

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): January 10, 2005

Xenomics, Inc.

(Exact name of registrant as specified in its charter)

Florida

04-3721895

(State or other jurisdiction
of incorporation or organization)

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 1.01 Entry into a Material Definitive Agreement.

On January 10, 2005, Xenomics, Inc., a Florida corporation (the "Company") entered into a letter of engagement (the "Agreement") with Trilogy Capital Partners, Inc. ("Trilogy"). The term of the Agreement is for twelve months beginning on January 10, 2005 and terminable thereafter by either party upon 30 days' prior written notice. Pursuant to the Agreement, Trilogy will provide marketing and financial public relations services to the Company and will assume the responsibilities of an investor relations officer for the Company. The Company will pay Trilogy \$10,000 per month under the Agreement.

Item 3.02 Unregistered Sales of Equity Securities.

Reference is made to "Item 1.01 Entry into a Material Definitive Agreement" of this report, which is incorporated by reference into this item.

Pursuant to the Agreement, the Company issued warrants to purchase 1,000,000 shares of Common Stock of the Company at an exercise price of \$2.95 per share (the "warrants"). The warrants issued to Trilogy are exercisable upon issuance and expire on January 10, 2008. In the event the Company proposes to register any of its Common Stock under the Securities Act of 1933 for sale in connection with a public offering of Common Stock, the Company will give written notice to Trilogy and will include in such registration statement any of the

shares of Common Stock underlying the Warrants which Trilogy may request be included. The offer and sale of these securities was made in reliance on Section 4(2) of the Securities Act of 1933, as amended. The offer and sale of the Warrants did not involve a public offering.

Item 9.01 Financial Statements and Exhibits

(c) Exhibits.

- 4.1 Form of Warrant issued to Trilogy Capital Partners, Inc.
- 10.1 Letter of Engagement between Trilogy Capital Partners, Inc. and Xenomics, Inc. dated January 10, 2005.

SIGNATURE

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: January 13, 2005

XENOMICS, INC.

By: /s/ V. Randy White

V. Randy White, Ph.D.
Chief Executive Officer

NEITHER THESE WARRANTS NOR THE COMMON STOCK ISSUABLE UPON EXERCISE OF THESE WARRANTS HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY APPLICABLE STATE SECURITIES LAWS AND MAY NOT BE SOLD, PLEDGED OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR SUCH SECURITIES UNDER THE ACT OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE.

1,000,000 Warrants

January 10, 2005

XENOMICS, INC.

WARRANTS

Xenomics, Inc., a Florida corporation ("XNOM"), certifies that, for value received, Trilogy Capital Partners, Inc. ("Trilogy"), or registered assigns (the "Holder"), is the owner of One Million (1,000,000) Warrants of XNOM (the "Warrants"). Each Warrant entitles the Holder to purchase from XNOM at any time prior to the Expiration Date (as defined below) one share of the common stock of XNOM (the "Common Stock") for \$2.95 per share (the "Exercise Price"), on the terms and conditions hereinafter provided. The Exercise Price and the number of shares of Common Stock purchasable upon exercise of each Warrant are subject to adjustment as provided in this Certificate.

1. Vesting; Expiration Date; Exercise

1.1 Vesting. The Warrants shall vest and become exercisable as of the date of this Certificate.

1.2 Expiration Date. The Warrants shall expire on January 10, 2008 (the "Expiration Date").

1.3 Manner of Exercise. The Warrants are exercisable by delivery to XNOM of the following (the "Exercise Documents"): (a) this Certificate (b) a written notice of election to exercise the Warrants; and (c) payment of the Exercise Price in cash, by check or by "net" exercise as contemplated by Section 1.4 of this Certificate. Within three business days following receipt of the foregoing, XNOM shall execute and deliver to the Holder: (a) a certificate or certificates representing the aggregate number of shares of Common Stock purchased by the Holder, and (b) if less than all of the Warrants evidenced by this Certificate are exercised, a new certificate evidencing the Warrants not so exercised.

1.4 Net Exercise. In lieu of the payment methods set forth in Section 1.3 above and subject to Section 1.5 below, commencing one (1) year from the

date hereof, the Holder may elect to exchange all or some of the Warrant for the number of shares of Common Stock computed using the following formula:

$$X = \frac{Y (A - B)}{A}$$

Where X = the number of shares of Common Stock to be issued to Holder.

Y = the number of shares of Common Stock purchasable under the Warrants being exchanged (as adjusted to the date of such calculation).

A = the Market Price on the date of receipt by XNOM of the exercise documents.

B = the Exercise Price of the Warrants being exchanged (as adjusted in accordance with the terms of Section 2 hereof).

The "Market Price" on any trading day shall be deemed to be the last reported sale price of the Common Stock on such day, or, in the case no such reported sales take place on such day, the last reported sale price on the preceding trading day on which there was a last reported sales price, as officially reported by the principal securities exchange in which the shares of Common Stock are listed or admitted to trading or by the Nasdaq Stock Market, or if the Common

Stock is not listed or admitted to trading on any national securities exchange or the Nasdaq Stock Market, the last sale price, or if there is no last sale price, the closing bid price, as furnished by the National Association of Securities Dealers, Inc. (such as through the OTC Bulletin Board) or a similar organization or if Nasdaq is no longer reporting such information. If the Market Price cannot be determined pursuant to the sentence above, the Market Price shall be determined in good faith (using customary valuation methods) by the Board of Directors of XNOM based on the information best available to it, including recent arms-length sales of Common Stock to unaffiliated persons.

1.5 Restriction on "Net" Exercise. Notwithstanding any other provision of this Certificate, Holder shall only be permitted to effect a "net" exercise of the Warrants if on the date of exercise (a) the Holder has not been provided an opportunity to include the shares of Common Stock issuable upon exercise of the Warrants in a registration statement pursuant to Section 9.2; or (b) (i) the Holder has been provided an opportunity to include the shares of Common Stock issuable upon the exercise of the Warrants in a registration statement pursuant to Section 9.2, (ii) Holder has notified the Company that it wishes to include such shares in such registration statement, and (iii) Holder is not then permitted to sell the shares underlying the Warrants pursuant to such registration statement.

1.6 Warrant Exercise Limitation. Notwithstanding any other provision of this Certificate, or the total number of shares of Common Stock otherwise available for purchase by Holder hereunder, if as of the date of exercise XNOM has a class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended, Holder may not exercise any Warrants under this Section 1 if immediately following such exercise Holder would beneficially own 5% or more of the outstanding Common Stock of XNOM. For this purpose, a representation

of the Holder that following such exercise it would not beneficially own 5% or more of the outstanding Common Stock of XNOM shall be conclusive and binding upon XNOM.

2. Adjustments of Exercise Price and Number and Kind of Conversion Shares

2.1 In the event that XNOM shall at any time hereafter (a) pay a dividend in Common Stock or securities convertible into Common Stock; (b) subdivide or split its outstanding Common Stock; (c) combine its outstanding Common Stock into a smaller number of shares; then the number of shares to be issued immediately after the occurrence of any such event shall be adjusted so that the Holder thereafter may receive the number of shares of Common Stock it would have owned immediately following such action if it had exercised the Warrants immediately prior to such action and the Exercise Price shall be adjusted to reflect such proportionate increases or decreases in the number of shares.

2.2 In case of any reclassification of the outstanding shares of Common Stock (other than a change covered by Section 2.1 hereof or a change which solely affects the par value of such shares) or in the case of any merger or consolidation or merger in which XNOM is not the continuing corporation and which results in any reclassification or capital reorganization of the outstanding shares), the Holder shall have the right thereafter (until the Expiration Date) to receive upon the exercise hereof, for the same aggregate Exercise Price payable hereunder immediately prior to such event, the kind and amount of shares of stock or other securities or property receivable upon such reclassification, capital reorganization, merger or consolidation, by a Holder of the number of shares of Common Stock obtainable upon the exercise of the Warrants immediately prior to such event; and if any reclassification also results in a change in shares covered by Section 2.1, then such adjustment shall be made pursuant to both this Section 2.2 and Section 2.1 (without duplication). The provisions of this Section 2.2 shall similarly apply to successive reclassifications, capital reorganizations and mergers or consolidations, sales or other transfers.

3. Reservation of Shares. XNOM shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, such number of shares of Common Stock as shall from time to time be issuable upon exercise of the Warrants. If at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to permit the exercise of the Warrants, XNOM shall promptly seek such corporate action as may necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

4. Certificate as to Adjustments. In each case of any adjustment in the Exercise Price, or number or type of shares issuable upon exercise of these Warrants, the Chief Financial Officer of XNOM shall compute such adjustment in accordance with the terms of these Warrants and prepare a certificate setting forth such adjustment and showing in detail the facts upon which such adjustment is based, including a statement of the adjusted Exercise Price. XNOM shall promptly send (by facsimile and by either first class mail, postage prepaid or overnight delivery) a copy of each such certificate to the Holder.

5. Loss or Mutilation. Upon receipt of evidence reasonably satisfactory to XNOM of the ownership of and the loss, theft, destruction or mutilation of this Certificate, and of indemnity reasonably satisfactory to it, and (in the case of

mutilation) upon surrender and cancellation of these Warrants, XNOM will execute and deliver in lieu thereof a new Certificate of like tenor as the lost, stolen, destroyed or mutilated Certificate.

6. Representations and Warranties of XNOM. XNOM hereby represents and warrants to Holder that:

6.1 Due Authorization. All corporate action on the part of XNOM, its officers, directors and shareholders necessary for (a) the authorization, execution and delivery of, and the performance of all obligations of XNOM under, these Warrants, and (b) the authorization, issuance, reservation for issuance and delivery of all of the Common Stock issuable upon exercise of these Warrants, has been duly taken. These Warrants constitute a valid and binding obligation of XNOM enforceable in accordance with their terms, subject, as to enforcement of remedies, to applicable bankruptcy, insolvency, moratorium, reorganization and similar laws affecting creditors' rights generally and to general equitable principles.

6.2 Organization. XNOM is a corporation duly organized, validly existing and in good standing under the laws of the State referenced in the first paragraph of this Certificate and has all requisite corporate power to own, lease and operate its property and to carry on its business as now being conducted and as currently proposed to be conducted.

6.3 Valid Issuance of Stock. Any shares of Common Stock issued upon exercise of these Warrants will be duly and validly issued, fully paid and non-assessable.

6.4 Governmental Consents. All consents, approvals, orders, authorizations or registrations, qualifications, declarations or filings with any federal or state governmental authority on the part of XNOM required in connection with the consummation of the transactions contemplated herein have been obtained.

7. Representations and Warranties of Trilogy. Trilogy hereby represents and warrants to XNOM that:

7.1 Trilogy is acquiring the Warrants for its own account, for investment purposes only.

7.2 Trilogy understands that an investment in the Warrants involves a high degree of risk, and Trilogy has the financial ability to bear the economic risk of this investment in the Warrants, including a complete loss of such investment. Trilogy has adequate means for providing for its current financial needs and has no need for liquidity with respect to this investment.

7.3 Trilogy has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of an investment in the Warrants and in protecting its own interest in connection with this transaction.

7.4 Trilogy understands that the Warrants have not been registered under the Securities Act of 1933, as amended (the "Securities Act") or under any state securities laws. Trilogy is familiar with the provisions of the Securities Act and Rule 144 thereunder and understands that the restrictions on transfer on the Warrants may result in Trilogy being required to hold the Warrants for an indefinite period of time.

7.5 Trilogy agrees not to sell, transfer, assign, gift, create a security interest in, or otherwise dispose of, with or without consideration (collectively, "Transfer") any of the Warrants except pursuant to an effective registration statement under the Securities Act or an exemption from registration. As a further condition to any such Transfer, except in the event that such Transfer is made pursuant to an effective registration statement under the Securities Act, if in the reasonable opinion of counsel to XNOM any Transfer of the Warrants by the contemplated transferee thereof would not be exempt from the registration and prospectus delivery requirements of the Securities Act, XNOM may require the contemplated transferee to furnish XNOM with an investment letter setting forth such information and agreements as may be reasonably requested by XNOM to ensure compliance by such transferee with the Securities Act.

8. Notices of Record Date.

In the event:

8.1 XNOM shall take a record of the holders of its Common Stock (or other stock or securities at the time receivable upon the exercise of these Warrants), for the purpose of entitling them to receive any dividend or other distribution, or any right to subscribe for or purchase any shares of stock of any class or any other securities or to receive any other right; or

8.2 of any consolidation or merger of XNOM with or into another corporation, any capital reorganization of XNOM, any reclassification of the capital stock of XNOM, or any conveyance of all or substantially all of the assets of XNOM to another corporation in which holders of XNOM's stock are to receive stock, securities or property of another corporation; or

8.3 of any voluntary dissolution, liquidation or winding-up of XNOM; or

8.4 of any redemption or conversion of all outstanding Common Stock; then, and in each such case, XNOM will mail or cause to be mailed to the Holder a notice specifying, as the case may be, (a) the date on which a record is to be taken for the purpose of such dividend, distribution or right, or (b) the date on which such reorganization, reclassification, consolidation, merger, conveyance, dissolution, liquidation, winding-up, redemption or conversion is to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such stock or securities as at the time are receivable upon the exercise of these Warrants), shall be entitled to exchange their shares of Common Stock (or such other stock or securities), for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, conveyance, dissolution, liquidation or winding-up. XNOM shall use all reasonable efforts to ensure such notice shall be delivered at least 15 days prior to the date therein specified.

9. Registration Rights.

9.1 Definitions. For purposes of this Section 9, the following terms shall have the meanings set forth below:

9.1.1 A "Blackout Event" means any of the following: (a) the possession by XNOM of material information that is not ripe for disclosure in a registration statement or prospectus, as determined

reasonably and in good faith by the Chief Executive Officer or the Board of Directors of XNOM or that disclosure of such information in the Registration Statement or the prospectus constituting a part thereof would be materially detrimental to the business and affairs of XNOM; or (b) any material engagement or activity by XNOM which would, in the reasonable and good faith determination of the Chief Executive Officer or the Board of Directors of XNOM, be materially adversely affected by disclosure in a registration statement or prospectus at such time.

9.1.2 "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

9.1.3 "Included Shares" shall mean any Registrable Shares included in a Registration.

9.1.4 "Registrable Shares" shall mean the shares of Common Stock (or such stock or securities as at the time are receivable upon the exercise of these Warrants) issuable upon exercise of the Warrants and any other Warrants and or other securities issued to Trilogy in connection with performing investor relations services for XNOM, and shares or securities issued as a result of stock split, stock dividend or reclassification of such shares.

9.1.5 "Registration" shall mean a registration of securities under the Securities Act pursuant to Section 10.2 or 10.3 of this Agreement.

9.1.6 "Registration Period" with respect to any Registration Statement the period commencing the effective date of the Registration Statement and ending upon withdrawal or termination of the Registration Statement.

9.1.7 "Registration Statement" shall mean the registration statement, as amended from time to time, filed with the SEC in connection with a Registration.

9.1.8 "SEC" shall mean the Securities and Exchange Commission.

9.2 Piggyback Registration. If XNOM shall determine to register any Common Stock under the Securities Act for sale in connection with a public offering of Common Stock (other than pursuant to an employee benefit plan or a merger, acquisition or similar transaction), XNOM will give written notice thereof to Holder and will include in such Registration Statement any of the Registrable Shares which Holder may request be included ("Included Shares") by a writing delivered to XNOM within 15 days after the notice given by XNOM to Holder; provided, however, that if the offering is to be firmly underwritten, and the representative of the underwriters of the offering refuse in writing to include in the offering all of the shares of Common Stock requested by XNOM and others, the shares to be included shall be allocated first to XNOM and any shareholder who initiated such Registration and then among the others based on the respective number of shares of Common Stock held by such persons. If XNOM decides not to, and does not, file a Registration Statement with respect to such Registration, or after filing determines to withdraw the same before the effective date thereof, XNOM will promptly so inform Holder, and XNOM will not be obligated to complete the registration of the Included Shares included therein.

9.3 Certain Covenants. In connection with any Registration:

9.3.1 XNOM shall take all lawful action such that the Registration Statement, any amendment thereto and the prospectus forming a part thereof does not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they are made, not misleading. Upon becoming aware of the occurrence of any event or the discovery of any facts during the Registration Period that make any statement of a material fact made in the Registration Statement or the related prospectus untrue in any material respect or which material fact is omitted from the Registration Statement or related prospectus that requires the making of any changes in the Registration Statement or related prospectus so that it will 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 are

made, not misleading (taking into account any prior amendments or supplements), XNOM shall promptly notify Holder, and, subject to the provisions of Section 9.5, as soon as reasonably practicable prepare (but, subject to Section 9.5, in no event more than five business days in the case of a supplement or seven business days in the case of a post-effective amendment) and file with the SEC a supplement or post-effective amendment to the Registration Statement or the related prospectus or file any other required document so that, as thereafter delivered to a purchaser of Shares from Holder, such prospectus will 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. XNOM shall use its reasonable best efforts to keep the Registration Statement effective at all times during the period continuing until the earliest of (i) the date that is two (2) years after the last day of the calendar month following the month in which the Registration Statement is declared effective, (ii) the date when the Holder may sell all Registrable Securities under Rule 144 without volume or other restrictions or limits or (iii) the date the Holder no longer owns any of the Registrable Securities,

9.3.2 At least three business days prior to the filing with the SEC of the Registration Statement (or any amendment thereto) or the prospectus forming a part thereof (or any supplement thereto), XNOM shall provide draft copies thereof to Holder and shall consider incorporating into such documents such comments as Holder (and its counsel) may propose to be incorporated therein. Notwithstanding the foregoing, no prospectus supplement, the form of which has previously been provided to Holder, need be delivered in draft form to Holder.

9.3.3 XNOM shall promptly notify Holder upon the occurrence of any of the following events in respect of the Registration Statement or the prospectus forming a part thereof: (i) the receipt of any request for additional information from the SEC or any other federal or state governmental authority, the response to which would require any amendments or supplements to the Registration Statement or related prospectus; (ii) the issuance by the SEC or any other federal or state governmental authority of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose; or (iii) the receipt of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Shares for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose.

9.3.4 XNOM shall furnish to Holder with respect to the Included Shares registered under the Registration Statement (and to each underwriter, if any, of such Shares) such number of copies of prospectuses and such other documents as Holder may reasonably request, in order to facilitate the public sale or other disposition of all or any of the Included Shares by Holder pursuant to the Registration Statement.

9.3.5 In connection with any registration pursuant to Section 9.2, XNOM shall file or cause to be filed such documents as are required to be filed by XNOM for normal Blue Sky clearance in states specified in writing by Holder; provided, however, that XNOM shall not be required to qualify to do business or consent to service of process in any jurisdiction in which it is not now so qualified or has not so consented.

9.3.6 XNOM shall bear and pay all expenses incurred by it and Holder (other than underwriting discounts, brokerage fees and commissions and fees and expenses of more than one law firm) in connection with the registration of the Shares pursuant to the Registration Statement.

9.3.7 As a condition to including Registrable Shares in a Registration Statement, Holder must provide to XNOM such information regarding itself, the Registrable Shares held by it and the intended method of distribution of such Shares as shall be required to effect the registration of the Registrable Shares and, if the offering is being underwritten, Holder must provide such powers of attorney, indemnities and other documents as may be reasonably requested by the managing underwriter.

9.3.8 Following the effectiveness of the Registration Statement, upon receipt from XNOM of a notice that the Registration Statement contains an untrue statement of material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances under which they were made, Holder will immediately discontinue disposition of Included Shares pursuant to the Registration Statement until XNOM notifies Holder that it may resume sales of Included Shares and, if necessary, provides to Holder copies of the supplemental or amended prospectus.

9.4 Blackout Event. XNOM shall not be obligated to file a post-effective amendment or supplement to the Registration Statement or the prospectus constituting a part thereof during the continuance of a Blackout Event; provided, however, that no Blackout Event may be deemed to exist for more than 75 days. Without the express written consent of Holder, if required to permit the continued sale of Shares by Holder, a post-effective amendment or supplement to Registration Statement or the prospectus constituting a part thereof must be filed no later than the 76th day following commencement of a Blackout Event.

9.5 Rule 144. With a view to making available to Holder the benefits of Rule 144, XNOM agrees, throughout the Registration Period, to:

9.5.1.1 comply with the provisions of paragraph (c)(1) of Rule 144; and

9.5.1.2 file with the SEC in a timely manner all reports and other documents required to be filed by XNOM pursuant to Section 13 or 15(d) under the Exchange Act; and, if at any time it is not required to file such reports but in the past had been required to or did file such reports, it will, upon the request of a Purchaser, make available other information as required by, and so long as necessary to permit sales of its Shares pursuant to, Rule 144.

9.6 XNOM Indemnification. XNOM agrees to indemnify and hold harmless Holder, and its officers, directors and agents, and each person, if any, who controls Holder within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any and all losses, claims, damages and liabilities caused by (i) any violation or alleged violation by XNOM of the Securities Act, Exchange Act, any state securities laws or any rule or regulation promulgated under the Securities Act, Exchange Act or any state securities laws, (ii) any untrue statement or alleged untrue statement of a material fact contained in any registration statement or prospectus relating to the Included Shares (as amended or supplemented if XNOM shall have furnished any amendments or supplements thereto) or any preliminary prospectus, or (iii) caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances under which they were made, except insofar as such losses, claims, damages or liabilities are caused by any such untrue statement or omission or alleged untrue statement or omission based upon information furnished in writing to XNOM by Holder or on Holder's behalf expressly for use therein.

9.7 Holder Indemnification. Holder agrees to indemnify and hold harmless XNOM, its officers, directors and agents and each person, if any, who controls XNOM within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the foregoing indemnity from XNOM to Holder, but only with respect to information furnished in writing by Holder or on Holder's behalf expressly for use in any registration statement or prospectus relating to the Registrable Shares, or any amendment or supplement thereto, or any preliminary prospectus.

9.8 Indemnification Procedures. In case any proceeding (including any governmental investigation) shall be instituted involving any person in respect of which indemnity may be sought pursuant to this Section 9, such person (an "Indemnified Party") shall promptly notify the person against whom such indemnity may be sought (the "Indemnifying Party") in writing and the Indemnifying Party shall assume the defense thereof, including the employment of counsel reasonably satisfactory to such Indemnified Party, and shall assume the payment of all fees and expenses; provided that the failure of any Indemnified Party so to notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder except to the extent (and only to the extent that) that the Indemnifying Party is materially prejudiced by such failure to notify. In any such proceeding, any Indemnified Party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (i) the Indemnifying Party and the Indemnified Party shall have mutually agreed to the retention of such counsel or (ii) in the reasonable judgment of such Indemnified Party representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that the Indemnifying Party shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) at any time for all such Indemnified Parties (including in the case of Holder, all of its officers, directors and controlling persons) and that all such fees and expenses shall be reimbursed as they are incurred. In the case of any such separate firm for the Indemnified Parties, the Indemnified Parties shall designate such firm in writing to the Indemnifying Party. The Indemnifying Party shall not be liable for any settlement of any proceeding effected without its written consent (which consent shall not be unreasonably withheld or delayed), but if settled with such consent, or if there be a final judgment for the plaintiff, the Indemnifying Party shall indemnify and hold harmless such Indemnified Parties from and against any loss or liability (to the extent stated above) by reason of such settlement or judgment. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Party is or could have been a party and indemnity could have been sought hereunder by such Indemnified Party, unless such settlement includes an unconditional release of such Indemnified Party from all liability arising out of such proceeding.

9.9 Contribution. To the extent any indemnification by an Indemnifying Party is prohibited or limited by law, the Indemnifying Party agrees to make the maximum contribution with respect to any amounts for which, he, she or it would otherwise be liable under this Section 9.6 to the fullest extent permitted by law; provided, however, that (i) no contribution shall be made under circumstances where a party would not have been liable for indemnification under this Section 9.6 and (ii) no seller of Registrable Securities guilty of

fraudulent misrepresentation (within the meaning used in the Securities Act) shall be entitled to contribution from any party who was not guilty of such fraudulent misrepresentation.

10. Nontransferability. Holder may not sell or transfer any Warrants to any person other than an affiliate of Holder without the written consent of XNOM.

11. Severability. If any term, provision, covenant or restriction of these Warrants is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of these Warrants shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

12. Notices. All notices, requests, consents and other communications required hereunder shall be in writing and shall be effective when delivered or, if delivered by registered or certified mail, postage prepaid, return receipt requested, shall be effective on the third day following deposit in United States mail: to the Holder, at Trilogy Capital Partners, Inc., 1406 1/2 Kenter Avenue, Los Angeles, CA 90049; and if addressed to XNOM, at Xenomics, Inc., 420 Lexington Avenue, Suite 1701, New York, NY 10170, or such other address as Holder or XNOM may designate in writing.

13. No Rights as Shareholder. The Holder shall have no rights as a shareholder of XNOM with respect to the shares issuable upon exercise of the Warrants until the receipt by XNOM of all of the Exercise Documents.

XENOMICS, INC.

By: _____
Its: _____

EXHIBIT "A"
NOTICE OF EXERCISE
(To be signed only upon exercise of the Warrants)

To: Xenomics, Inc.

The undersigned hereby elects to purchase shares of Common Stock (the "Warrant Shares") of Xenomics, Inc. ("XNOM"), pursuant to the terms of the enclosed warrant certificate (the "Certificate"). The undersigned tenders herewith payment of the exercise price pursuant to the terms of the Certificate.

The undersigned hereby represents and warrants to, and agrees with, XNOM as follows:

1. Holder is acquiring the Warrant Shares for its own account, for investment purposes only.

2. Holder understands that an investment in the Warrant Shares involves a high degree of risk, and Holder has the financial ability to bear the economic risk of this investment in the Warrant Shares, including a complete loss of such investment. Holder has adequate means for providing for its current financial needs and has no need for liquidity with respect to this investment.

3. Holder has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of an investment in the Warrant Shares and in protecting its own interest in connection with this transaction.

4. Holder understands that the Warrant Shares have not been registered under the Securities Act or under any state securities laws. Holder is familiar with the provisions of the Securities Act and Rule 144 thereunder and understands that the restrictions on transfer on the Warrant Shares may result in Holder being required to hold the Warrant Shares for an indefinite period of time.

5. Holder agrees not to sell, transfer, assign, gift, create a security interest in, or otherwise dispose of, with or without consideration (collectively, "Transfer") any of the Warrant Shares except pursuant to an effective registration statement under the Securities Act or an exemption from registration. As a further condition to any such Transfer, except in the event that such Transfer is made pursuant to an effective registration statement under the Securities Act, if in the reasonable opinion of counsel to XNOM any Transfer of the Warrant Shares by the contemplated transferee thereof would not be exempt from the registration and prospectus delivery requirements of the Securities Act, XNOM may require the contemplated transferee to furnish XNOM with an investment letter setting forth such information and agreements as may be reasonably requested by XNOM to ensure compliance by such transferee with the Securities Act.

Each certificate evidencing the Warrant Shares will bear the following legend:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE "ACT") OR ANY APPLICABLE STATE SECURITIES LAWS AND MAY NOT BE EXERCISED, SOLD, PLEDGED OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR SUCH SECURITIES UNDER THE ACT OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE.

6. Immediately following this exercise of Warrants, if as of the date of exercise XNOM has a class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended, the undersigned will not beneficially own five percent (5%) or more of the then outstanding Common Stock of XNOM (based on the number of shares outstanding set forth in the most recent periodic report filed by XNOM with the Securities and Exchange Commission and any additional shares which have been issued since that date of which Holder is aware have been issued).

Number of Warrants Exercised: _____

Net Exercise ____ Yes ____ No

Dated: _____

[Trilogy Capital Partners, Inc. Letterhead]

Letter of Engagement
Xenomics, Inc.
January 10, 2005

The following sets forth the agreement for the engagement of Trilogy Capital Partners, Inc. ("Trilogy") by Xenomics, Inc. ("XNOM" or the "Company"):

Term and Termination Twelve months, commencing as of the date set forth above (the "Initial Term"), and terminable thereafter by either party upon 30 days' prior written notice. In addition, either party may terminate this Agreement by written notice for material breach by the other party of any of its obligations or agreements under this Agreement or the Confidentiality Agreement unless such material breach is cured and corrected within 10 days following receipt of such notice.

Objective The development and implementation of a proactive marketing program to increase the awareness of XNOM and to generate a significant increase in liquidity and market capitalization. In addition, upon request, Trilogy will advise XNOM in business development and strategic advisory services.

The Program Trilogy will structure and implement a marketing program designed to create extensive financial market and investor awareness for XNOM to drive long-term shareholder support. The core drivers of the program will be to create institutional and retail buying in the Company's stock through a proactive sales and marketing program emphasizing technology-driven communications, coupled with 1-to-1 selling and leveraging XNOM's image to attract additional long term investors and to create additional opportunities in M&A and Business Development. As share price is affected by various factors, Trilogy can give no assurance that the marketing program will result in an increase in XNOM's stock price.

Trilogy understands that during any period in which the Company is in "registration" for a public offering of securities under the Securities Act of 1933, and during the distribution of such securities, the Company's investor relations and marketing efforts will be severely limited. However, it will be the responsibility of the Company (with the advice of its securities counsel) to determine what investor relations and financial marketing efforts are

permissible and non-permissible during such periods, and Trilogy will follow the direction of the Company and its securities counsel. Trilogy agrees that it will not take any action to influence anyone to purchase the Company's stock by making an improper or illegal payment.

Responsibilities In addition to marketing and financial public relations, Trilogy will assume the responsibilities of an in-house Investor Relations Officer for XNOM on a full turnkey basis, including the generation of corporate and shareholder communications, retail and institutional investor contact and media. Trilogy will work in conjunction with the Company's management, securities counsel, investment bankers and auditors and under supervision of management. The content is as follows:

o Campaign Development and Execution

- o Press Announcements: drafting, approval and distribution
- o Database Development and Management
- o Image Analysis: recommendations and implementation
- o Messaging: institutional and retail
- o Online presentations: drafting and production responsibilities
- o Website Overhaul - installation and maintenance of auto IR program
- o Email messaging: targets: Retail and Institutional/Other databases
- o Media including Interactives and PowerPoints
- o Direct Mail: shareholder, media, XNOM relationship universe
- o Public Relations
- o Capital Conferences

Trilogy will not publish or publicly release any press release or other document ("IR Documents") regarding the Company which has not been approved in writing by the Company. The Company assumes responsibility for the accuracy and completeness of all IR Documents and the compliance of such Documents with applicable laws, rules and regulations. The Company agrees that Trilogy has no obligation or duty to verify the accuracy or completeness of the IR Documents.

Fees \$10,000 per month, with first payment due on execution. Wiring information is set forth below.

Equity Compensation Concurrently herewith XNOM has issued to Trilogy Warrants to purchase 1,000,000 shares of its Common Stock.

Marketing Budget To support the financial marketing program, XNOM acknowledges that it will incur certain third party marketing costs. Trilogy will not incur these costs without the prior written approval of the Company, which approval may be pursuant to a budget. At Trilogy's request, the Company will pay these approved costs directly to the third party.

Indemnification The Company agrees to provide the indemnification set forth in "Exhibit A" attached hereto.

Corporate Obligations The obligations of Trilogy are solely corporate obligations, and no officer, director, employee, agent, shareholder or controlling person of Trilogy shall be subject to any personal liability whatsoever to any person, nor will any such claim be asserted by or on behalf of any other party to this Agreement.

Additional Services If Trilogy is called upon to render services directly or indirectly relating to the subject matter of this Agreement, beyond the services contemplated above (including, but not limited to, production of documents, answering interrogatories, giving depositions, giving expert or other testimony, whether by agreement, subpoena or otherwise), the Company shall pay to Trilogy a reasonable hourly rate for the persons involved for the time expended in rendering such services, including, but not limited to, time for meetings, conferences, preparation and travel, and all related costs and expenses and the reasonable legal fees and expenses of Trilogy's counsel.

Confidentiality Trilogy agrees to execute the confidentiality agreement with the Company set forth in "Exhibit B" attached hereto.

Survival of Certain Provisions The Sections entitled "Indemnification" (including "Exhibit A"), "Corporate Obligations," "Additional Services" and "Confidentiality" (including "Exhibit B") shall survive any termination of this Agreement and Trilogy's engagement pursuant to this Agreement. In addition, such termination shall not terminate Trilogy's right to compensation accrued through the date of termination and for reimbursement of

expenses. Any purported termination of this Agreement by the Company prior to the end of the Initial Term, or any termination by Trilogy as a result of non-payment or other material breach by the Company, shall not terminate Trilogy's right to the monthly fee through the entire Initial Term (as Trilogy's time and commitment are expected to be greater in the first part of its engagement).

Services/Costs

The compensation paid to Trilogy under this Agreement will cover all costs for Trilogy personnel. Reasonable travel and entertainment costs for Trilogy personnel, in addition to certain third-party costs, will be borne by the Company. Trilogy will provide reasonable documentation to support reimbursement claims. Trilogy will not incur any particular reimbursable cost of \$500 or more or aggregate costs of \$10,000 or more without the prior written approval from the Company.

Attorneys' Fees

If any action or proceeding is brought to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover as an element of its costs, and not its damages, reasonable attorneys' fees to be fixed by the court. Governing Law

California, without giving effect to the principles of conflicts of law thereof.

Agreed and Accepted:

Xenomics, Inc.

Trilogy Capital Partners, Inc.

By /s/ V. Randy White

V. Randy White,
Chief Executive Officer

By /s/ A.J. Cervantes

A.J. Cervantes, President

Wiring:

Trilogy Capital Partners, Inc.
Signature Bank New York
Private Client Group
New York, NY 10016
Account: 1500375287
ABA: 026013576

EXHIBIT A

Indemnification Provisions

Xenomix, Inc., (the "Company"), unconditionally, absolutely and irrevocably agrees to and shall defend, indemnify and hold harmless Trilogy Capital Partners, Inc. ("Trilogy") and its past, present and future directors, officers, affiliates, counsel, shareholders, employees, agents, representatives, contractors, successors and assigns (Trilogy and such persons are collectively referred to as the "Indemnified Persons") from and against any and all losses, claims, costs, expenses, liabilities and damages (or actions in respect thereof) arising out of or related to this Agreement, and any actions taken or omitted to be taken by an Indemnified Person in connection with this Agreement ("Indemnified Claim"). Without limiting the generality of the foregoing, such indemnification shall cover losses, claims, costs, expenses, liabilities and damages imposed on or incurred by the Indemnified Persons, directly or indirectly, relating to, resulting from, or arising out of any misstatement of fact or omission of fact, or any inaccuracy in any information provided or approved by the Company in connection with the engagement, including information in any SEC filing, press release, website, marketing material or other document, whether or not the Indemnified Persons relied thereon or had knowledge thereof. In addition, the Company agrees to reimburse the Indemnified Persons for legal or other expenses reasonably incurred by them in respect of each Indemnified Claim at the time such expenses are incurred. Notwithstanding the foregoing, the Company shall not be obligated under the foregoing for any loss, claim, liability or damage which is finally determined to have resulted primarily from the willful misconduct, bad faith or gross negligence of the Indemnified Person or from the failure of the Indemnified Person to be registered or licensed as a broker or dealer under the Securities Exchange Act of 1934 or applicable state securities laws or as an investment advisor under the Investment Advisors Act of 1940 or applicable state laws.

If any proceeding shall be brought or asserted under these provisions against an Indemnified Person in respect of which indemnity may be sought under these provisions from the Company, the Indemnified Person shall give prompt written notice of such proceeding to the Company who shall assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Person (or if more than one, Trilogy), and the payment of all reasonable expenses; provided that any delay or failure to notify the Company shall relieve the Company of its obligations hereunder only to the extent, if at all, that it is materially prejudiced by reason of such delay or failure. In no event shall any Indemnified Person be required to make any expenditure or bring any cause of action to enforce the Company's obligations and liability under and pursuant to the indemnifications set forth in these provisions. The Indemnified Person shall have the right to employ separate counsel in any of the foregoing proceedings and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the Indemnified Person unless: (i) the Company has agreed to pay such fees and expenses; or (ii) the Indemnified Person shall in good faith determine that there exists actual or potential conflicts of

interest which make representation by the same counsel inappropriate and the Company refuses to provide separate counsel. In the event that the Company, within five days after notice of any such proceeding, fails to assume the defense thereof, the Indemnified Person shall have the right to undertake the defense, compromise or settlement of such proceeding, for the account of the Company, subject to the right of the Company to assume the defense of such proceeding with counsel reasonably satisfactory to the Indemnified Person at any time prior to the settlement, compromise or final determination thereof by reimbursing the Indemnified Person for all fees and costs incurred to date. Anything in these provisions to the contrary notwithstanding, the Company shall not, without the prior written consent of Trilogy (if Trilogy is an Indemnified Person) or the Indemnified Person if Trilogy is not an Indemnified Person, settle or compromise any proceeding or consent to the entry of any judgment with respect to any proceeding; provided, however, that the Company may, without the Indemnified Person's prior written consent, settle or compromise any such proceeding or consent to entry of any judgment with respect to any such proceeding that requires solely the payment of money damages by the Indemnified Person and that includes as an unconditional term thereof, the release by the claimant or the plaintiff of the Indemnified Person from all liability in respect of such proceeding.