has delivered or made available to each Investor true and complete copies of the SEC Documents. As of their respective dates, the SEC Documents complied in all material respects with the requirements of the Securities Act, and the

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Exchange Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC (except those SEC Documents that were subsequently amended), contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. Except as disclosed in the Company Schedule of Exceptions, as of their respective dates, the financial statements of the Company and its subsidiaries included (or incorporated by reference) in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC or other applicable rules and regulations with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles applied on a consistent basis during the periods involved (except (a) as may be otherwise indicated in such financial statements or the notes thereto, or (b) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present the financial position of the Company and its subsidiaries as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments).

2.6 Securities Law Exemption. Assuming the truth and accuracy of each Investor's representations set forth in this Agreement, the offer, sale and issuance of the Securities as contemplated by this Agreement are exempt from the registration requirements of the Securities Act and applicable state securities laws, and neither the Company nor any authorized agent acting on its behalf has taken or will take any action hereafter that would cause the loss of such exemption.

2.7 Litigation. All actions, suits, arbitrations or other proceedings or, to the Company's knowledge, investigations pending or threatened against the Company that would have a Material Adverse Effect on the Company, are disclosed in the SEC Documents. There is no action, suit, proceeding or, to the Company's knowledge, investigation that questions this Agreement or the right of the Company to execute, deliver and perform under same.

2.8 Use of Proceeds. The net proceeds from the sale of the Securities shall be used solely for general corporate and working capital purposes.

2.9 Intellectual Property. The Company owns, or has the contractual right to use, sell or license all intellectual property necessary or required for the conduct of its business as presently conducted and as proposed to be conducted, including, without limitation, all trade secrets, processes,

source code, licenses, trademarks, service marks, trade names, logos, brands, copyrights, patents, franchises, domain names and permits. The Company has not received any communications alleging that the Company has violated or, by conducting its business presently conducted violates or will violate any intellectual property rights of any other person or entity.

2.10 Title to Property and Assets. The Company has good and marketable title to or, in the case of leases and licenses, has valid and subsisting leasehold interests or licenses in, all of its properties and assets (whether real or personal, tangible or intangible) free and clear of any liens or other encumbrances, except for liens or other encumbrances that do not, individually or in the aggregate, have a Material Adverse Effect. With respect to property leased by the

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Company, the Company has a valid leasehold interest in such property pursuant to leases which are in full force and effect, and the Company is in compliance in all material respects with the provisions of such leases.

2.11 Compliance with Laws. The Company is in compliance with all laws, rules, regulations, orders, judgments or decrees that are applicable to the Company, the conduct of its business as presently conducted, and the ownership of its property and assets (including, without limitation, all Environmental Laws (as defined below) and laws related to occupational safety, health, wage and hour, and employment discrimination). All required reports and filings with governmental authorities have been properly made as and when required, except where the failure to report or file would not, individually or in the aggregate, have a Material Adverse Effect. "Environmental Laws" means all federal, state, local and foreign laws, ordinances, treaties, rules, regulations, guidelines and permit conditions relating to contamination or pollution of the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or the protection of human health and worker safety, including, without limitation, laws and regulations relating to transportation, storage, use, manufacture, disposal or release of, or exposure of employees or others to, Hazardous Materials (as defined below) or emissions, discharges, releases or threatened releases of Hazardous Materials. "Hazardous Materials" means any substance that has been designated by any governmental entity or by applicable Environmental Laws to be radioactive, toxic, hazardous or otherwise a danger to health or the environment, including, without limitation, PCBs, asbestos, petroleum, urea formaldehyde and all substances listed as hazardous substances pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, or defined as a hazardous waste pursuant to the Resource Conservation and Recovery Act of 1976, as amended, and the regulations promulgated pursuant to Environmental Laws, but excluding office and janitorial supplies maintained in accordance with Environmental Laws.

2.12 Licenses and Permits. The Company has obtained and maintains all material federal, state, local and foreign licenses, permits, consents, approvals, registrations, memberships, authorizations and qualifications required to be maintained in connection with the operations of the Company as presently conducted, the lack of which could have a Material Adverse Effect. The Company is not in default in any material respect under any of such licenses, permits, consents, approvals, registrations, memberships, authorizations and qualifications.

2.13 Related Entities. Except for the Subsidiaries set forth on the Company Schedule of Exceptions, the Company does not presently own or control, directly or indirectly, any interest in any other subsidiary, corporation, association or other business entity. Except for SpaXen Italia, S.R.L., the Company is not a party to any joint venture, partnership or similar arrangement.

2.14 Changes. Except as disclosed on the Company Schedule of Exceptions and in the SEC Documents, since January 31, 2006, the Company has operated its business diligently and in the ordinary course of business and, to the knowledge of the Company, there has not been, or the Company has not (as the case may be):

- (a) any Material Adverse Effect;

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- (b) any damage, destruction or loss, whether or not covered by insurance, which would have a Material Adverse Effect;

- (c) any waiver or compromise by the Company of a valuable right or of a material debt owed it;

- (d) sold, encumbered, assigned or transferred any material assets or properties of the Company, other than in the ordinary course of business;

- (e) incurred any liability, whether accrued, absolute, contingent or otherwise, and whether due or to become due, other than (i) in the ordinary course of business or (ii) liabilities that are not, individually or in the aggregate, material to the business, operations, condition (financial or otherwise), assets or results of operations of the Company;

- (f) created, incurred, assumed or guaranteed any indebtedness or subjected any of its assets to any lien or encumbrance, except for indebtedness, liens or encumbrances that are not, individually or in the aggregate, material to the business, operations, condition (financial or otherwise), assets or results of operations of the Company;

- (g) directly or indirectly redeemed, purchased or otherwise acquired any shares of capital stock of the Company;

- (h) declared, set aside or paid any dividends or made any other distributions in cash or property on the Company's capital stock;

(i) except in the ordinary course of business of the Company, materially increased the compensation payable or to become payable by the Company to any of its officers, employees or directors or materially increased any bonus, insurance, pension or other employee benefit plan, payment or arrangement made by the Company for or with any such officers, employees or directors;

(j) made any direct or indirect loan to any stockholder, employee, officer or director of the Company, other than advances made in the ordinary course of business;

(k) changed any agreement to which the Company is a party which would have a Material Adverse Effect; or

(l) entered into any agreement or commitment to do any of the things described in this Section 2.14.

2.15 Employee Benefit Plans. All “employee benefit plans,” as such term is defined in the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), to which the Company has any liability or obligation, contingent or otherwise, comply in all material respects and have been maintained and administered in material compliance with

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ERISA, the Internal Revenue Code of 1986, as amended (the “Code”), and all other statutes, orders and governmental rules and regulations applicable to such employee benefit plans.

2.16 Insurance. The Company has in full force and effect fire, casualty and liability insurance policies sufficient in amount (subject to reasonable deductibles) to allow the Company to replace any of its properties that might be damaged or destroyed to the extent and in the manner customary for companies in similar business similarly situated.

2.17 Employees. The Company does not have any collective bargaining agreements with any of its employees. There is no labor union organizing activity pending or, to the Company’s knowledge, threatened with respect to the Company.

2.18 Material Contracts. All contracts, agreements, instruments, leases, licenses, arrangements, understandings or other documents filed with or required to be filed as exhibits to the SEC Documents to which the Company therein is a party or by which it may be bound have been so filed (the “Material Contracts”). The Material Contracts that have been filed as exhibits are complete and correct copies of the contracts, agreements, instruments, leases, licenses, arrangement, understanding or other documents of which they purport to be copies. The Material Contracts are valid and in full force and effect as to the Company, and, to the Company’s knowledge, to the other parties thereto.

2.21 Brokers and Finders. Except as disclosed in the Schedule of Exceptions, the Company has not employed any broker, finder, consultant or intermediary in connection with the transactions contemplated by this Agreement that would be entitled to a broker’s, finder’s or similar fee or commission in connection herewith and therewith.

2.22 Disclosure. This Agreement, Schedules and Exhibits hereto and all other documents delivered to the Investors in connection herewith or therewith at the Closing, do not contain any untrue statement of a material fact, or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. There are no facts that, individually or in the aggregate, would have a Material Adverse Effect that have not been disclosed to each Investor in this Agreement (including the Schedules and Exhibits hereto), the SEC Documents or any other documents delivered to each Investor in connection herewith or therewith at the Closing.

3. REPRESENTATIONS AND WARRANTIES OF INVESTOR.

Each of the Investors, severally and not jointly, hereby represents and warrants to the Company as to itself and not as to any other Investor, that:

3.1 Organization. The Investor represents and warrants to, and covenants with, the Company that the Investor has full right, power, authority and capacity to enter into this Agreement and to consummate the transactions contemplated hereby.

3.2 Authorization; Enforcement. (a) The Investor has the requisite power and authority to enter into and perform its obligations under this Agreement, (b) the execution and delivery of this Agreement by the Investor and the consummation by it of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of

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the Investor, and (c) this Agreement has been duly executed and delivered by the Investor. To the knowledge of the Investor, no other proceedings on the part of the Investor are necessary to approve and authorize the execution and delivery of this Agreement. This Agreement, when executed and delivered, constitutes a valid and binding obligation of the Investor, enforceable against the Investor in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of creditors’ rights and remedies.

3.3 No Conflicts. The execution, delivery and performance of this Agreement by the Investor, and the consummation by the Investor of the transactions contemplated hereby will not (a) result in a violation of the organizational documents of the Investor, or (b) result in a violation of any statute, law, rule, regulation, writ, injunction, order, judgment or decree applicable to the Investor, except where such violation, conflict, breach or other consequence would not have a Material Adverse Effect. The Investor is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental or regulatory or self-regulatory agency in order for it to execute, deliver or perform any of its obligations under or contemplated by this Agreement in accordance with the terms hereof.

3.4 Investment Representations.

(a) The Investor is an “accredited investor”, as defined in Regulation D promulgated under the Securities Act, and has such knowledge, sophistication and experience in financial and business matters that the Investor is capable of evaluating the merits and risks of the investment in the Securities.

(b) The Investor (i) has adequate means of providing for its current financial needs and possible contingencies, and has no need for liquidity of investment in the Company, (ii) can afford to hold unregistered Securities for an indefinite period of time and sustain a complete loss of the entire amount of the subscription, and (iii) has not made an overall commitment to investments which are not readily marketable that is so disproportionate as to cause such overall commitment to become excessive.

(c) The Investor agrees and understands that the Securities are being offered and sold to the Investor in reliance upon specific exemptions from the registration requirements of the Securities Act and the rules and regulations promulgated thereunder and that, in order to determine the availability of such exemptions and the eligibility of the Investor to acquire the Securities, the Company is relying upon the truth and accuracy of the Investor’s representations and warranties, and compliance with the Investor’s covenants and agreements, set forth in this Agreement. The Investor further agrees with the Company that (i) no Securities were offered or sold to the Investor by means of any form of general solicitation or general advertising, and in connection therewith, the Investor did not (1) receive or review any advertisement, article, notice or other communication published in a newspaper or magazine or similar media or broadcast over television or radio, whether closed circuit or generally available; or (2) attend any seminar meeting or industry investor conference whose attendees were invited by any general solicitation or general advertising. The Investor hereby acknowledges that the offering of the Securities has not been reviewed by the SEC or any state regulatory authority

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since the offering of the Securities is intended to be exempt from the registration requirements of Section 5 of the Securities Act pursuant to Regulation S promulgated thereunder. The Investor understands that the Securities have not been registered under the Securities Act and agrees not to sell or otherwise transfer the Securities unless they are registered under the Securities Act or unless an exemption from such registration is available.

(d) The Investor is not acquiring the Securities for the account or benefit of, directly or indirectly, any U.S. Person. The Investor is not a U.S. Person. The Investor is acquiring the Securities for investment only and not with a view to resale or distribution and, in particular, it has no intention to distribute either directly or indirectly any of the Securities in the United States or to U.S. Persons. The Investor acknowledges that the Investor has not acquired the Securities as a result of, and will not itself engage in, any “directed selling efforts” (as defined in Regulation S under the 1933 Act) in the United States in respect of the Securities which would include any activities undertaken for the purpose of, or that could reasonably be expected to have the effect of, conditioning the market in the United States for the resale of the Securities; provided, however, that the Investor may sell or otherwise dispose of the Securities pursuant to registration of the Securities pursuant to the 1933 Act and any applicable state and provincial securities laws or under an exemption from such registration requirements and as otherwise provided herein.

(e) The Investor has had access to the Company’s SEC Documents and other public filings.

(f) With respect to corporate tax and other economic considerations involved in an investment in the Securities, the Investor is not relying on the Company. The Investor has carefully considered and has, to the extent the Investor believes such discussion necessary, discussed with its professional legal, tax, accounting and financial advisors the suitability of an investment in the Securities for its particular tax and financial situation and has determined that the Securities are a suitable investment for the Investor.

(g) The Company has made available to the Investor all documents and information that the Investor has requested relating to an investment in the Securities.

(h) Subject to the Company’s disclosures in this Agreement and the SEC Documents, the Investor recognizes that the Company has generated no revenues to date, is not expected to have any products commercially available for a number of years, if at all, and that investment in the Company involves substantial risks, including loss of the entire amount of such investment and has taken full cognizance of and understands all of the risk factors relating to the purchase of the Securities.

(i) The Investor has not been formed for the specific purpose of acquiring the Securities.

4. COVENANTS.

4.1 Confidentiality. Each Investor hereby acknowledges that unauthorized disclosure of information regarding the offering of the Securities pursuant to this Agreement may cause the Company to violate Regulation FD and each Investor agrees to keep such information

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confidential. The Company shall not publicly disclose the name of any Investor, or include the name of any Investor in any filing with the Commission or any regulatory agency or trading market, without the prior written consent of such Investor, except (i) as required by the federal securities laws and in connection with the registration statement contemplated by this Agreement and (ii) to the extent such disclosure is required by law or trading market regulations.

4.2 Restrictions on Transfer.

(a) Each Investor hereby agrees, severally and not jointly, that, except in accordance with a registration statement filed pursuant to Section 5.2 of this Agreement, it will not dispose of any of such Investor’s Securities (other than pursuant to Rule 144 promulgated under the Securities Act (“Rule 144”) or pursuant to a registration statement filed with the SEC pursuant to the Securities Act) unless and until such Investor shall have

(A) notified the Company of the proposed disposition and shall have furnished the Company with a statement of the circumstances surrounding the proposed disposition and (B) if requested by the Company, furnished the Company with an opinion of counsel, reasonably satisfactory in form and substance to the Company and the Company's counsel, to the effect that such disposition will not require registration under the Securities Act. The restrictions on transfer imposed by this Section 4.2 shall cease and terminate as to the Securities held by an Investor when: (x) such Securities shall have been effectively registered under the Securities Act and sold by the holder thereof in accordance with such registration, or (y) on delivery of an opinion of the kind described in the preceding sentence with respect to such Securities. Each certificate evidencing the Securities shall bear an appropriate restrictive legend as set forth in Section 4.2(b), except that such legend shall not be required after a transfer is made in compliance with Rule 144 or pursuant to a registration statement or if the opinion of counsel referred to above is issued and provides that such legend is not required in order to establish compliance with any provisions of the Securities Act. The Company agrees that pursuant to the prior sentence, it will, no later than five Business Days ("Business Day" shall mean any day banks are open for business in New York, New York) following (a) receipt by the Company's transfer agent of a certificate representing Securities issued with a restrictive legend, accompanied by a certification of the Investor in form suitable for processing by the Company that a prospectus has been delivered (in the case of sale pursuant to prospectus, a "Prospectus Letter") or customary supporting documentation, including legal opinion if required pursuant to Clause (B) above, "Supporting Documentation") and (b) receipt by the Company of notice of such delivery to the transfer agent and Prospectus Letter or Supporting Documentation, as the case may be (such notice to be sent by facsimile to the attention of the Company's president and CEO at the fax number set forth in Section 8.6 hereof) deliver or cause to be delivered (evidence of deposit for next day delivery with a nationally recognized overnight delivery service shall be deemed delivery) to such Investor a certificate representing such Securities that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to any transfer agent of the Company that enlarge the restrictions on transfer set forth in this Section. In the event the Prospectus Letter or Supporting Documentation is not in form suitable for processing by to the Company, the five Business Days shall toll until the Company receives a Prospectus Letter or Supporting Documentation that is in form suitable for processing.

(b) Notwithstanding the provisions of Section 4.2(a), no registration statement or opinion of counsel shall be necessary for a transfer by an Investor of the Securities

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to a subsidiary, member, partner, stockholder or affiliate of that Investor, if the transferee agrees in writing to be subject to the terms hereof to the same extent as if such transferee were an Investor hereunder.

(c) It is understood that, subject to Sections 4.2(a) and 4.2(b), the certificates evidencing the Securities will bear the following legends:

(i) THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE "SECURITIES ACT") OR UNDER APPLICABLE STATE SECURITIES LAWS AND MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF UNLESS REGISTERED UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AVAILABLE EXEMPTIONS FROM SUCH REGISTRATION, PROVIDED THAT THE SELLER DELIVERS TO THE COMPANY AN OPINION OF COUNSEL (WHICH OPINION IS REASONABLY SATISFACTORY TO THE COMPANY) CONFIRMING THE AVAILABILITY OF SUCH EXEMPTION.

(ii) Any legend required by the laws of any other applicable jurisdiction.

4.3 Securities Compliance. The Company shall take all action necessary to comply with any federal or state securities laws applicable to the transactions contemplated hereunder.

5. REGISTRATION RIGHTS.

5.1 Registrable Shares. As used herein the term "Registrable Security" means (a) each of the Shares, (b) the shares of Common Stock of the Company issuable upon exercise of the Warrants and (c) any Common Stock of the Company issued as (or issuable on the conversion or exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange for, or in replacement of, the shares referenced in clause (a) above; *provided, however*, that with respect to any particular Registrable Security held by an Investor, such security shall cease to be a Registrable Security when, as of the date of determination, (a) it has been effectively registered under the Securities Act and disposed of pursuant thereto, or (b) registration under the Securities Act is no longer required for the immediate public distribution of any particular Registrable Shares held by that Investor and its affiliates. In the event of any merger, reorganization, consolidation, recapitalization or other change in corporate structure affecting the Common Stock, such adjustment shall be made in the definition of "Registrable Security" as is appropriate in order to prevent any dilution or enlargement of the rights granted pursuant to this Section 5.

5.2 Mandatory Registration.

(a) On or before 90 days following the Closing Date, the Company shall prepare and file with the Commission the Registration Statement covering the resale of all of the Registrable Shares for an offering to be made on a continuous basis pursuant to Rule 415 (the "Required Filing Date"). The Registration Statement required hereunder shall be on Form SB-2 (except if the Company is not then eligible to register for resale the Registrable Shares on Form

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SB-2, in which case the Registration Statement shall be on another appropriate form in accordance herewith). The Company shall use its commercially reasonable efforts to cause the Registration Statement to be declared effective under the Securities Act as promptly as possible after the filing thereof, but in any event not later than the 120th day after the Closing Date, if no review by the SEC or the 150th day if reviewed by the SEC (the "Effectiveness Date"), and shall use its commercially reasonable efforts to keep the Registration Statement continuously effective under the Securities Act until the earlier of the date when all Registrable Shares covered by the Registration Statement (a) have been sold pursuant to the Registration Statement or an exemption from the

registration requirements of the Securities Act or (b) may be sold without volume restrictions pursuant to Rule 144(k) as determined by the counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Company's transfer agent and the affected Investors or (c) the second anniversary of the date on which the Registration Statement is declared effective (the "Effectiveness Period") or such longer time as the Company may determine.

(b) If: (i) the Registration Statement is not filed on or prior to its Required Filing Date or (ii) the Company fails to file with the Commission a request for acceleration in accordance with Rule 461 promulgated under the Securities Act, within five business days of the date that the Company is notified (orally or in writing, whichever is earlier) by the Commission that a Registration Statement will not be "reviewed", or not subject to further review, or (iii) a Registration Statement filed or required to be filed hereunder is not declared effective by the Commission on or before the required Effectiveness Date, or (iv) after a Registration Statement is first declared effective by the Commission, it ceases for any reason to remain continuously effective as to all Registrable Securities for which it is required to be effective, or the Investors are not permitted to utilize the Prospectus therein to resell such Registrable Securities, for in any such cases 75 business days (which need not be consecutive days) in the aggregate during any 12-month period (any such failure or breach being referred to as an "Event") and for purposes of clause (i) or (iii) the date on which such Event occurs, or for purposes of clause (ii) the date on which such five business day period is exceeded, or for purposes of clause (iv) the date on which such 75 business day period is exceeded, being referred to as "Event Date", then in addition to any other rights the Investors may have hereunder or under applicable law the Company shall pay to each Investor an amount in cash, as liquidated damages and not as a penalty, equal to 1% of the aggregate purchase price paid by such Investor pursuant to this Agreement for any Registrable Securities then held by such Investor on each monthly anniversary of each such Event Date (if the applicable Event shall not have been cured by such date) until the applicable Event is cured. The liquidated damages pursuant to the terms hereof shall apply on a pro-rata basis for any portion of a month prior to the cure of an Event and shall not exceed an aggregate of 8% of the aggregate purchase price paid by the Investors pursuant to this Agreement.

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(c) Notwithstanding the foregoing, if the Company shall furnish to the Investors a certificate signed by the Chief Executive Officer of the Company stating that in the good faith judgment of the Board of Directors of the Company it would not be in the best interest of the Company for such registration statement to be filed, the Company shall have the right to defer taking such action with respect to such filing for a period of not more than seventy-five (75) days after the date of such certificate; provided, however, that the Company shall not defer its obligation in this manner more than once in any twelve (12) month period.

(d) In the event, the Investor fails to provide the Company with any information that is required to be provided in the Registration Statement with respect to such Investor pursuant to Section 5.3(k) within ten (10) days of receiving a request for such information from the Company, the Company shall send an additional request to the Investor (the "Additional Request") and in the event the Investor fails to respond to the Company within five (5) days of receipt of the Additional Request, the Company shall be entitled to exclude such Investor's Registrable Shares from the Registration Statement.

5.3 Covenants of the Company With Respect to Registration.

The Company covenants and agrees as follows:

(a) Not less than five business days prior to the filing of the Registration Statement or any related Prospectus or any amendment or supplement thereto, furnish to the Investors copies of all such documents proposed to be filed (including documents incorporated or deemed incorporated by reference to the extent requested by such person), which documents will be subject to the review of such Investors within such five business days. The Company shall not file the Registration Statement or any such Prospectus or any amendments or supplements thereto to which the holders of a majority of the Registrable Shares shall reasonably object in good faith based on the advice of counsel and the Company shall make reasonable efforts to address the objections raised. In the event the holders of a majority of the Registrable Shares object to any such filing pursuant to the previous sentence, then the Required Filing Date or Effectiveness Date, as the case may be, shall be extended by the number of days that elapse between the date the Company is notified of the objection until the day following the date the Company has been notified that such objection no longer exists.

(b) Following the effective date of the Registration Statement under Section 5.2, the Company shall, upon the request of the Investors, forthwith supply such reasonable number of copies of the Registration Statement, preliminary prospectus and prospectus meeting the requirements of the Securities Act, and other documents necessary or incidental to the public offering of the Registrable Shares, as shall be reasonably requested by the Investors to permit the Investors to make a public distribution of the Registrable Shares registered in connection with the Registration Statement.

(c) The Company shall prepare and file with the SEC such amendments and supplements to such Registration Statement and the prospectus used in connection with such Registration Statement as may be necessary to comply with the Securities Act with respect to the disposition of all Shares covered by such Registration Statement during the period of time such Registration Statement remains effective;

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(d) The Company shall use its commercially reasonable efforts to register and qualify the Shares covered by such Registration Statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Investors; provided that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions;

(e) During the period of time such Registration Statement remains effective, the Company shall notify each Investor of Registrable Shares covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act or the happening of any event as a result of which the prospectus included in such Registration Statement, as then in effect, includes an untrue statement of a material fact or

omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing;

(f) The Company shall use its commercially reasonable efforts to cause all such Registrable Shares registered hereunder to be listed on each securities exchange on which securities of the same class issued by the Company are then listed;

(g) The Company shall provide a transfer agent and registrar for all Registrable Shares registered hereunder and a CUSIP number for all such Registrable Shares, in each case not later than the effective date of such registration; and

(k) The obligations of the Company hereunder with respect to the Registrable Shares are subject to the Investors' furnishing to the Company such information concerning the Investors, the Registrable Shares and the terms of the Investors' offering of such Registrable Shares as are required to be included in the Registration Statement by Commission regulations or pursuant to a specific Commission comment on the Registration Statement.

5.4 Expenses. All expenses incurred in effecting a registration pursuant to this Agreement (including, without limitation, all registration, qualification and filing fees, printing expenses, fees and disbursements of counsel for the Company, blue sky fees and expenses) shall be borne by the Company. All transfer taxes, underwriting discounts and selling commissions applicable to the sale of the Registrable Shares shall be borne by the Investors thereof.

5.5 Indemnification. In the event any Registrable Shares are included in a Registration Statement under this Section 5:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Investor, the partners, officers, directors, stockholders, members and managers of such Investor, each person, if any, who controls such Investor within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages, or liabilities (joint or several) to which they may become subject under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (each, a "Violation"): (i) any untrue statement or alleged untrue statement of a material fact contained in such Registration Statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission

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or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law; and the Company will pay to each such Investor, underwriter or controlling person, as incurred, any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability, or action; *provided, however*, that the indemnity agreement contained in this Section 5.5(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability, or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld or delayed), nor shall the Company be liable to any Investor, underwriter or controlling person for any such loss, claim, damage, liability, or action to the extent that it arises out of or is based upon a Violation which occurs in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by any such Investor, underwriter or controlling person.

(b) To the extent permitted by law, each selling Investor will indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the Registration Statement, each person, if any, who controls the Company within the meaning of the Securities Act, against any losses, claims, damages, or liabilities (joint or several) to which any of the foregoing persons may become subject, under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished by such Investor expressly for use in connection with such registration; and each such Investor will pay, as incurred, any legal or other expenses reasonably incurred by any person indemnified pursuant to this Section 5.5(b), in connection with investigating or defending any such loss, claim, damage, liability, or action; *provided, however*, that the indemnity agreement contained in this Section 5.5(b) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Investor (which consent shall not be unreasonably withheld or delayed); *provided further* that in no event shall any indemnity under this Section 5.5(b) exceed the net proceeds from the offering received by such Investor.

(c) Promptly after receipt by an indemnified party under this Section 5.5 of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 5.5, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; *provided, however*, that an indemnified party (together with all other indemnified parties which may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the reasonable fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the

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indemnifying party within a reasonable time after receipt of notice of the commencement of any such action, if prejudicial to its ability to defend such action, shall relieve such indemnifying party of any liability to the indemnified party under this Section 5.5, but the omission so to deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 5.5.

(d) If the indemnification provided for in this Section 5.5 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any loss, liability, claim, damage or expense referred to therein, then the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such loss, liability, claim, damage, or expense in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the statements or omissions that resulted in such loss, liability, claim, damage or expense as well as any other relevant equitable considerations; *provided* that in no event shall any contribution by an Investor under this Section 5.5(d) exceed the net proceeds from the offering received by such Investor. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

(f) The obligations of the Company and Investors under this Section 5.5 shall survive the completion of any offering of Registrable Shares in a registration statement and the termination of this Agreement.

5.6 Suspension of Sales.

(a) With respect to the Registration Statement filed pursuant to Section 5.2, subject to the payment of any liquidated damages which may accrue pursuant to Section 5.2(b)(iv), the Company may suspend sales of Registrable Shares under such Registration Statement for a period of not more than seventy-five (75) days in any twelve (12) month period with respect to such Registration Statement if, at any time the Company is engaged in confidential negotiations or other confidential business activities, the disclosure of which would be required if such sales were not suspended and the Board of Directors of the Company determines in good faith that such suspension would be in the Company's best interest at such time; *provided*, that the Company shall not be permitted to suspend such sales for more than seventy-five (75) days in any twelve (12) month period. In order to suspend sales pursuant to this Section 5.6(a), the Company shall promptly (but in any event within five (5) business days), upon determining to seek such suspension, deliver to each holder of Registrable Shares a certificate signed by an executive officer of the Company stating that the Company is suspending such filing pursuant to this Section 5.6(a). Each holder of Registrable Shares hereby agrees to

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keep confidential any information disclosed to it in any such certificate (including the fact that a certificate was delivered).

(b) If the Company suspends such Registration Statement pursuant to Section 5.6(a) above, the Company shall, as promptly as practicable following the termination of the circumstances which entitled the Company to do so but in no event more than fifteen (15) days thereafter, take such actions as may be necessary to file or reinstate the effectiveness of such Registration Statement and/or give written notice to the selling Investors authorizing them to resume sales pursuant to such Registration Statement. If, as a result thereof, the prospectus included in such Registration Statement has been amended to comply with the requirements of the Securities Act, the Company shall enclose such revised prospectus with the notice to the selling Investors given pursuant to this Section 5.6(b), and the selling Investors shall make no offers or sales of Shares pursuant to such Registration Statement other than by means of such revised prospectus.

5.7 Transfer or Assignment of Registration Rights. The rights to cause the Company to register Registrable Shares granted to an Investor by the Company under this Section 5 may be transferred or assigned by an Investor to a transferee or assignee of such Registrable Shares that (i) is a subsidiary, parent, current or former partner, current or former limited partner, current or former member, current or former manager or stockholder of an Investor, (ii) is an entity controlling, controlled by or under common control, or under common investment management, with an Investor, including without limitation a corporation, partnership or limited liability company that is a direct or indirect parent or subsidiary of the Investor, or (iii) is a transferee or assignee of not less than 50,000 shares of Registrable Shares (as presently constituted and subject to subsequent adjustments for stock splits, stock dividends, reverse stock splits and the like), *provided* that the Company is given written notice at the time of or within a reasonable time after said transfer or assignment, stating the name and address of said transferee or assignee and identifying the Securities with respect to which such registration rights are being transferred or assigned, and *provided further* that the transferee or assignee of such rights assumes the obligations of such Investor under this Section 5.

5.8 Reports Under Exchange Act. With a view to making available to the Investors the benefits of Rule 144 promulgated under the Securities Act and any other rule or regulation of the SEC that may at any time permit an Investor to sell Securities of the Company to the public without registration, the Company agrees to:

- (a) Make and keep public information available, as those terms are used in SEC Rule 144, at all times;
- (b) File with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act;
- (c) Furnish to any Investor, so long as the Investor owns any Registrable Shares, forthwith on request, (i) a written statement by the Company that it has complied with the reporting requirements of SEC Rule 144, the Securities Act and the Exchange Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be

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reasonably requested in availing any Investor of any rule or regulation of the SEC that permits the selling of any such securities without registration; and

(d) Undertake any additional actions reasonably necessary to maintain the availability of the use of Rule 144.

5.9 Delay of Registration. No Investor shall have any right to obtain or seek an injunction restraining or otherwise delaying any registration as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 5.

6. CONDITIONS TO INVESTOR OBLIGATIONS AT CLOSING.

The obligations of the Investors to purchase the Securities at the Closing are subject to the fulfillment on or prior to the Closing of each of the following conditions:

6.1 Representations and Warranties. The representations and warranties of the Company contained in Section 2 shall be true in all material respects on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date, except that any representations and warranties stated as being true and correct as of a date other than the date hereof shall be true and correct as of such other date.

6.2 Performance. The Company shall have performed and complied with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Closing.

6.3 Qualifications. All authorizations, approvals, or permits, if any, of any governmental authority or regulatory body of the United States or of any state of the United States that are required in connection with the lawful issuance and sale of the Securities to the Investors pursuant to this Agreement shall have been duly obtained and shall be effective on and as of the Closing.

6.4 Proceedings and Documents. All corporate and other proceedings undertaken in connection with the transactions contemplated at the Closing and all documents incident thereto shall be reasonably satisfactory in form and substance to each Investor, and they shall have received all such counterpart original and certified or other copies of such documents as they may reasonably request.

6.5 Absence of Litigation. No proceeding challenging this Agreement or the transactions contemplated hereby or thereby, or seeking to prohibit, alter, prevent or delay the Closing, shall have been instituted against the Company before any court, arbitrator or governmental body, agency or official and shall be pending.

6.6 Compliance Certificate. The Company shall deliver to the Investors at the Closing, relating to the Investors' purchase of Securities, a certificate signed by the Chief Executive Officer of the Company stating that the Company has complied with or satisfied each of the conditions to the Investors' obligation to consummate the Closing set forth in Sections 6.1 through 6.5, unless waived in writing by the Investors.

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6.7 Legal Prohibition. The purchase of the Securities by the Investors shall not be prohibited by any law or governmental order or regulation.

7. CONDITIONS TO THE COMPANY'S OBLIGATIONS AT CLOSING.

The obligations of the Company under Section 1 of this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions:

7.1 Representations and Warranties. The representations and warranties of each Investor contained in Section 3 shall be true in all respects on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date, except that any representations and warranties stated as being true and correct as of a date other than the date hereof shall be true and correct as of such other date.

7.2 Performance. Each Investor shall have performed and complied with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Closing.

7.3 Qualifications. All authorizations, approvals, or permits, if any, of any governmental authority or regulatory body of the United States or of any state of the United States that are required in connection with the lawful issuance and sale of the Securities to the Investors pursuant to this Agreement shall have been duly obtained and shall be effective on and as of the Closing.

7.4 Proceedings and Documents. All corporate and other proceedings undertaken in connection with the transactions contemplated by this Agreement and all documents incident thereto shall be reasonably satisfactory in form and substance to the Company and its counsel, and they shall have received all such counterpart original and certified or other copies of such documents as they may reasonably request.

8. MISCELLANEOUS.

8.1 Survival of Warranties. The warranties, representations, agreements, covenants and undertakings of the Company or the Investors contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing and shall in no way be affected by any investigation of the subject matter thereof made by or on behalf of the Investors or the Company.

8.2 Incorporation by Reference. All Exhibits and Schedules appended to this Agreement are herein incorporated by reference and made a part hereof.

8.3 Successor and Assignees. All terms, covenants, agreements, representations, warranties and undertakings in this Agreement made by and on behalf of any of the parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto (including transferees of any Securities) whether so expressed or not, subject to Section 5.7.

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8.4 Amendments and Waivers. Neither this Agreement nor any provision hereof shall be waived, modified, changed, discharged, terminated, revoked or canceled except by an instrument in writing signed by the party against whom any change, discharge or termination is sought. Failure of either party to exercise any right or remedy under this Agreement or any other agreement between the Company and the Investors, or otherwise, or delay by the Company or the Investors in exercising such right or remedy, will not 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.

8.5 Governing Law. This Agreement shall be deemed a contract made under the laws of the State of New York, without giving effect to the conflicts of law principles thereof.

8.6 Notices. All notices, requests, consents, demands, notice or other communication required or permitted under this Agreement shall be in writing and shall be deemed duly given and received when delivered personally or transmitted by facsimile, or one business day after being deposited for next-day delivery with a nationally recognized overnight delivery service, or three days after being deposited as first class mail with the United States Postal Services, all charges or postage prepaid, and properly addressed:

to the Company at:

Xenomics, Inc.
420 Lexington Avenue, Suite 1701
New York, New York 10170
Tel: (212) 297-0808
Fax: (212) 297-1888
Attention: Chief Executive Officer

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

Sichenzia Ross Friedman Ference LLP
1065 Avenue of the Americas
New York, New York 10018
Fax: (212) 930-9725
Attention: Jeffrey J. Fessler

or to the Investors at the address set forth opposite each Investor's name on Exhibit A hereto

or such other address as may be furnished in writing by a party hereto.

8.7 Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute one and the same instrument.

8.8 Effect of Headings. The section and paragraph headings herein are included for convenience only and shall not affect the construction hereof.

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8.9 Entire Agreement. This Agreement and the Exhibits and Schedules hereto and thereto constitute the entire agreement among the Company and the Investors with respect to the subject matter hereof. There are no representations, warranties, covenants or undertakings with respect to the subject matter hereof other than those expressly set forth herein. This Agreement supersedes all prior agreements between the parties with respect to the Securities purchased hereunder and the subject matter hereof.

8.10 Publicity. Neither party shall originate any publicity, news release or other public announcement, written or oral, whether relating to the performance under this Agreement or the existence of any arrangement between the parties, without the prior written consent of the other party (which consent shall not be unreasonably withheld or delayed), except where such publicity, news release or other public announcement is required by law or by Section 4.1; *provided* that, in such event, each such party shall (a) promptly consult the other party in connection with any such publicity, news release or other public announcement prior to its release; (b) promptly provide the other party a copy thereof; and (c) use commercially reasonable efforts to ensure that such portions of such information as may reasonably be designated by the other party are accorded confidential treatment by the applicable governmental entity.

8.11 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable under applicable law, such provision shall be replaced with a provision that accomplishes, to the extent possible, the original business purpose of such provision in a valid and enforceable manner, and the balance of the Agreement shall be interpreted as if such provision were so modified and shall be enforceable in accordance with its terms.

Total

(1) A number of warrants as equals 50% of the Shares subscribed for by each Investor